The Discourse and Practice of Sovereignty in the People's Republic of China: Principles and Pragmatism in the Management of Hong Kong and Taiwan Affairs

by

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In loving memory of my grandmother

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DECLARATION

I hereby declare that this thesis is my own work and effort and that it has not been submitted anywhere for any award. Where other sources of information have been used, they have been acknowledged.

Signature: _____

Date: 25 May 2011

ABSTRACT

This dissertation has two objectives: one, to dispel the "myth" and assumption that China holds on to an "absolute" view of sovereignty, and has arguably acted in accordance to this view; and two, to forward an alternative view of sovereignty as seen through Beijing's eyes. This dissertation argues that China's sovereignty is one which flexibly accommodates, at times voluntarily concedes, different mix of *de facto* rights according to each respective context and issue. This is attributed to China's historical experiences with the concept, as well as its discourses. When "sovereignty" was introduced into Chinese thinking, the result is a "view" of sovereignty which juxtaposed Chinese previous understanding of "supreme authority" with an interpretation of the Western concept of sovereignty. "Sovereignty," in this view, is essentially a *de jure* construct as its *de facto* component (or "right of governance") is purposely and effectively detached from the concept to serve the political needs of the regime. It thus approximates one grounded on graded rings of sovereignty, where authority emanates from the core, but each "level of sovereignty" is entrusted to exercise different "right of governance." As long as no overt challenge is posed to the idea that a single, *de jure* sovereignty— more specifically understood as a nominal "supreme authority"—resides in Beijing, this Chinese view of sovereignty is upheld.

A "light" constructivist approach which explores the relationship between norms, ideational structures, agency and "discursive formations" is applied to the case studies of Hong Kong (and Macao) and Taiwan to support the arguments in this dissertation. Chinese discourses on "sovereignty" were examined in details through

analysing a large sample size of Chinese academic writings from 1980 till 2008, in addition to policy documents and announced official positions of the Chinese leadership. This is further augmented by analyses of Beijing's policy behaviours towards, in particular, Hong Kong's autonomy and Taiwan's international space.

LIST OF ABBREVIATIONS

ADB	Asian Development Bank
APEC	Asia-Pacific Economic Cooperation
ARATS	Association for Relations Across the Taiwan Straits (PRC)
BLHK	*The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (1997)
BLM	*The Basic Law of the Macao Special Administrative Region of the People's Republic of China* (1999)
CCP	Chinese Communist Party
CEFA	Cross-Straits Economic Cooperation Framework Agreement
CEPA	Closer Economic Partnership Arrangement
CNKI	China National Knowledge Infrastructure
CPPCC	Chinese People's Political Consultative Conference (PRC)
DPP	Democratic Progressive Party (ROC)
EU	European Union
GATT	General Agreement on Tariffs and Trade
HKD	Hong Kong Dollar
HKSAR	Hong Kong Special Administrative Region of the People's Republic of China
IGO	Inter-governmental organisation
INGO	International non-governmental organisation
KMT	Kuomingtang (Nationalist Party)
Legco	Legislative Council, Hong Kong Special Administrative Region of the People's Republic of China
NPC	National People's Congress (PRC)
PLA	People's Liberation Army
PLC	Provisional Legislative Council
PNTR	Permanent Normal Trading Relations
PRC	People's Republic of China (Mainland)
PWC	Preliminary Working Committee
RoA	Right of Abode
ROC	Republic of China (Taiwan)
SAR	Special Administrative Region
SARS	Severe Acute Respiratory Syndrome
SEF	Strait Exchange Foundation (ROC)
TAO	Taiwan Affairs Office (PRC)
TRA	Taiwan Relations Act
UN	United Nations
WHA	World Health Assembly
WHO	World Health Organization
WPRO	WHO Western Pacific Regional Office
WTO	World Trade Organization

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INTRODUCTION: RESEARCH ISSUES AND STUDIES ON CHINESE SOVEREIGNTY

…China has a twin-track view of sovereignty: Our own sovereignty is absolute; other people's is relative.

Timothy Garton Ash (2009)

Taiwan and, in a very different way, even Hong Kong, demonstrate the unique link between interdependence and independence in the region [of East Asia]… Formal sovereignty becomes a quaint Victorian value.

Gerald Segal (1989, p. 737)

I. The Research Problem

This dissertation opens with the quote from Timothy Garton Ash, a professor of European Studies who writes extensively on China. This quote is mentioned here for the reason that it encapsulates a typified view about China[1] from the outside, in particular from that nominally known as "the West" in general—by "the West" it means the group of more advanced nation-states mostly borne out of pan-European traditions and history. From Ash's (2009) perspective and observations, China appears to dichotomise its view of sovereignty into the "absoluteness" of its own sovereignty, while maintaining certain "relativeness" in that of the other states. His opinion was formed out of his disgruntlement over "China's commitment to non-interference in other states' affairs," which he deems "not entirely consistent." China's attitude to the issue of "sovereignty" is not much different from that of the

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[1] By "China," this dissertation hereon refers specifically to the People's Republic (PRC) on the Mainland, unless stated otherwise.

United States *per se*: China's non-interference principle, Ash argues, goes as far as it does not touch upon "what it [China] regards as matters of vital national interests."

Parallel developments elsewhere have also caught the eyes of researchers. In recent years, some academics have noted with interest about China's relaxing stance towards the issues of humanitarian intervention and peacekeeping mission since the 1980s (Gill & Huang, 2009; Stähle, 2008; He, 2007; Hempson-Jones, 2005; Pang, 2005; Carlson, 2004; Medeiros & Fravel, 2003, p. 27; Zhang, 1996; Kim, 1990, pp. 195-196).[2] From neighbouring Cambodia to the far-reaches of Somalia and Congo, China has stamped its diplomatic presence by contributing to international peacekeeping missions across the world. Despite its non-interference creed, Beijing joined United Nations (UN) peacekeeping missions for the first time in 1990, almost two decades after it joined the organization, and by January 2010, was the largest contributor amongst the permanent members of the UN Security Council, having stationed some 2131 personnel worldwide (United Nations Peacekeeping, 2010). Other developments have also seen China "retreating" from its erstwhile staunch position on issues regarding sovereignty. Concessions which Beijing would previously deem "sovereign" in nature were sanctioned as China becomes increasing involved in international regimes and organisations. It would be interesting to note, for example, China's accessions to the World Trade Organisation (WTO), which one analyst described as "sovereignty-bending," paved the way for the country to (re)join

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[2] For a fine counterargument, see Fravel's (1996) overview of China's changing position towards UN peacekeeping operations.

the international trade regime (Hempson-Jones, 2005, p. 704). [3] China attitude appears to be changing, and the absoluteness of sovereignty is slowly eroding.

While two vastly different pictures were painted, the above descriptions share a common premise: that until very recently at the least, China has held on to highly "Westphalian" view of its own sovereignty (Johnston, 2003, pp. 14-15). And this is treated as *a priori* in the study of Chinese domestic and foreign policy so common in international relations literature today. But is this true? Should this be treated as a primary assumption, a vantage where students of international relations begin their analyses when looking into issues related to China?

Doubts over this primary assumption about China provide the intellectual impetus behind this dissertation. These doubts are further raised by observations on China's internal dynamics; when looking closer to home, the line "China's sovereignty is absolute, others' relative" becomes increasing blurred:

In Hong Kong, Deng Xiaoping's suggested formula of "one country, two systems" [*yiguo liangzhi*] has appeared to have stood the test of time, and politics, since the Sino-British Joint Declaration was penned in 1984. While Beijing has always insisted that post-handover Hong Kong remains a special administrative region, and that the resulting government is no more than an "administration," this "administration" has evolved to capture very different values, encompass a very different legislative/executive structure, and operate within an alien legal system different from that in the Mainland. In other words, at the same time as Deng proclaimed that "sovereignty is not a debatable issue" to the British, Deng's formula

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[3] "China" (Republic of China) was a member of GATT but withdrew from the institution in 1950 after the Kuomingtang (KMT, the Nationalist Party) retreated to Taiwan. In the 1980s and 1990s, the People's Republic of China's bid to enter GATT was packaged by Beijing as a bid to "rejoin" the trade regime.

voluntarily divides Beijing's sovereignty between the Mainland and the newly-returned special administrative region into a "two systems" arrangement (Deng, 2008, p. 12). The "two systems" promise has shown more resilience than sceptics had ever envisioned, and the arrangement has endured the political tensions between Hong Kong and the Mainland in the years that have passed (Hsiung, 2000; Kuan, 1999, pp. 23-46). Through careful management, Beijing has allowed Hong Kong to develop its own brand of politics and sets of institutions that are entirely different from that in the Mainland.

Across the straits in Taiwan, largely owing to the rapidly changing dynamics in the island's domestic political scene, Beijing position(s) on Taiwan affairs remains unclear to many observers. From the ground-breaking 1992 Consensus, that is, "One China with different interpretations," reached between the late Wang Daohan and late Koo Chen-fu, to 1995-6 Taiwan Strait crisis, to the rectification of the Anti-secession Law in 2005, China's is seen to be shifting constantly between a reconciliatory position to a highly belligerent one. Yet all these occurrences coincided with the gradual opening of China to Taiwan (through *xiao santong*, or "mini three-links"), and the intensification, in the last decade, of social, economic and political interactions between Beijing and Taipei. Institutionally-speaking, two *de facto* regimes continues to stand against each other across the Taiwan Strait, and again as in the case of Hong Kong, each embodies different values and systems.

The above descriptions painted a vastly different picture. Should China's treatment of its sovereignty be absolute, "Victorian," or "Westphalian" as Ash and many others (*inter alia*, Christensen, 1996; Kim, 1998; Robinson, 1998; Johnston, 2003; Fidler, 2003) have depicted, would one not expect Beijing to be even more

uncompromising in its approach towards Hong Kong—and to a lesser extent, Macao—and Taiwan? This is considering that Hong Kong and Macao are symbols of the "century of humiliation" in Chinese memories and blemishes in Chinese nationalistic pride, while Taiwan is long-touted a "residual" item (Taiwan Affairs Office of the State Council, 2006, p. 12) in Chinese civil war history and the last obstacle to a so-called united Chinese nation. It is based on this very assumption that Taylor Fravel (2008, p. 265) concludes, "(n)o set of territorial disputes are more significant for China's leaders than homeland disputes [of Hong Kong, Macao and Taiwan]… because of their importance, compromise over these areas is not viewed as a viable policy options."

But compromises were *exactly* what had happened, not once, but repeatedly over the course of time. Instead one sees Beijing approaching its own sovereignty issues with utmost intricacy and pragmatism. Maintenance of China's "sovereignty," and actualisation of where sovereignty is deemed infringed or in deficit, does not follow a pre-determined path underpinned by Beijing's definition of where/how its sovereignty lies; rather, Beijing's attitude has been one that approximates yet another Deng's famous dictum "to feel the stones as one crosses the river" [*mozhe shitou guohe*].[4] There is a huge gap between what was said and what really was practiced. Just as Ren Yue (1996, p. 155) describes, "… despite Beijing's constant claims to uphold the principles of state sovereignty in conducting its foreign [or domestic] policy, discrepancies between China's declared policy and it's contemporary practice are equally obvious."

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[4] According to Han Zhenfeng (2007), professor on Deng Xiaoping thoughts in Hebei University, the dictum should be credited to Chen Yun rather than Deng. Nonetheless, in China, there is a shared acceptance that these words represent Deng's reform spirits.

While Beijing's delicate handling of its sovereignty issues can be attributed to many factors, arguably, these policies have to first go through a process of *reconciliation*, that is, through a filter of internalised norms and/or value order. In other words, Beijing needs to ensure its *practices* of sovereignty conform to the value system in which it defines itself (Lavine, 1981). It is this view of self and of its sovereignty that this dissertation explores. How can one understand the Beijing's view of its own sovereignty?

The core argument of this dissertation is that China's sovereignty, as viewed through Beijing's lens, is a construct of its historical experiences and political discourses. In this view, the *de facto* component (right of governance) is effectively detached from the concept. Hence, Beijing's policy approach towards Hong Kong (and Macao) and Taiwan approximates one grounded on "graded rings of sovereignty." This approach flexibly accommodates, at times voluntarily concedes, different mix of *de facto* rights according to each respective context and issue. This view is maintained so long as the idea that a single sovereignty resides in Beijing is not fundamentally challenged. In similar manner as late John King Fairbank's (1968) described in *The Chinese World Order*, a "cognitive map" (Kirby, 1997, p. 434) of Beijing's current view of its sovereignty is as follows in Fig 1.1:
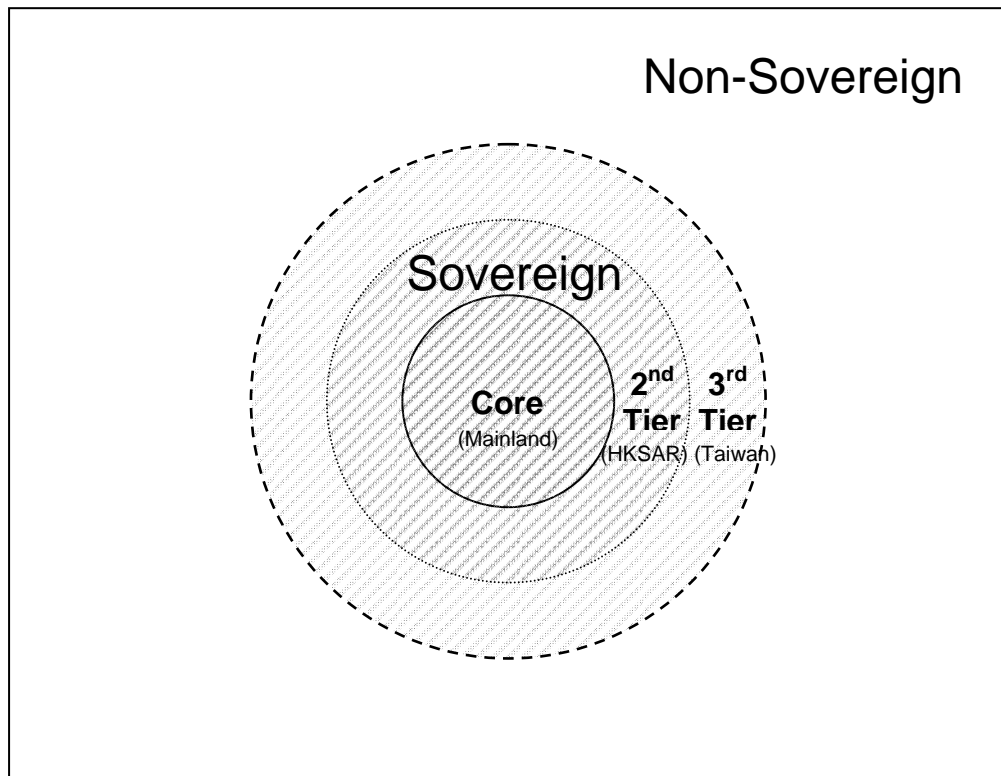
Figure 1.1 China's View of Sovereignty

The first level is the core, where Beijing's control is at its strongest; its control then cascades outwards through the second tier to the third, where its control is weakest. Beyond that 3rd-tier (non-shaded) is what is known as "external" or "international" relations which Beijing can no longer claim sovereignty. In other words, Chinese authority is neither uniform nor contiguous within its defined boundary, as envisioned by International Relations theorists. Policy-wise, although there is strong impetus to make its authority uniform and contiguous, Beijing has so far refrained from doing it, contrary to common logic. China keeps alive policies such as "one country, two systems", "shelving sovereignty to pursue joint development" [*gezhi zhuquan gongtong kaifa*], and engaging the international community on Taiwan affairs, etc., thus allowing a large overlap of different levels of authorities between the so-called "domestic" and "international" realms.

The most significant contribution of this dissertation is to add on to the theoretical foundation of understanding China as an international player. The findings of this dissertation challenge erstwhile basic assumptions in the study of China and its policy, domestic or foreign. Furthermore, to the discipline of international relations, this work raises important questions about the universality of concepts, ideas, values and norms by exhibiting how China, even when accepting "sovereignty" as a core principle in international relations, could interpret the very same concept in vastly different manners from its counterparts. Without falling into cultural determinism, in particular avoiding the entrapments of "with Chinese characteristics" theses so passionately forwarded by the "China school" of international relations,[5] this dissertation seeks to dissociate from "grand theories" of international relations to highlight the importance of understanding key concepts *in context*. For example in this case, regarding China's sovereignty issues, it is most important to examine China's behaviours under a tinted lens, that is, Beijing's view of sovereignty, before one can reasonably understand its interests and possibly, explain its actions.

For these reasons, the arguments presented in this dissertation stand in sharp contrast with a large body of literature (primarily originated from policy analysts in the US) on China and its policy towards Taiwan and its SARs. Rather than seeing Taiwan Strait as a zone of potential conflict (Lieberthal, 2005; Christensen, 2002;

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[5] Developing a "China school" of international relations is a project commonly shared between Chinese scholars working in the discipline. It stemmed from general (and nationalistic) discontentment over the theories of international relations, which these scholars criticised as inherently "western" in perspective and are not applicable to the Chinese context. Many of those within this camp are in strong support of a cultural approach to developing these sets of theories, and often wrote about international relations "of Chinese characteristics" [*zhongguo tese*] (Xu & Xu, 2010; Wang, 2009; Fang & Jin, 2009; Ren, 2008; Editorial Team of World Economics and Politics, 2007; Qin, 2006; Ren, 2003; also the special feature in *World Economics and Politics* [*shijie jingji yu zhengzhi*], 2003:3).

Ross, 2002), for example, this author sees even greater potential for management and cooperation between the various parties directly or indirectly involved in the issue. Considering Beijing's view of sovereignty, as is presented in this dissertation, the glass is certainly half-full, not half-empty. Likewise, naysayers about the abysmal political conditions in Hong Kong and Macao may also have been too pessimistic about Beijing-SAR relations (Chan, 1997; So, 1997; Vines, 1998). Beijing's genuine hope to preserve the "one country, two systems" arrangement opens up a lot of other possibilities in the SARs, were perspectives be shifted to assume Beijing's point of view. With a different take of Beijing's view of sovereignty, analysts can take on vastly different trajectories in their investigations, and the outlooks are not always bleak.

It is important to stress that this dissertation is *absolutely not* about taking a position on the sovereignty debates surrounding Taiwan in particular, and Hong Kong and Macao to lesser degrees. There is no intention at all to add to the mix of those politically-charged disputes. Neither should any part of this dissertation be lifted out of context to support the arguments of competing camps. This is a thesis is intended to make sense of China's view of its sovereignty and its behaviour regarding these matters. It shall stay this way throughout the whole dissertation.

The referent of this dissertation should also be made clear here. The "Chinese" view presented herein refers specifically to the view extending out from the regime in Mainland China. For this reason, the naming convention used in this dissertation have been applied solely for the sake of expediency; in no way has this to confer any political meanings related to the regimes in China or China's sovereign issues. In the texts, for example, terms like "China," "Beijing," "the Chinese Communist Party"

(CCP) and the Chinese regime has been somewhat conflated. Likewise, the Republic of China on Taiwan has had conferred the label "Taiwan" or "Taipei" to aid the flow of writing rather than to take a stand in the legal and political status of the island. Also, Macao/Macau ("Macao" in State Council's definition, and "Macau" in translations made in the HKSAR), where mentioned, have sometimes been used interchangeably owing to their equally common use in official documentations.

II. Limitation of Current IR Studies on Chinese Sovereignty

Studies on China have been growing at phenomenal rates since the opening up of the country. However, despite academic interests in China's sovereignty issues, little efforts were devoted to understanding Chinese view and behaviour towards the principle considered fundamental to the international system. In his work, Samuel Kim's observation that "[o]f all the international norms, state sovereignty is the most basic and deeply internalized principle of Chinese foreign policy," and acknowledged that "varying degrees of definitions" of the concept do exist "*among* sovereignty-bound (state) and sovereignty-free (nonstate) actors."[6] Unfortunately, China-related researches have not caught on to Kim's perceptive comment to look into this issue further. Most published works take China's view of "sovereignty" very much as a given.

To put things in perspective, as well as make sense of where this dissertation stands in the bigger picture, the literature covering China and its sovereignty can be

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[6] It can be argued if Kim (1998, p. 21) have really meant different interpretations of the concept *between* state actors and nonstate actors in that specific volume, since subsequent chapters (written by other contributors to the volume) to his introduction did not venture into examining different definitions of "sovereignty" among state actors. This, however, is inconsequential to the fact that Kim does agree that different definitions of the concept could co-exist at the same time.

classified into the below three categories, according to their level of analysis: systemic, state (from international to domestic or vice versa) and domestic level.

"China" at the Systemic Level

This category covers those studies which primarily pivot their analyses on systemic "grand theories" of international relations. Technically, most of these academic writings do not deal with "China" *per se*, but the generic "State" which China encapsulates. Their endeavours thus involve at least the attempts to make cases out of China to support the building of their theories. For most instances, the State—which "sovereignty" is one of the constituents—is a given, and "sovereignty" is relegated to a function of "power" or "interest" in international politics.

For the group broadly considered "realists," sovereignty is a prerequisite to participate in what they deemed inter-*state* politics. Sovereignty, or the lack of it, is what separates states from nonstate actors. It is the fundamental principle of international politics, and there is no difference of one sovereignty from another— that is to say, my sovereignty is as "independent," "equal" and "unanimous" as yours, by the definition of Hans Morgenthau (1985, pp. 331-332).[7] Although sovereignty, together with other principles of international relations, offer some form of "order" in international politics, they are neither the ultimate objectives nor driving forces. For the classical realists, the ultimate driving force is "power," as E. H. Carr (2001, p. 97, 130) written in his treatise *The Twenty Years' Crisis* "(w)hile politics cannot be satisfactorily defined exclusively in terms of power, it is safe to say that power is always an essential element of politics.. International politics are always power politics…" Morgenthau (1985, p. 5) toed similar lines by assuming that "statesmen

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[7] Morgenthau considered independence, equality and unanimity as "synonyms" of sovereignty.

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think and act in terms of interest defined as power." For the neorealists, at the minimal, the purpose is to survive the Hobbesian world of "war of all against all," where life is "nasty, brutish, and short" (Waltz, 1979, p. 103).

Other systemic-level approaches to international politics, from the English School to Neoliberal Instutionalists, ascribed to similar assumptions. Sovereignty forms a large part of Hedley Bull's (2002) approach to international relations. Preservation of the internal-external divide, or sovereignty, that separate states is considered one of the four common goals in Bull's argument for the existence of a "society" within the international system. Yet again, Bull did not take into consideration how this internal-external constitution could be varied but assumed a society-wide uniformity in its application. The Neoliberals, meanwhile, are more interested in explaining why states choose to cooperate than explaining the nuances of sovereignty. In Robert Keohane's (1984; also Keohane and Nye, 1977) world system of institutionalism and cooperation, for example, states are homogeneously egoists devoid of their internal "self"—they rationally consider "interests," "costs," and other factors about cooperating with each other as if their internal constituent does not matter (also Stein, 1990). Sovereignty is again taken as a given without further deliberation, never mind variations in terms of interpretation.

Fixation on the "international system" and how it works has kept "sovereignty" out of the picture for the "systemic" theorists. Even for the system-level constructivists, who are known for their more nuanced approach to international relations theories and concepts, have not entirely take up the challenge of this enterprise. In his seminal work *Social Theory of International Politics*, Alexander Wendt (2005, pp. 206-214) offered a "textbook" discussion on

sovereignty, if only to serve as a water-carrier to develop his theory of how this institution gets internalised by state. Wendt is satisfied with a simple internal-external dichotomy of the concept—not that he is expected to do otherwise in his system-level theorising—and like others mentioned earlier, suffers a Eurocentric (or inaptly-named "Universalist") bias. At this level of analysis, to paraphrase Robert Cox (1986, p. 205), sovereignty remained a singular concept: *sovereignty* was *sovereignty* was *sovereignty*.

"China" at State (Unit) Level Analyses

The school most prominent at this level of analysis is the neoclassical realists. Developments of the realist school of thought have played down the emphasis on systemic-level analysis and focus on power so central to eminent (yet fallible) realist scholars mentioned above. Borne mainly out of a growing discontent over Waltz's neorealist approach of bracketing out domestic conditions in favour of parsimonious systemic explanation, a new school of realist thinkers turn towards greater appreciation of the internal dynamics of their referents of analysis. Labelling them "neoclassical" realist thinkers, Gideon Rose (Rose, 1998, p. 146) describes the group to:

> … explicitly incorporates both external and internal variables, updating and systemizing certain insights drawn from classical realist thought. Its adherents argue that the scope and ambition of a country's foreign policy is driven first and foremost by its place in the international system and specifically by its relative material power capabilities. This is why they are realist. They argue further, however, that the impact of such power capabilities on foreign policy is indirect

and complex, because systemic pressures must be translated through intervening variables at the unit level. This is why they are neoclassical.

Rose further explains how perceptions of relative power are further conditioned by domestic factors:

> …leaders and elites do not always have complete freedom to extract and direct national resources as they might wish. Power analysis must therefore also examine the strength and structure of states relative to their societies, because these affect the proportion of national resources that can be allocated to foreign policy. This means that countries with comparable gross capabilities but different state structures are likely to act differently… [also] systematic pressures and incentives may shape the broad contours and general direction of foreign policy without being strong or precise enough to determine the specific details of state behavior. This means that the influence of systemic factors may often be more apparent from a distance than up close… (Rose, 1998, p. 147)

It goes without saying that instead of focusing solely on developing a theory of international politics—Waltz (1979, pp. 71-73) asserts that a theory of international politics is not, and does not necessitate, a theory of foreign policy—these neoclassical realists seek to bridge the gap between international relations theory and foreign policy. For that reason, these scholars work on a more country-specific agenda, underpinned by their greater attention to "intervening variables at the unit [state] level" cited above.

Despite their willingness to look into details within the unit (state), there is no question that neoclassical realists are driven by the objective to place their analyses in the language of "relative power," albeit one that is moderated. If there is one view that a state can adopt, it is one of its power relative to its contemporaries. State decisions are inherently *strategic* to the conditions they are in, international and domestic. In his discussion on China's attempt to maintain a "balancing act," for example, Paul Kennedy (1989, p. 578) described China's decision as one stemming out of

> … a country straining to develop its power (in all senses of that word) by every pragmatic means, balancing the desire to encourage enterprise and initiative and change with an *étatiste* determination to direct events so that the national goals are achieved as swiftly and smoothly as possible… it therefore involves a sophisticated balancing act, requiring careful judgements as to the speed at which these transformation can safely occur, the amount of resources to be allocated to long-term as opposed to short-term needs, the coordination of the state's internal and external requirements, and… the ways by which ideology and practice can be reconciled."

Beneath the more nuanced approach, however, remains a Universalist attitude: were they be in Beijing's position, for example, *any* American leaders (from George Washington to Barak Obama) would act in no different ways as the Chinese have done. State decisions are untainted by their respective lenses and values; at the end, only rationality and strategic calculations matter.

It is no wonder why, blinded by this fixation on strategic choice and realpolitik, neoclassical realists have failed to provide convincing explanations to China's treatment of its sovereignty issues like Taiwan and Hong Kong. For example, in his attempt to provide a better understanding of "China's baseline realpolitik," Thomas Christensen (1996, p. 37) nonetheless could not fit in all of Beijing's behaviours into the realist school of thought. Taiwan, for one, constitutes a "significant divergent," such that "… realpolitik alone cannot account for… China's violent opposition to Taiwan's legal independence… since realpolitik would suggest attention to political realities, not legalities, it is puzzling to why the change from de facto independence, which Taiwan has since 1949, to legal independence would drive China to risk damage to its economy and war with the world's only superpower [the US]." Christensen explains this by listing domestic factors like nationalism, regime legitimacy, fear for a "national breakup," as well as China's hawkish military (Christensen, 1996, pp. 45-48). Yet these reasons cannot possibly account for China's offer to allow Taiwan to register its presence in international organisation (under the titular "China"), or to possess its own military forces and government institutions. By extrapolating Christensen's logic, would Chinese nationalism then be more pacified with Beijing having to co-exist with Taipei in international meetings, or by monopolising those platforms for itself? Would regime legitimacy be better served with Taiwan working on its own international agenda and through its own governmental machineries, or by channelling Taiwan's international presence through Beijing? Would the Chinese military be more amicable to a parallel institution across the Strait, or unifying all under one single umbrella of the People's Liberation Army? It would be naïve to accept Christensen's explanations without probing further into the mentality of Beijing on attitude towards its sovereignty. Like

systemic analysts, it is more than common for neoclassical realists consider "sovereignty" as a singular concept. Under one concept of "sovereignty," states can only behave in ways similar to each other; a Chinese view of sovereignty remains elusive.

China at Domestic Level Analysis

Political economists see their impact across both state level and domestic level analyses. However, the quest to link economics with politics inevitably places greater emphasis on domestic developments than both systemic and state-level analyses. Fascinations over the sweeping changes and economic successes brought by China's 1978 open door reforms have apparently advanced the political economists' cause: as China's post-1978 policies are primarily about economics, it is always a good place to start when looking at China.

This group is a large one. Within this broad group, however, four different subgroups can be identified, depending on the political-economic relationship they seek to explore. The first subgroup explores the relationship between China and the world/regional economy; issues which are covered include China's developmental model, China and the WTO, China and international economy and regimes in general, China and the regional organisations/initiatives, etc.[8] The second subgroup examines the interaction of economics and politics between China and the great powers or trading blocs, like China and the US, China and Japan, China and the

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[8] China's relations with the WTO merits a separate mention here as its accession to the WTO in 2001 has sparked off a rush of academic inquiries about the issue, both in- and outside China, such that this body of works arguably constitutes a subgroup in itself by its sheer mass. The number of published works is so large that it is impossible to list all. But for a taste of the spread of writings, see Nicholas Lardy's (2002, ch. 1-4); other examples see, *inter alia*, Eichengreen, Wyplosz, & Park (2008); Breslin (2007); Ramo (2004); Nolan (2001); Pearson (1999); Lardy (1994); and Jacobson & Oksenberg (1990).

European Union, China and ASEAN, etc (Wong & Chan, 2003b; Austin & Harris, 2001; Ling, 1996). The third subgroup relates to China and the so-called "Greater China" region: Taiwan, Hong Kong, Macao, sometimes even nation-states with considerably large Chinese communities like Singapore and Thailand (Ash & Kueh, 1993; Rowley & Lewis, 1996).[9] The fourth group, another large one, looks closest in: the political economy within China itself, especially the political economy related to reform (Brandt & Rawski, 2008; Lai, 2006; Hope, Yang, & Li, 2003; Nathan, Hong, & Smith, 1999; Oi & Walder, 1999).

In all the four subgroups, it is not uncommon to see "sovereignty" being perceived as an economic instrument. Almost synonymous to "customs barriers," its meaning could stretch from an impediment to free trade from the liberal perspective, to an important institution against unwanted influx of material goods, personnel as well ideas across state borders for more protectionist elements. However, there is little to no questioning of "sovereignty" as a concept in international relations. Sovereignty is, again, taken for granted.

Furthermore, the intent to use economics to explain issues, while not necessarily to the extent of leaving out politics altogether, often underplays the effects of politics and overplays the influence of economics. For the third subgroup, for example, politics can sometimes be reduced to unwanted distortion in a supposedly simple cost-benefit calculation. Robert Ash and Y. Y. Kueh have not hesitated to proclaim right at the beginning of their 1993 article that "(e)conomic integration is *essentially* a process of unification" (Ash & Kueh, 1993, p. 711

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[9] Also see Shambaugh (1995), for good collection of works related to the issue of "Greater China."

[emphasis added])[10]—the lingering thought is whether they have overstated their claims, since they appear to trivialise the vast political differences between Mainland China, Taiwan and Hong Kong, let alone the highly contentious "sovereignty" issue. Indeed, writing in the same year in another journal George Crane warned of what he calls unwarranted "functionalist optimism," since "the expected 'spillover' of economic cooperation into political cooperation, the centrepiece of theorizing about the European Community, may be delayed for China and Taiwan; the two must settle fundamental political questions before they can formalize economic integration" (Crane, 1993, p. 706). "Sovereignty" is undoubtedly one of the most important—if not the most important—of all political questions to be settled by both sides of the Taiwan Strait (Crane, 1993, p. 713-714), and the singular, rigid conception of sovereignty in most political economy writings hardly offer new thinking to the situation.

Developments in "China Studies"

Not only do the different levels of analysis on China's foreign policy fail to capture how Beijing in reality deviates from a "standardised" view of sovereignty, their current research agenda tends to be narrow as well. The systemic and state-level theorists/analysts, even though they do not share similar assumptions on the behaviour of states, are primarily concerned with China's relations with either the international system as whole, or with great powers or power blocs. Their shared focus on security issues is particularly noteworthy. Beijing's behaviours and attitude

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[10] Ash and Kueh are not alone in forwarding this line of argument. Other articles appearing in the early 1990s also show similar optimism, possibly brought about by warming cross-strait ties following the series of successful talks between Beijing and Taipei. Academic fascination over the possible emergence of an economic "Greater China" remained high until Beijing-Taipei ties deteriorated in the mid-1990s. See for example, articles published in the special issue of *The China Quarterly* on "Greater China" (No. 136), 1993.

towards its sovereignty (as well as of others) are often explored in issues like sovereignty disputes, peacekeeping, civil unrests (like in the cases of Tibet and Xinjiang) (Ross, 2009; Fravel, 2005). Through the security lenses, aided by the lack of comparative studies on China's sovereignty "attitudes," the "absoluteness" of Chinese sovereignty is but reinforced.

Meanwhile, there is this renewed vigour in the so-called "Area Studies" project in recent years on "Contemporary China" as a subject. The key word for this branch of studies is "holistic." Not only do they advocate resting analyses on greater in-depth knowledge of the referent-in-question, they also embrace a multi-disciplinary approach in their research methods. Contemporary China Studies has progressed far beyond what Chalmers Johnson (1974, p. 561) back in 1974 described as a field "dominated by historians," or more pointedly criticised by Ramon Myers and Thomas Metzger (1980) as besieged in "sinological shadows."[11] In the decades which have passed, the nature of the project has shifted from its initial history-focused enterprise to embrace issues from economics to psychology, and analytical approaches from the conventional schools to post-modernist thoughts.

Many of the political economist writings mentioned in earlier section fall into this category of studies as greater emphases are placed on domestic-level analyses, except that in their case more along the political-economic axis. But the "area studies" group has gone further than those confines. In general, four traits are commonly shared between those who would be considered part of this "Contemporary China

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[11] It is imperative to note that Johnson (1974) and Myers and Metzger (1980) have approached the development of "Contemporary China Studies" from different vantage point, even though both parties are critical of the state of the discipline. Johnson was more concerned with research methodology (i.e. empiricism vs. theoretical development) and "the hostility of political science tastemakers to area studies" (Johnson, 1974, p. 560). Myers and Metzger were more interested in the ideological debate within the discipline itself.

Studies" group. The first is a focus on so-called "contemporary" issues; at a minimum, these scholars deal with issues which have implications on the understanding of contemporary China. Second, while writing on contemporary issues, this group of scholars places significant emphasis on seeing China as a historical society, inasmuch as its past has a huge bearing on its present and its future. Third, for those who work on China's foreign policy and international relations, there is general acceptance of a "two-level" decision-making process, as that decisions are often results of interactions between international and domestic factors; its basic premise is not entirely dissimilar to Robert Putnam's (1988) namesake theory, except that the "two-level" theory in Chinese studies accept the dynamism of domestic forces in a non-liberal state. Of course, this standpoint accedes to the assumption that the state or state-related institutions tend to play larger roles than the others in China. Four, there is increasing interests, especially within self-professed "constructivists," on how certain norms and concepts are being "localised" or "internalised" by China. Yongjin Zhang's *China in International Society since 1949* (1998) provides a fine example of which all four traits are exhibited, in varying degrees, within his analysis. Locating his thesis firmly in the English School camp, Zhang nonetheless shows China's "sociability" to the international society, its norms and practices since the founding of the People's Republic, all in no less constructivist tones. Of particular interest to this dissertation, Zhang deliberates the Chinese view on "human rights," which is inherently a concept of Western political thought:

> Traditional Chinese culture is as unreceptive to the idea of human rights conceived in the Western political thought as it could be. Etymologically, as has been often pointed out, the word *Quanli*

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(rights) in Chinese was a new coinage in the nineteenth century and most probably an import from the Japanese. Traditional Confucianism... emphasised duties to the ruler, responsibility to society and obligations to the family and community as the very basis of the social harmony and order of Chinese society. The individual, if not totally submerged, is at least rarely conceived as an independent entity. The central idea as embodied in the concept of human rights...cannot be more alien to the traditional Chinese political philosophy and culture (Zhang Y., 1998, p. 184).

Zhang continues by tracing how the idea was introduced to China, and adapted to the Chinese context:

The idea [human rights] together with the vocabulary of human rights commanded the attention of leading Chinese intellectuals only at the turn of the twentieth century... However, as observed by Ann Kent, the new concepts introduced from the West were all 'heavily overlaid with traditional nuances'... The political culture in China post-1949 added another strain in the tension between the original idea of human rights and the Chinese concept. It was not the conspicuous absence but the *clear metamorphosis of the idea* of human rights that the ideological dominance of Marism brought to post-1949 China. Although civil and political liberties not [*sic*] entirely refuted, the emphasis was now more on social and economic rights, calling for equal distribution of wealth in society and fair share of benefits, entailing a guarantee of the right to work and the right to universal

education. Such priorities regarding rights easily accommodated the traditional notion of what we might call 'subsistence rights' in Chinese political thought... (Zhang Y., 1998, p. 185 [emphasis added]; also Kent, 1999).

Zhang's intellectual discovery is intriguing. Instead of wholesale import of ideas from the west, China went through a far more complex internalisation process, part of which involves juxtaposing its old world views with new ones. Following a similar vein of argument, what can then be made of the idea "sovereignty," which like "human rights," is also a Western political concept, and introduced to China in the mid-nineteenth century?

There have been previous attempts at answering this question (regarding "sovereignty") to make better sense of China's contemporary behaviour. Two main approaches can be identified here. The first approach is the policy- or politics-realm approach, represented by Allen Carlson (2005). Taking cue from Stephen Kranser's authoritative work *Sovereignty: Organized Hypocrisy* (Krasner, 1999), Carlson argues that "each state's sovereign rights encompass exclusive possession of a specific territory, jurisdiction over a defined population, political authority to govern within its own domain without foreign interference, and the ability to regulate economic activity within its territorial boundary" (Carlson, 2005, p. 11). To understand China and its behavioural changes, one thus needs to break up ("disaggregate") sovereignty into "distinct bundles": territorial sovereignty, jurisdictional sovereignty, sovereign authority, and economic sovereignty. Carlson then applies this analytical framework to his data—Chinese policies similarly divided into the territorial, jurisdictional, sovereign authority, and economic parts—

and concludes that, while the Chinese approach to sovereignty was "relatively constant and boundary-reinforcing" in the 1980s, it shifted to another characterised by "a static interpretation of territorial sovereignty, promoting an unyielding and increasing combative stance on jurisdictional sovereignty, and permitted a transgression of the lines created by the economic and authority components of the sovereign norms" in the 1990s (Carlson, 2005, p. 48; also US-China Economic and Security Review Commission, 2008). International legal scholar Wenhua Shan (2008, pp. 70-73) took a similar approach when he divides Chinese approach to sovereignty into "abstract" and "concrete" components, such that China has shown more will to preserve the former, which is a legal, formal concept in international relations, in contrast to more flexibility in the latter, the operational aspect of sovereignty. Both authors sought to view "sovereignty" through Beijing's lens, but arguably the views pose significant methodological dilemma. Chinese sovereignty issues do not always sit tightly into the "bundles" Carlson suggests, as in the case of Shan's conceptualisation of the separate "abstract" and "concrete" components of sovereignty. Take the issue of "cultural sovereignty" discussed widely within the academic circle in China for example,[12] how could one decide whether it belongs to the realm of territorial (e.g. cultural borders), jurisdictional, sovereign authority, or economic? Does the issue then get Beijing into the "abstract" or "concrete" decision-making modes? The possibilities are endless. This is huge methodological undertaking given the subjectivity and arbitration involved, not the least risking coming to self-fulfilling conclusions.

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[12] This is further discussed in Chapter 3 of this dissertation. Also see the internet database set up by this author detailing the works on "sovereignty" in the Chinese academia between 1980 and 2008 at http://www2.warwick.ac.uk/fac/soc/pais/staff/breslin/sktthesis.

The second approach is historical, typified by James Leibold's (2007) attempt to map out how early Chinese republican regime and the CCP reconfigured "nationalism" out of the spatial-temporal arrangement of "borders" in *Reconfiguring Chinese Nationalism: How the Qing Frontier and its Indigenes Became Chinese.* Leibold's central question to his book was to answer why Chinese border (and "sovereignty"[13]) was relatively stable despite political upheavals and wars during the late Qing period through to 1949, and how the borderlands of the Qing Empire played a central role in the politics of consolidating the "nation" (Leibold, 2007, pp. 10-11). While largely a geo-historical enquiry, Leibold's work offers important insights to the contingent nature of Chinese conceptions of ideas acquired from the West. Like Zhang mentioned earlier, Leibold too takes no little pain to remind his readers that Western ideas eventually need to be refined and adapted before being internalised by China, "sovereignty" included. Other writers, writing on different historical periods and issues, concur (Liu, 2004, ch.3; Shih, 2003, ch. 1).

This dissertation picks up from where is left off by Zhang and others in the historical approach. However, rather than just providing an historical explanation to Chinese view, this dissertation seeks to throw light into how history has manifested itself in contemporary politics. This research thus shares some grounds with that of the unofficially- and somewhat inappropriately-named "Chinese World Order project," which many works also strived to rediscover the impact of history and culture in Chinese contemporary attitude to the outside world. It is important to note that these similarities are extended more to the Fairbank-like euphuism "China responds to the West" (Teng and Fairbank, 1954) than to the proposition of a re-

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[13] While the concept of "sovereignty" *per se* is not the focus of Leibold's book, the idea nonetheless weighs heavily in his discussions, in particular of the state and its "spatial-temporal" arrangements (Leibold, 2007, ch. 1-3).

emerging order based on the primacy of Chinese culture and value system (Kang, 2010a; Ross and Zhu, 2008). This work is concerned with what have changed and what have not in the Chinese mentality, and what inference we can make of these observations. Whatever discoveries made in this dissertation deals within the parameters of Beijing's outlook: how Beijing sees its sovereignty issues, how it had reacted when certain conditions were met, and why it sees things as such. In this fashion this enquiry begin with a position similar to Jeremy Paltiel's work *The Empire's New Clothes*, which argues that "the way in which it [the concept of sovereignty] has become absorbed [by China] has involved and engaged different *connotation* from those that have characterized its reception in the West" (Paltiel, 2007, p. 24, emphasis added). However, in contrast to Paltiel, this dissertation do not seek to make sense of how "(s)overeignty organizes Chinese perceptions of the outside world" and "plays a mediating role in China's external bahavior," neither is this dissertation interested in placing its argument in the context of "China's quest for global status" as suggested by Paltiel's book title (Paltiel, 2007, p. 24-25, ch. 7). This dissertation concentrates on a more modest endeavour: it seeks to see what these "connotations" really are, and how together they form a coherent picture called "Chinese sovereignty" from the perspective of Beijing.

III. A Constructivist Approach to Understanding Chinese View of Sovereignty

To achieve this objective, this dissertation turns to the wisdoms of constructivism to provide an analytical framework suited for the task on hand.
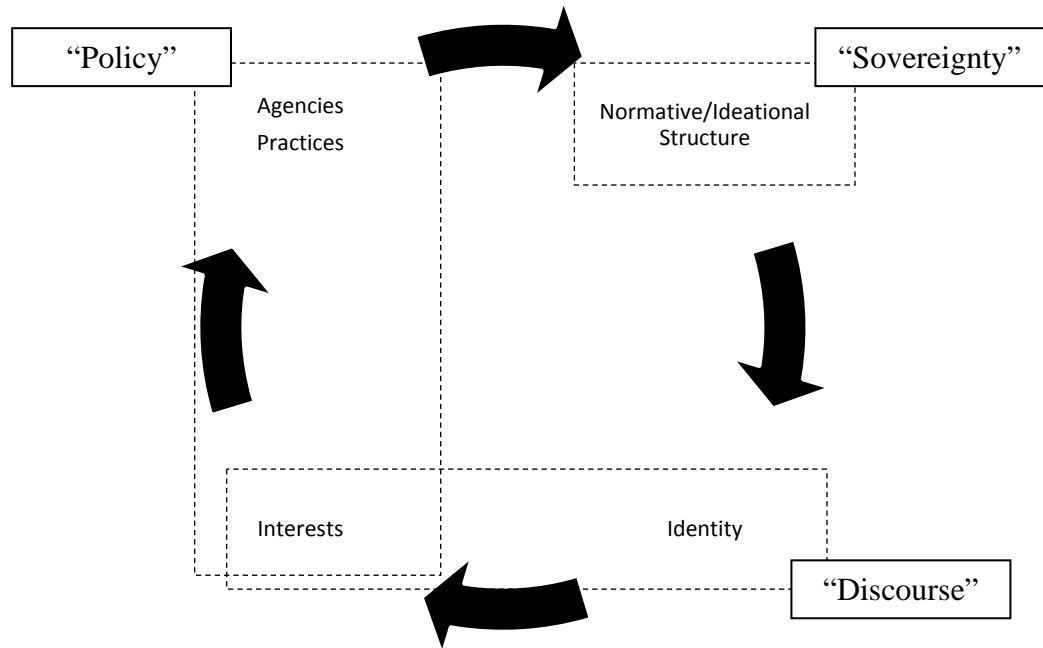
Figure 1.2: The Constructivist Process[14]

The constructivists are primarily concerned with the mutually-constitutive relationship between structures and their agents. Where rationalists see agents as atomistic egoists and their interests as purely exogenous, the constructivists appreciate the "sociability" of their subjects, in the sense that all interests are inherently endogeneous, and have to be "formed" via an identity acquisition process. According to the constructivist, agents in a system act upon the "interests" constructed out of their identity, which is in turn acquired from their perceived "structure" of relationships (see Fig. 1.2) (Reus-Smit, 2001a, p. 219). The process shows a cyclic relationship between the various stages of the constructivist process, where "normative/ideational structures" create "identity" of the agent; with "identity," "interests" are formed (Hopf, 1998, pp. 174-177; also Adler, 1997; Ruggie, 1998); "interests" are the primary impetus for "agencies" and "practices;" finally, "agencies"

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[14] This figure presents a simple, basic correlation map between the various key issues dealt with by most constructivists. It is not, in any way, representative of all arguments within the constructivists' camp, which internal disagreements are common. For the sake of comparison, see the more nuanced map drawn by Jepperson, Wendt, & Katzenstein (1996, p. 53).

and "practices" are fed back into "normative/ideational structures" to start the process all over again. This is "light constructivism" insofar as it does deal with Onuf-style (1989) constructivism norms, ideational structures, agency and "discourse formations;" but it does not follow the encounter dynamics propounded in Wendt-style "socialisation" of norms (2005), with China's norms and ideas instead reflecting deep-rooted historical patterns.

The starting point is the normative/ideational structure. Writing on Japan's security policy, Peter Katzenstein explains:

> Norms have direct effects by defining collectively shared standards of appropriate behavior that validate social identities. They provide, in the language of Ann Swidler, a tool kit of world-views. They are prefabricated action channels that establish links between the values individuals hold and the problems they seek to solve. Norms shape behavior by offering ways to organize action rather than specifying the ends of action. They create habits of interpretations and repertoires of practice grounded in experience. Styles of action thus are typically more persistent than the ends which individuals or groups seek to attain. In the words of Robert Smith, "certain elements, constructs, principles and styles seem to be enduring. At the very least, they seem to recur (Katzenstein, 1996, p. 19).

State institutions, meanwhile, embodies institutionalised norms within state structure. It is the mutually-constitutive relationship between these two elements—norms and state institutions—that gives Japan its pacifist attitude towards its national security (Katzenstein, 1996, pp. 28-32, ch. 3).

Chinese practice of sovereignty is one such institutionalised norm (Fig. 1.2 "Sovereignty"). This is the main focus of this dissertation. As a concept borrowed from the West and internalised by succeeding regimes, "sovereignty" in the Chinese eyes manifests itself in the way Katzenstein (1996, pp. 28-32) has argued: a collective shared standard of appropriate behaviour, prefabricated action channel, offer ways to organise actions, and persistent. Taking reference from the point of history when the concept "sovereignty" (as a new normative structure imposed on the Chinese in their participation in international relations) was first introduced to the Chinese in the 19th century, the cyclic process has since transited from the Chinese "old" worldview to a "new" one. At the same time, it is also important to remember that this so-called "new" worldview is not created out of nothing; the "old" elements are residual to the cycles of new process. Chinese "view" of sovereignty has deep historical legacy and was "structurated" over cycles of practices and experience. It remains integral to the Chinese political mindset, identity, interests and agency.

However, norms are not always observable objects. Like "air" around us, the presence of norms is often neither felt nor seen; their existence would have to be affirmed through a secondary medium. While a natural scientist could make air observable to the naked eyes by—for example, "dying" the air by adding coloured pigments—social scientists are unfortunately not predisposed with such techniques. However, norms can be *indirectly* "observed" via reasoning and deduction, that is, by observing and ordering agencies/practices then making sense of them. Just like "being polite" as a social norm is not observable unless someone (customarily) says "thank you," or when individuals bow to each other as a means of social greeting (as in the case for some countries in East Asia), a collective view, as an institutionalised norm, cannot be "observed" per say, except when articulated or acted out in

concurrence to that view. It is the same case for a Chinese view of sovereignty. Hence, to "reverse-engineer" this view, this dissertation returns to Fig. 1.2. Given the correlations between the various stages and sub-processes, it is possible to work backwards: with a firm understanding of "agencies/practices," it is possible to seek out those "interests" underpinning them; with "interests," "identity" is better understood; and with "identity," the "normative/ideational structure" can be drawn out with better clarity.

Empirically, "identity," "interests" and "agencies/practices" are manifested in the policies and political discourses about the topic on hand—"sovereignty." Policies are expressions of agencies and practices for obvious reasons. In particular, through written (as opposed to unspoken or customary) policies, the state actor is in effect articulating a set of acceptable codes for its own behaviour as well as those of its peers. Policies are also embodiment of interests, through not necessarily of the state, certainly that of the collective which it constitutes (Barnett, 1996; Berger, 1996; Finnemore, 1996; Price, 1995). Meanwhile, political discourse, when sufficiently united and inclusive, conveys ideas of identity and interests in no dissimilar ways as the neorealists would advocate "self-help" to their policymaking audiences. Understanding China's "sovereignty policy" and deciphering its "sovereignty discourse" become the twin-keys to unlocking China's view of sovereignty as an institutionalised norm.

To reiterate what has been stated earlier, this dissertation adopts a "light constuctivist" approach to its study. Building on the constructivist premise that agents—in this case, the agent in China—and their structures—again in this case, encapsulated in the institutionalised norm "sovereignty"—are mutually constituted.

Through this premise, constructivism acts as a framework to uncover the analytical components which are important to this inquiry: the relationship between discourse, policy, and the concept "sovereignty" in the Chinese cultural and historical context. This application, as Ted Hopf (1998, p. 176; also Keohane, 1988, pp. 390-391) enables the discovery of "how particular interests come to be (in Beijing), but also why many interests do not." Constructivism is herein an analytical tool with which the Chinese view of sovereignty can be constructed and understood.

IV. Research Methods

When writing about norms, Katzenstain once cautioned that important as they are, "institutionalised norms and collective identities *shape but do not determine* policy and outcomes for two reasons: they are politically contested, and they are historically contingent" (Katzenstein, 1996, p. 22 [emphases added]; also Kowert & Legro, 1996).

If the Chinese view of sovereignty is politically contested and historically contingent, how then can this dissertation seek to identify and isolate, let alone outline it? The answer to the first question is relatively straightforward, and has already been discussed briefly in the first section. The referent named in this dissertation is the "collective" within the regime in Beijing, which has been in power in the Mainland since 1949. Despite growing diversity in opinions since the 1980s, regime stability, and more importantly, political *conformity* in Mainland China makes this an easy choice to make. Political contestation in China today remains primarily an intra-party issue. While alternative views admittedly do exist outside the party, they are often co-opted into the web of interests tied to the regime, drifting in

and out of the mainstream discourse as deemed fit by the regime (Chamberlain, 1993; Bonnin & Chevrier, 1991; Walder, 1983; Goldman, 1981). The society continues to hides in the shadows of the state, while the public media is "liberalised" more in terms of commercial aspects than operational-wise (Lye, 2007).[15] Even the growing and ever vocal intelligentsia have their fates and fortunes intertwined with the regime, as is discussed in greater details in Chapter 3.

Thus the first assumption this dissertation makes is that political contestation of the sovereignty norm in Mainland China is minimal, or at least lack the critical mass to alter the process significantly. Then, in response to the second challenge: since the Chinese view of sovereignty is historically contingent, it is necessary to assume a relatively static phase within which the topic "sovereignty" is viewed from Beijing. For this purpose, this dissertation chooses the period between the issuance of 'Message to Taiwan Compatriots' on 1 Jan 1979 and the Taiwan's participation as observer in World Health Assembly (WHA) in May 2009.[16] China's "open door" policy and economic liberalisation has ushered in a period of relative stability in the management of its sovereignty policy. Unlike the previous Maoist decades, China's sovereignty issues since 1979 are subjected to less ideological "swings." Clear economic priorities have incentivised a more coherent approach to China's sovereignty policy, and the return of Hong Kong and Macao and Taiwan's democratisation movement in the 1990s provide an excellent historical context for this project.

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[15] For an alternative view, see Shirk (2007).

[16] Note participation in World Health Organization and its Health Assembly (WHA) are issues of different natures. Refer to Chapter 6 of this dissertation for a detailed discussion.

With the exception of Chapter 2, where more theoretical and historical (secondary) materials were used in its discussion of the history of concept of sovereignty in China, subsequent chapters of this dissertation use materials dated mostly between these two dates. Whenever available, the materials consulted are in their original language (Chinese); only on occasional instances are translated versions used for lack of better options; in particular cases (e.g. *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*), both the original and translated versions are consulted for verification purposes.

In general, all research materials are classified into the following two categories:

a) Primary Sources

All primary materials used in this dissertation are sourced from the public domain. *No privileged materials whatsoever are utilised or consulted in any way or at any stage of this research*. While the majority of the resources used are from printed matters, extensive digitisation of public-accessed materials in recent times in China, Hong Kong and Taiwan has certainly helped in the research process. Primary materials can be further grouped into two sub categories, official and academic.

Official materials include published governmental documents, white papers and policy information pamphlets. In Chapters 3, 4 and 5 in particular, this dissertation consulted a wide-range of legal and constitutional documents delineating the relationship between Mainland China and its sovereign claims, for example, the various constitutions (1954, 1975, 1977 and 1982) of the PRC, the Basic Laws of Hong Kong and Macao, the PRC's Anti-Secession Law, Law on Ethnic Regional Autonomy, etc. Likewise, treaties and agreements between the various Chinese

political sub-entities are examined for valuable insights. Also taken into consideration are the various publications of the Chinese leadership, usually in the form of "Selected Works" or "Collections" of paramount leaders like Mao Zedong and Deng Xiaoping. Deng's *Selected Works*, in particular, is consulted extensively for his role in the negotiations over the return of Hong Kong and Macao in the 1980s. Transcripts or reports of speeches are also used, especially those of other key leaders like Jiang Zemin, Hu Jintao, Ye Jianying, etc.

This dissertation also turns to China's official media, Xinhua (New China) News Agency and the *People's Daily* for information and reports. News releases, transcripts of news conferences and public announcements made by China's State Council and its ministries are also important sources for this inquest. Publications and other materials from semi-official organisations like the Association for Relations Across the Taiwan Straits (ARATS) and Strait Exchange Foundation (SEF) are researched for their important roles in China's sovereignty issues. One can note how these two semi-official organisations were the official signatories ("The Parties") to the Cross-Straits Economic Cooperation Framework Agreement (CEFA) signed on 29 June 2010; an "agreement" not a "treaty," signed between these intermediary bodies rather than two governments directly, and a formulation reflecting sovereignty sensitivities on Beijing's part. Meanwhile, efforts are also devoted to collecting and scrutinising the texts of official training documents—often key sources of interpretations of the "official line"—in the forms of civil servant training handbooks and high school history textbooks.

By "sovereignty," do the Chinese in the mainland speak of the same language? Is there but *one* sovereignty discourse in China or are there in fact as many different

interpretation of the concept as is the case outside China? To give a better picture to the sovereignty discourse, non-official materials are given equal attention to this research. Chapter 3 is particularly dedicated to this endeavour. Due to China's large public sphere, it is necessary to first locate a more "autonomous" and thus more "non-official" (relatively-speaking that is) discourse for analysis. The Chinese (traditional) media is not considered for this purpose as it remains largely a mouthpiece of the CCP despite recent liberalisation efforts (Stockmann, 2011). The sovereignty discourse within the Chinese academia is thus identified as a major source for analysis in this dissertation. There are two further reasons for this choice: first, Chinese intellectuals' unique relationship between the State and the society, such that they are often considered the "conscience" of "public goodness" yet at the same time useful allies to ruling regimes in China (further explicated in Chapter 3), their take on the concept "sovereignty" is a matter of intellectual interest to this dissertation. Second, public-accessible academic literature on the topic "sovereignty" in China is significantly large enough to offer meaningful analyses in this study.

In bid to locate the academic discourse on "sovereignty" in China, the chapter mobilises and analyses a huge database of academic writings dating from 1980 to 2008. In all, three different types of Chinese language academic materials are identified, collected and reviewed: published articles in academic journals, published books and volumes, and postgraduate dissertations.

In the first and third categories, the full-text records made available to the general public is, the least to say, voluminous. One of the more trusted sources put the number of registered journals and periodicals of all natures and statures at some 8,725 across the board by early 2000, and this number is still growing as this

dissertation is written (Zhou W., 2002, pp, 20-51).[17] Beginning from the early 1990s, several organisations in China have been actively involved in collating and ranking academic journals, as well as creating citation indexes—similar to the works of Thompson ISI in the Social Science Citation Index (SSCI) and Science Citation Index (SCI), etc. Major efforts include the China Social Science Citation Index (CSSCI) by Chinese Social Sciences Research Evaluation Centre, Nanjing University, and Chinese Humanities and Social Science Citation Index (CHSSCI) by Chinese Academy of Social Sciences (Chinese Social Sciences Research Evaluation Centre, 2008; Centre for Documentation and Information, 2002). Meanwhile, Peking University Library publishes a quadrennial edition of *A Guide to the Core Journals of China*, which provides listings of so-called Chinese "core journals" [*zhongwen hexin qikan*] in various disciplines from Natural Sciences to the Arts and Humanities (Zhu, Dai, & Cai, 2008). This listing dated back to 1992, and the latest being the one published in December 2008 (see Table 1.1). To make into the Peking University Library elite listing, a journal will need to be ranked amongst the very top in terms of impact factors, which are calculated based on the formula worked out by the institution. It is upon this very last group of journals that this dissertation devotes its attention.

Table 1.1 Number of Chinese Core Journals across Years, 1992-2008

Year	*1992*	*1996*	*2000*	*2004*	*2008*
Number of Chinese Core Journals	2174	1596	1571	1798	1983

Source: Zhu, Dai, & Cai, *A Guide to the Core Journals of China* (2008), p. 10.

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[17] This number has since swelled considerably. For example, if we were to take the 12,412 journals surveyed by Peking University Library in 2008 when compiling *A Guide to the Core Journals of China* as the latest statistical data, the number of Chinese journals has increased a massive 42% since the turn of this century (Zhu, Dai, & Cai, 2008, p. 6).

However, the task remained daunting, as it would still mean searching through a 30-year collection of some 747 journals across the Social Science-related disciplines.[18] In order to inject greater manageability into the data collection process, and ensure consistency in the data collected, the Chinese National Knowledge Infrastructure (CNKI)—a coordinated, national-level effort to digitise academic databases in China—is used for this research. The data that was used in this dissertation was collected through the one of CNKI's many databases, the China Journals Full-text Database [*zhongguo qikan quanwen shujuku*] (CNKI, 2009b). An important note, though, is that according to the website of this database, those "core journals" in its listing are believed to be from those listed in the Peking University Library's directory for the year 2000. These include 235 journals under the category "Philosophy, Sociology, Politics, Law, Military, etc.," 157 under "Economics," and 288 under "Culture, Education, History, etc.," totalling 680 journals.[19]

The following search Booleans were applied when using the search engine provided by CNKI, between November 2008 and April 2009:

1. SEARCH KEYWORDS: "主权" [*zhuquan* or "sovereignty"]

2. FROM-TO: 1980-2007

3. DATA UPDATED: All Dates

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[18] This is based on 2008 figures. The list is made up of 270 journals listed under "Philosophy, Sociology, Politics, Law, Military, etc.," 155 under "Economics," and 322 under "Culture, Education, History, etc.," in the 2008 edition of the *Guide* (Zhu, Dai, & Cai, 2008, p. 10 and Sections 1, 2 and 3 under "Core Journals Listing")

[19] These figures are not verified. The CNKI is an ongoing project and uses different servers for users accessing from different locations. For example, those assessing the database from Hong Kong (as was done in November and December 2008) and those accessing from Beijing (as was done between February and April 2009) are in fact assessing *different databases of similar nature*. Add in the complex web authoring and management practices in China, on several occasions the *figures arrived from the same server do not tally*. The figures used here were those accessed via the CNKI Beijing database server in April 2009 (CNKI, 2009a and 2009c).

4. SCOPE OF DATABASE: Core Periodicals Only

5. SEARCH MODE: Precise

The search returned 1,610 related articles, after preliminary auditing.[20] A bibliography of the works collected is translated and uploaded by this author onto a specially-created webpage at http://www2.warwick.ac.uk/fac/soc/pais/staff/breslin/sktthesis.

For collection of data on postgraduate dissertations, this dissertation relies on other sets of databases on the CNKI platform.[21] In this aspect, the CNKI has two different databases that this dissertation can tap into, the China Doctorate Dissertations Full-text Database [*zhongguo boshi xuewei lunwen quanwen shujuku*] and China Outstanding Doctorate/Master Dissertations Full-text Database [*zhongguo youxiu boshuoshi xuewei lunwen quanwen shujuku*]. A search by title has returned 205 dissertations related to "sovereignty", and which have been successfully submitted and awarded the relevant degrees between 1999 until 2008. The limits of this search have been determined by the fairly recent efforts at digitising dissertations. Still in its early stages of development, this database contains only a fragmented collection of dissertations from China's 767 (in 2007) higher education institutions that offer postgraduate degrees of various disciplines (Ministry of

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[20] This auditing process involved removing unrelated returns as a result of the peculiar characteristics of Chinese language, e.g. the combined word "*zhuquan*" that has appeared in phrases like "rights of ownership" [*yezhu quanli*], or "rights to independent [decision-making]" [*zizhuquan*]. It also involves removing some "noises" in generated data due to inconsistencies in categorisation by the CNKI project, e.g. an article which does not contain a keyword listing, but which has the word "*zhuquan*" appearing in main text and was returned by the CNKI system as part of its programming.

[21] There are other databases available, like the Wanfang Database [*wanfang shuju*], in China Dissertation Full-text Database [*zhongguo xuewei lunwen quanwen shujuku*] and the dissertation collection in the National Library of China. These two mentioned databases have also been searched, but the data collected is discarded as due to the small returns. For the searches performed, Wanfang Database has returned 101 dissertations, while a search into the National Library catalogue has returned even poorer results—only 11 dissertations out of the 60,000 similar items in its holdings (Wanfang Data, 2008; National Library of China, 2009).

Education of the People's Republic of China, 2009), and all submitted and awarded after 1999.

Collecting data of the second type of materials—published books and volumes—suffer difficulties as well. The decentralised nature of book publication poses enormous challenges to effective data collection. Whereas electronic resources can be relied on to achieve a fairly comprehensive coverage of academic works related to the first and the third categories, the lack of common digital platforms in printed books greatly hampers the data collection process. To sidestep this problem, quantitative analysis on printed academic books is *not* performed in this dissertation. This dissertation instead engages in a qualitative discussion on a collection of Chinese books printed after 1980 on sovereignty which existence have been noted through tracking references (in academic books and articles), National Library of China catalogue and Chinese online bookstores.[22]

Each of the three sets of data collected has their respective weaknesses. The biggest problem with the second (books) and third (dissertations) sets has already been clarified: relatively small and shallow, not least incomplete, sampling data. For this reason, many analyses conducted in Chapter 3 were centred on the first set of data collected: published articles in "core" Chinese journals. However, this set of data has its own problems. The most obvious of which is the mixed bags of journals that made up the basket from which the samples were taken. In this basket, one would be able to identify those which are more skewed towards academic compositions, another bag filled up with journals with varying shades of political

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[22] Library catalogue searches are conducted through the National Library of China, http://www.nlc.gov.cn [Accessed 01 March 2009]; Chinese online bookstores that were visited for data collection include Amazon.cn (http://www.amazon.com.cn), Xinhua Bookshop Online (http://www.amazon.com.cn/), and DangDang Books (http://book.dangdang.com/) [All accessed between 30 November 2008 and 16 January 2009].

colours, and yet another more in the mould of reporting-analytical journalism rather than strictly "academic," to name but three.[23] Such "noises" in the data warrants that all analyses made in this dissertation needs to be placed in context, rather than taken at face value. Inherently, any preliminary findings will have to be weighed against the Chinese "academic" practices.

Also, it is important to note that Chinese academic journals practice a unique indexing method whereby the *year* and *issue of publication* are listed in place of the *volume*, *issue* and *date of publication* more common in journals outside China. To avoid confusion, this dissertation follows the Chinese journal indexing method where citations of Chinese articles occur.

b) Secondary Literature on "China"

Some of these works have already been covered in Part II of this introductory chapter. Nonetheless, vibrancy in "China Studies" in the past two decades have ensure a huge score of works analysing the political, economic and social conditions in China, Hong Kong (and Macao) and Taiwan, and "international" relations pieces detailing the relations between the different political sub-entities collectively known as "China," all available in the public domain. These include, *inter alia*, books and volumes, articles, dissertations, research papers and notes, reviews and policy papers. Materials related to the topic and issues dealt in this dissertation are consulted for the

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[23] Some examples for more "political" journals includes *Qiushi* (a CCP Central Committee publications that frequently hosts articles published in the name of top political leaders), *Marxism and Reality* (by Central Translation Bureau of the CCP), *Literature of Chinese Communist Party* (by Party Literature Research Centre of the CCP Central Committee), *Journal of the Party School of the Central Committee of the CPC* (by Central Party School), etc, numbering about 41 in total. Meanwhile examples of the reporting-analytical journal mentioned, again among others, will be *Outlook* (a weekly published by Xinhua News Agency on current affairs), and *The Contemporary World* (by International Department of the CCP Central Committee) (CNKI, 2009c).

wisdoms of previous researches. Academic materials from both English and Chinese mediums are used in this dissertation.

V. Structure of the Dissertation

The central argument stated earlier in Section I of this introductory chapter gives a set of research questions for this dissertation to work with:

a) How has China learned about the concept "sovereignty?" How did the new concept relate to the Chinese perception of the world and its history?

b) What are the political and academic discourses on "sovereignty" in Mainland China today? Is there a dominant discourse? If so, how is "sovereignty" conceived in the discourse?

c) Supposing a dominant discourse does exist, how does that discourse reflect upon China's policy towards issues related to sovereignty, as in the cases of Hong Kong and Taiwan? How does Beijing manage those domestic and international spaces of Hong Kong and Taiwan to reflect "sovereignty" as seen through its lens?

These questions are dealt with separately in three parts, each corresponding to the sets of research questions grouped in (a), (b) and (c) above.

Part I consists of a single chapter, chapter 2, which provides a short review of the history of the concept "sovereignty" in the Chinese context. This chapter engages a more descriptive approach to unpack China's troubled experience with its sovereignty and provides a historical context in which "sovereignty" as a concept

was embedded—how the concept was first introduced to and internalised by China and its succeeding political regimes. As David Scott claims, "China's past is very much at play in the present" in the conception of self and of the "objective realities" around it (2007, p. 8; also 2008, pp. 7-9), and since normative/ideational structures are inherently historical (Katzenstein, 1996, p. 22; Kowert & Legro, 1996), this account challenges the validity of treating "China" as epistemologically and ontologically indifferent from other states. And in the case of this dissertation, this is with regards to the concept "sovereignty." More importantly, this chapter provides a context within which China's contemporary sovereignty policies is discussed in subsequent chapters.

The chapter first offers a discussion on historical Sinocentric view of the world, and how this worldview *juxtaposed* with Western conceptions of "order" when came into contact with the West. This process was far from straight-forward. Sovereignty, rightly understood as an "ideal type" (Weber, 1949, p. 90) of supreme authority, is heavily-laden with cultural underpinnings unique to European-Christendom. Often overlooked were the tensions caused, and new interpretations formed, when new, rich culturally- and historically-embedded concepts like "sovereignty" were introduced to a native setting, which in this case, Qing China.[24] Indeed, the transfer of the concept of "sovereignty," in the 19th century, from the West to China was fraught with difficulties. Prior to the adopting the sovereignty model, China operated along a tribute system in the name of *tianxia* ("under the heaven") (Mancall, 1968; Fairbank and Teng, 1941). The tenets of Confucianism formed the backbone of this system, where the world, known or unknown, were seen

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[24] Qing (or Ch'ing in Giles-Wade) (1644-1911) was the last dynastic court of Imperial China before the Republic of China was formed in January 1912.

as both unified and hierarchical. "China," as a socio-politico-cultural entity, was deemed centre of this *tianxia* cosmos—hence the name "middle kingdom." There was no clear internal-external divide in what is conceived as Chinese "state authority," as other socio-politico-cultural entities were placed around and under China according to their affinities to this system. The son of heaven, yet another Chinese construct, reigned supreme over this cosmos. However, the superficiality of this "supreme authority" meant that direct rule or governance was not essential to its reign. The *tianxia* system was founded not on coercion power per se, but on a cultural and political inclination to gravitate towards the centre—China (Fairbank, 1968).

When coming into contact with the West, the ailing Qing court took the decisive actions to import the concept "sovereignty" into its scheme of dealing with the westerners. Notably these actions included the formation of Office for the Management of the Affairs of All Foreign Countries [*zongli geguo shiwu yamen*, in short *zongli yamen*], and translation of Henry Wheaton's *Elements of International Law*. Investigations into these two developments throws light to how the Chinese reacted to the infusion of the new concept "sovereignty." Most importantly, as philosopher Raymond Williams (1977 and 2005) argued, multiple forms of cultures can exist within the setting of a dominant culture, the analyses in this chapter show that the old, or "residual culture" of *tianxia* has continued to operate even after "sovereignty" became the dominant form of order. The concept of *tianxia* remains helpful at analysing China's behaviours even today.

Part II of this dissertation turns to investigative the discursive elements of "sovereignty" and how it was discussed in the contemporary Chinese context. At this

point the dissertation moves to its post-1978 discussions. This part consists of two chapters. Chapter 3 looks at the sovereignty discourses in China's academic circle. In China, due to traditions of strong academic interests in politics, and vice-versa, and the strong collusion between the two circles, unfolding what and how academicians discuss the concept "sovereignty" becomes an important enterprise in this dissertation. Furthermore, analysing academic writings gives invaluable insights into how the Chinese historical and political structures (on sovereignty) interact with the intellectual and societal minds.

In the chapter, a review is performed on major Chinese language academic papers, dissertations and books published through the post-reform years, between 1980 and 2008. Through both qualitative and quantitative analyses on research trends and topical interests, important discoveries are made. In particular, the chapter sought greater clarifications into two interesting observations. First is the propensity for Chinese academics to treat the concepts "sovereignty" and "security" as two of the same kind. The apparent willingness of Chinese academics to treat sovereignty within the domain of security is particularly noteworthy. In Chinese social science literature, sovereignty is often used in the form of (adjective + "sovereignty"), for examples, "media sovereignty," "cultural sovereignty," "economic sovereignty," "education sovereignty," etc. While this practice is not totally absent in Western literature (Jackson, 1999, p. 10), the Chinese academics seem even less inhibited to such application. This amounts to "securitising" the concept little different from what the Copenhagen School would call "securitisation" of issues. Discourses on sovereignty are instinctively "defensive" responses in the Chinese academic circle and suggest a dominant siege mentality related to issues of sovereignty. The almost unanimous and vigorous defence via the classical and modernist understandings of

sovereignty within the Chinese academic circle only serves to further support this view. In this discourse, Chinese view of sovereignty indeed looks absolute and "Victorian-like."

However there is the second observation which would offset the image offered by the earlier observation. This is a unique discourse in which contributors painstakingly seek to separate "sovereignty" from "right of governance." These efforts serve the ends of justifying the special arrangements in Hong Kong and Macao, the leadership's intent to apply similar political solution to Taiwan, as well as sovereignty issues related to globalisation and China's relations with international organisations and regimes. In many of such discussions, sovereignty is not about implementation and manifestation; *de jure* sovereignty is privileged over *de facto* sovereignty. The relative uniformity of this discourse is puzzling, just as it is enlightening, and the apparent attempt within the academic circle to reconcile China's unique "sovereignty-governance gap" is remarkable. Not only does this show that the concept of *tianxia* remains very much alive in the Chinese image of "sovereignty," it shows as well *tianxia*'s continued relevance in China's sovereignty policy today: Beijing's flexible policy vis-à-vis its sovereignty issues cannot be justified through a rigid or "absolute" interpretation of "sovereignty;" a more accommodating concept of "sovereignty," overlapped with the loose affiliations created by the image of *tianxia*, discussed in Chapter 2, is required. To the Chinese, "sovereignty" has meant more than the concept's Westphalian origins.

As Chapter 3 argues that the Chinese holds a sophisticated conception of "sovereignty," the manifestations of the differentiated view between Beijing's "right of governance" and China's sovereignty become important subjects for closer

examinations. Chapter 4 investigates the concept "sovereignty" in China's political discourse. Following through from the "sovereignty-right of governance" discourse discussed in the previous chapter, the objective is to find corresponding expressions and manifestations within the state's political institutions. From those state documents examined, Beijing is presented to the readers as one interpreting its sovereignty from the widest possible angles. A comparison between different versions of the Chinese Constitution exhibits fundamental contradictions in the Chinese official discourse on sovereignty. "Sovereignty," even at the core level of its debate and practice, moves along a continuum that would be incomprehensible unless taken out of its Westphalian shell. Beijing's view of its sovereignty is "flexible," so to say. It all appears that Beijing is more than willing to give up much of its "rights" to govern, in exchange for a *de jure* recognition of its sovereignty over the territories concerned. As things stand today, Beijing's discourse of the Special Administrative Region (SAR) model would be more appropriately named "one country, *n* systems," where *n* represents a variable. Beijing's assertion of the "inalienability" and "indivisibility" of its sovereignty is overwhelmingly restricted to the *de jure* dimension.

In addition to that, the chapter highlights the clear differential treatments Beijing has applied towards Hong Kong/Macao and Taiwan issues, which are duly reflected in the respective policy discourses. Discursive discrepancies between Beijing's handling of Hong Kong/Macao and of Taiwan are evident when contrasting the SAR's model to that spoken within the policy documents regarding Taiwan. For the case of Taiwan, even Beijing's grip on *de jure* dimension of sovereignty was slowly loosening (Fravel, 2008, ch. 5). Beijing's discourse towards the Taiwan issue began with a parallel drawn to the SAR model of Hong Kong and

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Macao. When Beijing's initial discourse became untenable, Beijing did what it has done: to adjust the bars of "sovereignty" to accommodate the new conditions. In the analyses presented in this chapter, it should become obvious that Beijing has been shifting its bottom-line on sovereignty. Today, this sovereignty discourse over Taiwan is one that is entirely different from its early years. The tone now is unmistakably anti-separatism, nationalised, de-politicised, and ever increasingly "desovereigntised."

In Part III, this dissertation examines how the aforementioned academic and policy discourses are manifested in Beijing's actual policies towards Hong Kong and Taiwan. Chapter 5 examines Hong Kong's international space and its domestic sphere of autonomy under Beijing's sovereignty. It offers an overview of the political, social, institutional, economic and international arrangements China has with the HKSAR. Since Hong Kong's return to the Mainland, Beijing has treaded carefully to fulfil its promises of "one country, two systems" (Hsiung, 2000; Kuan 1999). The end result is one Hong Kong that stretches the meaning of "autonomy." Beijing called its relationship with the HKSAR "highly autonomous;" in truth the artificial separation of the Mainland and its SAR went beyond physical and governmental-structural differentiations. Due to its unique status in Beijing international and domestic politics, and the constitutional arrangements with the Mainland, the HKSAR clearly sees its governance more in the form of a "right" in itself, an opinion that Beijing appears to tacitly oblige by maintaining a distance from HKSAR's affairs.

But tensions are inherent. The problems arise when status quo of that "right" is challenged. That happened on three occasions in the HKSAR's short history. As

the domestic dynamics in Hong Kong changed, greater clarification of that "right" becomes necessary. To address challenges to its sovereign supremacy, Beijing has opted for three law interpretations, in 1999, 2004 and 2005. Though these law interpretation acts were derided by the territory's pro-democrats and by western democracies, in real terms, Beijing did little more than to reassert its *de jure* sovereignty over the territory. Its actions merely reaffirmed the institutional and constitutional structure of Beijing-HKSAR relations—all done without directly denying HKSAR's "right of governance." The accounts suggest that while Beijing voluntarily relinquishes its "right of governance" over Hong Kong to the latter's local administration, it appears less willing to see its *de jure* sovereignty challenged or questioned.

Chapter 6 moves the focus to China's other sovereignty challenge: Taiwan. The island's domestic policy domain is quite apparently out of the reach of Beijing, so this chapter examines in particular Taiwan's international space. Two comparisons are made. The first is a "horizontal" comparison of Taiwan's membership bids to two different international organisations: World Trade Organization (WTO) and World Health Assembly (WHA). While Taipei has been successful in making a membership bid to WTO in the 1990s, it has experienced repeated setbacks when knocking on the doors of WHA due to Beijing's vehement opposition. This situation is made more bizarre when taking into account the second, "vertical" comparison between Hong Kong and Taiwan. Hong Kong's memberships in both organisations have never been questioned, even if HKSAR's participation in the two organisations is under the name "Hong Kong, *China*."

Beijing's peculiar attitude is yet again motivated by the need to maintain the *de jure* sovereignty façade, as the chapter's analyses show. Beijing lacks a consistent interpretation of its "sovereignty," and that this interpretation, more often than not, involves a conceptual, as well as practical, separation *de jure* from *de facto* components of sovereignty. The membership clauses of WTO have allowed both Hong Kong ("Hong Kong, China") and Taiwan ("Chinese Taipei" in short and informally) to enter as full members under a special membership category "separate customs territory. Meanwhile, even though the constitution of the WHO proclaimed that only "states" can be members (Constitution of the World Health Organization, 1946, Ch. 3), there were no clear provisions to stop the ROC from gaining observer status in the WHA. Taiwan's bid was strongly opposed by the Mainland primarily because the island's pro-independence movements turned the WHA bid into a battleground for their political cause. Following KMT's return to power in 2008 and warming Beijing-Taipei ties thereafter saw that Taiwan finally received its much-desired "observer" status with the WHA in May 2010. Quite apparently, regarding Taiwan international space in general, Beijing's concerns had been—and probably will continue to be—political. The legacy of an unresolved Civil War added a historical baggage to the whole Taiwan affair. No doubt, Taiwan's international activities have everything to do with the issue of Chinese sovereignty; but they too, if not more so, have everything to do with the struggle for legitimation between rival regimes in Beijing and Taipei. At the end of the day, the "swing" factor remains whether Taiwan sticks to the "One China" rhetoric; as Wang Zhaoguo, Vice-Chairman of the 10th and 11th Standing Committee of the National People's Congress, said in his speech, under the auspicious of "One China" principle "any issues can be discussed [*shenme wenti dou keyi tan*]" between Beijing and Taipei (Taiwan Affairs

Office of the State Council , 2005, p. 37 [Author's translation]). The quote appears to suggest that Beijing is seeking no more than a pro forma acknowledgement from Taipei of where the Chinese sovereignty eventually lies; the rest are subjects of negotiation. These include Taiwan's right to govern its own domestic and international spheres.

2

CHINA AND THE CONCEPT OF SOVEREIGNTY

> *A community of vocabulary is not the same thing as a community of values... Behind the common grammar there are competing ideological logics.*
>
> Stanley Hoffmann (1981, p. 20)

> *Sovereignty implies equality, and China is very sensitive about equal treatment.*
>
> Ren Yue (1996, p. 169)

This dissertation argues that China's sovereignty, as viewed through Beijing's lens, is filtered through its historical and political experiences. In this view, the *de facto* component (right of governance) is effectively detached from the concept. This approach flexibly accommodates a different mix of *de facto* rights according to specific context and issue. This view is maintained so long as the idea that a single sovereignty resides in Beijing is not fundamentally challenged.

To support this argument, this chapter examines the concept of "sovereignty" and its infusion into the Chinese mindset. It places particular emphasis on the traditional Chinese world order which existed before the introduction of "sovereignty" and how the two conceptual models interacted. This chapter helps to place "sovereignty" in the Chinese historical context and serves as a base from which subsequent chapters could build on. The "learning" of the concept and the eventual turn China took to become a modern sovereign state cannot be seen as isolated

events. They belong to the chain of historical events which interacted with each other and determined what China is and how China thinks today.

This chapter is divided into four sections. The first section provides an overview of the concept "sovereignty" in international relations literature. Two points are pertinent here. First, "sovereignty" is an ever-changing concept which very definition and interpretation shift with the context it applies, as well as the historical period it was defined. However, and this is the second point, in the intellectual debates about the concept, it was not difficult to identify a lowest common denominator which academics and thinkers refer when talking about "sovereignty." At the bottom-line, "sovereignty" is deemed an ideal-type of supreme authority.

But which or whose "ideal-type" do we refer to when we speak of "sovereignty?" The idea "supreme authority" conveys little of the cultural and historical contexts in which the concept "sovereignty" is embedded. Before this dissertation moves ahead with its argument, it is necessary to first lay down the fact that "sovereignty" is a non-native concept to Chinese political thinking. A construct of the historical legacy of the European-Christendom, "sovereignty" was only spread through expansion by the West into the other parts of the world. For China, that defining period was the 19th century. For thousands of years before the arrival of the West and the concept of "sovereignty," China had operated a world order based on entirely different organising principles and assumptions: *tianxia* ("all under heaven").

In the second section, this chapter turns to consider the framework of *tianxia*. Much like the European concept of "Christendom," the concept *tianxia* believes in the unity of a single constellation. However, whereas Christendom centres this

constellation spiritually upon the house of God, *tianxia* pivots itself geographically and culturally on the central plains [*zhongyuan*] of China. This section examines in greater details this concept *tianxia*, the lens it provides to view the world around, and the resulting order that governed China and its "world" for millennia.

The third section then focuses on the period in which the Chinese traditional world order "*tianxia*" came into collision with the Western world order founded on the principle of "sovereignty." Conflicts and wars ensued. Eventually, the Chinese accepted the Western world order, but this was both involuntary and reactive. Two developments are particularly noteworthy: the establishment of the Office for the Management of the Affairs of All Foreign Countries [*zongli geguo shiwu yamen*, in short and hereon *zongli yamen*], and translation of Henry Wheaton's *Elements of International Law*. Investigation into the first development throws light to how the Chinese, ruled by the Qing (Manchu) dynastic lineage then, reacted to the infusion of the new concept "sovereignty." Interestingly, *zongli yamen* was far from a full-fledge foreign ministry and was a mere appendix to the Qing bureaucratic structure. Nonetheless, the office had time and again played key roles in changing the Chinese mindset towards the concept "sovereignty." The second development is related to the first, as the first translation of Wheaton's *Elements of International Law* from English to Chinese was commissioned by *zongli yamen*. By the analysing linguistic construct of the corresponding word of "sovereignty" in Chinese—*zhuquan*—this chapter seeks to uncover the underlying meanings encased within the Chinese interpretation of the concept.

The fourth section explores the applicability of the concept *tianxia* in understanding contemporary Chinese politics. To this end, this chapter turns to a

two-level explanation offered by "conceptual change" theories more commonly found in philosophy of science and in educational studies, and the "cultural residue" theory developed by philosopher Raymond Williams. Both theories suggest the strong staying power of old concepts even when new ones emerge. By extending the findings of these theories to the case the China, there are reasons to believe that the concept of *tianxia* has survived China's transition from an empire to a sovereign state, and remains useful at analysing China's political behaviours even today.

I. What is Sovereignty?

What is "sovereignty?"

Undoubtedly, this is one of the most vexing questions raised in many debates within the discipline of international relations, and quite reasonably so. "Sovereignty" as a concept is so foundational to the discipline that, without it, the study of international relations will be rendered meaningless as an academic pursuit. Its importance, however, has merely increased the frustrations of scholars in locating the elusive meaning of the concept, inasmuch as the concept was quipped to be "fuddled by shibboleths and phantasms" (James, 1986, p. 3). Other sceptical writings are common, and this dissertation does not wish here to add to the long list.[25] Nonetheless, in order to construct a current understanding of China's view of sovereignty—which is this dissertation's primary objective—it is only pertinent that it begin this enquiry by laying down a theoretical understanding of the concept.

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[25] In numerous writings, adjectives such as "twilight," "the end of," etc, were used to describe the status of the concept of "sovereignty" (R. Falk, 1993& 1997; Ohmae, 1995; Camilleri & Falk, 1992; Wriston, 1992; Duchacek, Latouche, & Stevenson, 1988; Vernon, 1971).

Historically, understandings of sovereignty tend to be redefined during and following the conclusion of major wars or in the aftermath of widespread political upheavals. Such understandings are a reflection of the norms and principles that underlay the legitimation of the nation-state following a particular era (Barkin & Cronin, 1994, p. 114).

In their 1994 article published in *International Organization*, Samuel Barkin and Bruce Cronin argued that sovereignty, as a constitutive concept of international relations, is most susceptible to the challenges of new norms and values of the international society. They see, in their case studies, that following the Napoleonic War and the World Wars, the end of the Cold War has led to yet another grand shift in the interpretation of the concept. Grand shifts in international beliefs and values, according to Barking and Cronin (1994, p. 125), lead "to a change in both the discourse concerning legitimacy in foreign affairs and the conduct of foreign affairs."

Constant change is a defining feature of the concept of "sovereignty." In the first place, the concept was a contingent product of the political developments during medieval Europe (Spruyt, 1994). Its existence as an idea has predated the Peace of Westphalia. While Jean Bodin (1967) may be the first to coin the concept *souveraineté* (older terms such as *majestas and summa potestas* were also used interchangeably with *souveraineté*) in the second half of the 16th century, pre-existing forms like "mytho-sovereignty" and "proto-sovereignty," and *rex imperator in regno suo* ("the king is Emperor within his own kingdom") were found to have existed as far back as the pre-Renaissance ages (Bartelson, 1995, chs. 4 & 5; Hinsley,

1966, chs. 2 & 3).[26] Its consolidation as an ordering principle of interstate relations in medieval Europe came after the sovereign state format decisively triumphed over other forms political organisations as *the* preferred form amongst systemic agents (Spruyt, 1994, ch. 8; Krasner, 1993; Onuf, 1991, pp. 433-437). But the story did not end there. "Sovereignty"—and its embodiment the sovereign state—constantly faced the challenge of alternative forms of systemic order (Holsti, 2004). Over the course of centuries, new interpretations of the concept were created in place of old ones when new needs arose. "Sovereignty" is not, and has never been, a static concept and its understanding shifts temporally.[27]

Given its contingent nature, "sovereignty" as a concept thus possesses multifaceted contents. To Stephen Krasner (1999, p. 9-30; also 1993 and 1988), they were "domestic sovereignty," "interdependence sovereignty," "international legal sovereignty," and "Westphalian sovereignty," but to others it could take moral, legal, or spatial forms, to name but few examples.[28] This makes the concept hard to pin down, let alone define. Samantha Besson (2004, p. 5) thus argues that sovereignty, as

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[26] Bartelson (1995) has provided an excellent account of this evolution of the concept prior to the 16th century, calling its pre-existing forms "mytho-sovereignty" and "proto-sovereignty." "Mytho-sovereignty" refers to the universality of the Christian society, where "all social forms were subsumed under the Christian norm" (1995, p. 91). According to him, sovereignty as an idea was not apparent until the emergence of "proto-sovereignty" during the Renaissance (pp. 138-139). Whereas Hinsley (1966, p. 88) argued that the formula *rex imperator in regno suo* in the 13th century began that demarcation.

[27] See, citing two examples coming from different perspectives but nonetheless arriving at similar conclusions. F. H. Hinsley (1966, pp. 22, 222) took the position that the idea of "sovereignty" evolved gradually, with its emergence "reflecting the slow advance of mutual adjustment between a society and its state;" its continual refinements are a constant throughout history, as he noted that in modern times, "as the (political) community became still more complex the thesis of the sovereignty of the ruler was challenged by the thesis of the sovereignty of the people." Daniel Philpott (2001, p. 4) adopted a more radical view of such changes, describing them as episodic "revolutions" brought about by "crises of plurality" (also Sorenson, 1999, pp. 173-176; Donnelly, 1995, pp. 115-146; Jackson, 1993 and 1990; Ruggie, 1983).

[28] Writings on "sovereignty" have approach the concept from many different perspectives, each depending on the discipline involved. Some constructivists and students from the English School, for example, see "sovereignty" from a moral-legal perspective (Reus-Smit, 1999 and 2001b; Wheeler, 2000). Legal scholars naturally approach the concept from a legal point of view (Crawford, 1978), and political geographers from the spatial approach (Elden, 2009).

a concept, "should be neither entirely closed nor entirely open; it should neither encompass all changes of reality, nor exclude any change of its paradigms… Sovereignty is therefore best understood as… an *essentially contestable concept*."[29]

Nonetheless, were the various interpretations of the concept placed alongside for comparison, a basic definition based on the principle assumption of sovereignty appears quite possible. All debates on sovereignty have not existed in a definitional vacuum. No debate can ever be achieved without some minimal assumptions about the concepts, even though the argument could be about the concept itself, just as Steven Lukes (1974, p. 187) pointed out, contests "… are after all, contests over something: essentially contested concepts must have some common core; otherwise, how could we justifiably claim that the contests were about the same concept?"[30]

R. B. J. Walker (1995, p. 27) also wrote,

The state is on the active agenda of essentially contested concepts. *Sovereignty*, by contrast, is a puzzle that works because it has become so unpuzzling; so unspeakably boring; so essentially uncontested except among small coteries of scribes in dusty places [emphasis in original].

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[29] Emphasis in original. Barry Clarke (1979, p. 124) cautioned about the need to distinguish "contestedness" from "contestability:" "… for to refer to a contest is to refer to a current state of affairs or to some definite future event; whilst refer to something as contestable is not to make a definite claim that it is actually contested but rather to say that there are some property about the referent which may (or may not) give rise to some contest at some future time." W. B. Gallie (1956a, pp. 113-114), the creator of the idea of "essentially contested concept" was himself aware of this difference and had cautioned about it. In her paper, Beeson have used both words somewhat interchangeably, and hence appeared to be suggesting that sovereignty is both contested as well as contestable (example see footnote 43 in her work). Also see the works of Alasdair MacIntyre (1973, pp. 1-9) and Dan Sarooshi (2005, pp. 3-4).

[30] For a response to this challenge on the concept of essential contestability, see Christine Swanton (1985). This need for a definitional common core was also recognised by John Gray (1977, p. 342), "[r]eferences to definitional 'contests' have a point only if there is something which is not treated as 'contestable.' A strong interpretation of essential contestability in terms of incommensurability, then, is self-defeating in that it dissolves the generic identifying criteria of the concept and prevents us from characterizing the conflict as a definitional dispute."

Moreover, the concept of "sovereignty" is often misunderstood because it is deemed an "observable reality." But theory is *not* practice. As Krasner (1999, p. 6) has correctly pointed out, there is a gap between sovereignty in theory and sovereignty in practice, where "the logics of consequences dominate the logics of appropriateness." More often than not, those who foretold the demise of "sovereignty" were far too focused on the *actual* control over (often physical) barriers delineating one state from another, be it due to technological advancement, globalisation, etc (Wriston, 1988; Kobrin, 1997). That is to say, some have expected the "perfection" of "sovereignty" as a concept to be replicated in practice, or "sovereignty" is deemed in decline. This is *the* fallacy about the concept of "sovereignty." Sovereignty cannot be as impermeable as it is theoretically constructed. "Sovereignty" as an "organized hypocrisy" (Krasner, 1999) has persisted throughout history, and will continue to persist for as long as nation-states remain the fundamental building block of international relations. There is no reason to believe that *any* nation-state, let alone China in this dissertation, is able to marry a theory of "sovereignty" entirely into its practice. Thus, practice and application aside, a basic, theoretical definition of "sovereignty" is not impossible.

As a theory, then, have there been other common grounds that scholars have implicitly agreed on? Apparently yes. For most common treatment of the subject, a central *assumption* can be identified: by sovereignty, we almost always assume that it takes the form of a "supreme authority." F. H. Hinsley (1966, p. 26) has given us a vantage point to begin with, that sovereignty is "the idea that there is a final and absolute authority in the political community… and no final and absolute authority exists elsewhere." Robert Jackson (1999, p. 11) concurred, claiming that this definition "captures the core meaning of sovereignty." Cynthia Weber (1995, p. 1),

despite her doubts about the possibility of a specific definition of sovereignty, regarded "absolute authority" as a generally acceptable definition. Similar formulations can also be found in other definitions elsewhere, though it may take different forms, and reside in different locations. For Hans Morgenthau (1985, p. 328), as well as others (Philpott, 2001, p. 16) who subscribed to the territoriality of sovereignty argument, this authority was limited by its territorial or geographical boundaries; Hedley Bull (2002, p. 9), similar to Hinsley, was less concern about territoriality but more on the political community, but nonetheless emphasised on both the capacity as well as the recognition to be (sovereign) state, properly so-called; Anthony Giddens (1985, ch. 1), Charles Tilly (1992, pp. 19-28, ch. 3) and others would draw attention to the importance of coercion or violence elements; yet others focused on the external aspects of sovereignty, as that sovereignty is defined vis-à-vis "the others" (James, 1986, p. 24; also 1999). In whichever case, the most basic assumption underpinning most definitions of sovereignty is that the bearer (of sovereignty) possesses the quality of a supreme (or absolute or final) authority over a body. All concepts used in this definition—who the bearer is, what this supreme authority involves, and what type of body it refers to—acquire intersubjective meanings in accordance to grand shifts in world norms. But it is clear that the part which sovereignty represents the idea of a supreme authority appears to be the lowest common denominator among scholars. Under a different light, sovereignty debates throughout history were all about questioning and negotiating this basic assumption. This is the truly "incontestable" assumption that the concept adopts; this is the "common core" that this thesis seeks. *Sovereignty is but a form of supreme authority, ideal type.*[31]

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[31] The Weberian ideal type synthesis provide not only a possible and workable definition amidst the

II. China, Before Sovereignty: All-under-Heaven [*Tianxia*]

Whose "Ideal Type?"

The big catch to this "ideal type" of supreme authority, as already explained, is that this definition is contingent to the Western—in particular, European-Christendom—experiences. This understanding of "sovereignty" embedded to the cultural-, historical-, and perhaps most importantly, religious-, geographies of its original conception. In other words, beyond the context of the power struggle between the Christian Church and the princes of medieval Europe over the souls and loyalty of their subjects, and which was refined across the same geographic region during the later, renaissance era, this concept has no fathomable meaning. These were the cultural and legal undertakings of all versions of "sovereignty" known, including the so-called "standard" and "universal" ideal type of sovereignty which propagated throughout the international system in the modern era.

In an article in 2005, Ye Zicheng, an academic in Peking University, attempted to draw parallels between the 20th century international order and that between the individual fiefdoms in China during the "Spring and Autumn period" and "Warring State period" (circa 8th century B.C. to 3rd century B.C.). Owing to the

array of definitions in the literature, more than that, it accommodates different interpretations of sovereignty, in the manner Gallie's (1956a & 1956b) "essentially contested concept" does, though not at the expense of spiralling into radical relativism. As Weber (1949, p. 90) himself wrote, "(a)n ideal type is formed by the one-sided *accentuation* of one or more points of view and by the synthesis of a great many diffuse, discreet, more or less present and occasionally absent *concrete individual* phenomena, which are arranged according to those one-sidedly emphasized viewpoints into a unified *analytical* construct (*Gedankenbild*). In its conceptual purity, this mental construct (*Gedankenbild*) cannot be found empirically anywhere in reality. It is a *utopia*" [emphasis in original]. The definition bears an approximation to the "reality" about sovereignty. "Perfect," or "true," sovereignty has *never* existed, and indeed, *never will* exist, both conceptually as well as in practice. By treating sovereignty as an ideal type, the definition of the concept then crossed over the fine line that separate between a normative statement and a valid assumption. After all, "true" sovereignty, like any other ideal construct, can only exist in the Weberian utopia. See also Thomas Burger (1976, pp. 118-130, 139); for classical critics of Weber, see the works of Talcott Parsons (1968, pp. 599-610), W. G. Runciman (1972, pp. 33-48) and Raymond Aron (1964, pp. 71-75).

feudal system in place during that period, "China" (or what was known as "central plains" at that time) was broken down into hundreds of fiefdoms which original purpose was to provide an interlocking defence web for the central ruling regime, the dynastic kingdom of Eastern Zhou. But as time progressed, Eastern Zhou had weakened to such levels that its effective influence became virtually non-existent. As the concept "*guo*"[32] slowly crystallised in the Chinese mindset during this age, and as a result of constant wars between rival fiefdoms, Ye argued, "independent, sovereign states" [*duli zhuquan guojia*] slowly emerged out of erstwhile vessel states. By the time of the early Warring State period, these states formed an international system which Ye deemed "premature yet rich in substance," that is, until Qin eventually unified China at least (Ye, 2005).

Ye's endeavour was inspired by the wider "Chinese school of international relations" project mentioned briefly in the introductory chapter, as he sought to turn the attention of the discipline to the riches and insights of early Chinese history (Ye, 2005, p. 22) by turning back the clock back a good 2,000 years before the Peace of Westphalia, and move the focus of research from Europe to Far East China. This is a phenomena not unique to Ye, but prevalent in the Chinese academia (to be explored in greater details in Chapter 3). While Ye's work has created a somewhat "cultish" following in the Chinese academia (Wang R., 2009a, 2009b; Luan, 2009), his arguments have overstretched the concept "sovereignty" and the legal, cultural (religious) and political contexts in which the concept was formed and understood in modern times. The fiefdoms of Eastern Zhou periods might have enjoyed relative

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[32] In Chinese, the word "*guo*" can be translated into several different words in English. The most common translations include "country," "state," "nation," and sometimes even "-dom," for example in the form of "duke-dom" [*zhuhouguo*] and "king-dom" [*wangguo*]. By the context of Ye's article, he could have referred to a meaning more akin to "state" than the others.

independence compared to other similar entities in different ages in China, but to consider them "sovereign" is misconstruing the concept (Yang & Wang, 2005).[33] In doing so, Ye and his contemporaries have underplayed the social, cultural and legal settings of the concept "sovereignty" as were raised earlier.

Certainly, the idea of "supreme authority" would have existed outside the European-Christendom sphere, but to take all of them as one of the same kind of authority is reductionist. The same idea of "supreme authority" would elicit different understandings in different cultural and historical contexts. "Supreme authority" in Incan civilisation would be different from that in the Caliphates of Islamic traditions, likewise compared with that in the Chinese empire; the concept would even be overstretched were it placed in the context of the Roman empire, ostensibly an antecedent to the European Christendom. One would hardly expect otherwise. "Sovereignty," or what it is known in contemporary international relations and international law, is a legacy of medieval and post-medieval Europe experience, and which later proliferated to the rest of world through the process of (de-)colonisation and globalisation (Liu, 2004, pp. 22-30). Its religious (Christian-European) backdrop was encapsulated by the Latin phrase *cuius regio ejus religio* ("whose realm, his religion"). It involved not only of the recognition of a "supreme authority," but one which is comprised of also a population (James, 1986, pp. 13-14), and a limited territory with enforced borders to demarcate it from another, similarly-defined "supreme authority." In this specific context, "sovereignty" cannot exist without the presence of at least two "supreme authorities" sharing a clear, enforced border

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[33] Yang Shu and Wang Huan (2005, pp. 5-7) have also stated the idea of "greater unification" [*da yitong*]—that is, despite separation, there was a strong discourse and belief of an eventual unification during that age—to counter Ye's arguments. With that argument, however, Yang & Wang have overstated the idea of "greater unification" in ancient China while understating that in Europe. Their interpretation of the formation of sovereign states in post-Westphalian Europe is also debateable in terms of their emphasis on "nation".

(contra "frontier") between each other; it essentially has to sit on a clear line dividing the "internal" from the "external," making "holders of sovereignty… Janus-faced" (Philpott, 2001, p. 18). The sovereignty "ideal type" we know today is heavily laced with European overtones, and truly European only; hence Kang's (2010) concept of Confucian-related Chinese soft power pre-eminence in East-Asia's pre-European traditional sino-centric international relations, a "hierarchy" system rather than "sovereignty" system.

The Mythical Attraction of Tianxia

Thus, "sovereignty" is not a concept native to China—as a historical entity which existed in the forms of an idea, civilisation as much as an empire (Fairbank, 1968, p. 5). So what does?

The idea "All under Heaven" [*tianxia*] is a Chinese concept which has prompted numerous academic inquiries to date. Its contents and purposes at maintaining the Chinese cosmic world prior to China's inclusion into modern international order have attracted interests especially from the early China Studies pioneers in the 1960s. In 1968, late Harvard and influential Sinologist John K. Fairbank edited a volume dedicated to this concept, in *The Chinese World Order: Traditional China's Foreign Relations* (1968). Many historical enquiries on the same topic followed in the subsequent decades (Rossabi, 1983; Mancall, 1984; Cohen, 1986; Hevia, 1995). But it was not till the late 20th century when the idea began to move, from erstwhile strict disciplinary endeavour of History, to capture the attention of students of international relations (Barabantseva, 2009; Callahan, 2007 and 2008; Zhang Y., 2001; Alagappa, 1998, pp. 66-71). The idea even enjoyed a "renaissance" in post-Jiang Zemin China, as Chinese academia "rediscovered" the

tianxia concept following Zhao Tingyang's (2003, 2005 & 2008) writings; Hu Jintao's borrowing of the concept in his "harmonious world" theory added more devotees to the idea as political elites sought to build on the momentum (Zheng & Tok, 2007).

Indeed, as aforementioned, the idea of "supreme authority" had existed in *tianxia*, but the meaning of "supremeness" in this ideological system was widely different from that in the concept "sovereignty" known today. For the purpose of this dissertation—which again to remind the readers is to unfold the Chinese view of the concept of sovereignty—it seems prudent to first establish a basic understanding of the Chinese outlook of the world prior to its contact with the concept of sovereignty.

Analytically, there are three key differences between the ordering structures found in ancient China and the European-Christendom: the basic assumptions of that supreme authority, the channel through which that authority emanated, and the structure of power relations within the cosmic entity.

1.　　*Basic assumptions: the "supreme authority" was ostensibly omnipotent and wholesome; yet it was also ideological and superficial.*

"Omnipotence" by-and-large explains "supremeness" in an authority, yet to the Chinese mindset, this omnipotence extended further and wider by the known standards of modern sovereignty. Whereas "sovereignty" assumes omnipotence within a highly specific domain—usually legal (Bodin, 1967, p. 45)—of a bounded territory, *tianxia* extended "omnipotence" to the whole cosmos. Hence, *tianxia*, devoid of a spatial element, is by all practical means *unbounded territorially*.

Since the cosmos encompassed the whole human world, there is technically no "borders" *per se* in *tianxia*. In place were "frontiers:" hundreds, even thousands, of miles of uninhibited or sparsely-inhibited lands over which no single power was able to exert its full authority. Rather than an imaginary line drawn across the sand to claim full ownership on each side, *tianxia* had no place for such frivolity; everything within this cosmos nominally belonged to the charge of the Son of Heaven. Terms like "internal" and "external" were used in a figurative way to convey the idea of distances (from the apex) as much as cultural affinity and loyalty to the cosmic order. All policies were, strictly-speaking, "internal" and there was, in name, no "foreign policy" whatsoever.

Tianxia was an ideology-based order. In this cosmos, both known (to the Chinese, for examples the Persian-Sassanid Empire and the European-Christendom) and unknown (for examples the Aztecs and Mayan civilisations) world in theory co-existed in perfect harmony. The Chinese world remained at the centre of this cosmos, while the other worlds formed around the superior quality of the Chinese civilisation. Each was supposed to have a particular place and play a particular role within this hierarchic and anti-egalitarian utopia envisaged by this Chinese ideological construct. At the apex of this order was the Son of Heaven (the emperor), who in theory was omnicompetent. He (or during a very unique period in Chinese history, a "She")[34] was the very embodiment of everything good that the heaven can bestow to a human, an all-in-one persona whose roles ranged from being a military leader to an administrator, a philosophical sage to an arbiter of taste to a patron of arts and letters. Fairbank described him as "more than human... Sons of heaven remained superior to

[34] This "She" refers to Empress Wu Zetian, who established Zhou Dynasty (690-705A.D.) (Rhee, 2008; Guisso, 1979).

ordinary mortals because of their unique function in maintaining order among mankind and maintaining harmony between human society and the rest of the cosmos" (Fairbank, 1968, p. 6). This apex was where the "supremeness" resided.

As much as the "supremeness" was ideological, it was also superficial. The "supremeness" was build around a sense of Chinese superiority. The self-entrusted role to maintain that particular order was ambitious, to say the least; practically it was impossible to enact and the image existed only as an illusionary self-belief. This illusion nonetheless "had to be maintained for domestic purpose," as Zhang Yongjin (2001, p. 54) explains. *Tianxia* was the very ideological foundation on which imperial courts of China were founded upon, and the myth of that supremeness required constant reaffirmation and legitimisation. Coming into contact with the Chinese world, other worlds, supposedly awed and inspired by Chinese superiority, could willingly acquiesce themselves to this order, to which the Chinese would graciously (and gladly) place them in their place befitting to the belief system; for the others beyond the influence of the Chinese, it was then a simple exercise of judgement to place them together under the labels of *rong*, *di*, *yi*, and *man*. These four descriptions, commonly translated to "barbarians" in English, were convenient labels used by the Chinese to "signpost" other known and unknown worlds according to the four cardinal points of the compass: *rong* to the West, *di* to the North, *yi* to the East, and *man* to the South. Every world should have a place in this cosmos, whether actual power or influence was exerted. The "supremeness" was undeniably a self-constructed belief system made true only by those who were bought or coerced into it.

2. *Medium of authority: the "supreme authority" flowed through a matrix of moral and cultural underpinnings; legal institutions existed but were peripheral in maintaining the order.*

As an ideological system, the Chinese version of "supreme authority" was entrenched within a set of intellectual thinking uniquely Chinese—Confucianism. By "Confucianism" here, this dissertation, of course, is not referring specifically to the teachings of the philosopher-sage Confucian (551-478 B.C.) himself, but a broad *body* of literature which began with Confucian, but appended and enriched by self-styled Confucian scholars over the course of history. Important figures like Dong Zhongshu (179-104 B.C.) and neo-Confucian scholar Zhu Xi (1130-1200 A.D.) together helped to create a lineage of knowledge and teachings known as "Confucianism" today. Arguably, it was not Confucius, but Dong, who contributed most to the idea of *tianxia* through creation of cosmological Confucianism that reaffirmed the cosmic status of the universal king (Schwartz, 1985, chs. 9 & 10; also Fairbank & Goldman, 2005, pp. 62-71; Graham, 1985, IV-1).

Knowingly or otherwise, discursive attempts in the early 1990s at reviving those so-called "Asian values" have perhaps missed the whole point about Confucianism and its uniqueness to Asian culture (Mahbubani, 1995; Roy, 1994, pp. 232-235). After all, what really separates Confucianism from Western philosophies lies not in "petty" virtues like filial piety, industriousness, or social responsibilities; these values are known to have existed in all human societies to date, and can hardly be considered exclusively to "Chinese" or "Asian." Rather, it was the basic building blocks of those virtues that are founded on very different premises from the West. Little discussed was that Confucianism has in effect created a wholly different

cosmos for the Chinese (and for Asians in varying degrees). The end result is a similar set of virtues embedded in different matrixes of moral and cultural foundations.

As was already mentioned, *tianxia* was hierarchic and anti-egalitarian. The whole cosmos was arranged with the intention of providing "order." Each element was separated and organised into various status level according to their peculiar traits. Between men (and women), they were divided according to each gender, kinship and social functions; groups and organisational entities into loyalties, ideological and cultural affinities, etc.

For the case between individual beings, in the words of Fairbank (1968, pp. 5-6),

> … in theory and to some degree in practice, the outstanding individual's mobility into the elite was made possible through his virtuous conduct as a "superior man" and through his achievement in examinations or otherwise… the idea that adherence to the correct teachings would be manifested in virtuous conduct and would enhance one's authority and influence [*te* (*de*)]. Right conduct according to the proper norms was believed to move others by its example. According to this mystique, proper ceremonial forms [*li*] influenced the beholder and confirmed in his mind the authority of a ruler, official, or superior man. Thus, right principles exhibited through proper conduct, including ceremonies, gave one prestige among others and power over them."[35]

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[35] Note Fairbank's use of Wade-Giles system in his representation of Chinese terms. Pinyin versions are given in lower parentheses if they are different from the Wade-Giles version.

The same premises applied to political entities *guo* (or state). [36] *Guo* were in particularly ranked based on their affinity to the Chinese cosmos of *tianxia*; in general, the closer they were culturally to the Chinese core, and imposed less physical threats, the higher they were place within the Chinese cosmos. Physical distance from the core was not regarded with utmost relevance. Similar to that between individuals, rites between China and the other *guo* were strictly observed according to each place in the cosmos; "correct" behaviours of lesser *guo* to the Chinese core were expected (Zhang, 2001, p. 49).

Maintenance of this cosmos was thus highly dependent on moral and cultural high-grounds (of either the "superior man" or "superior *guo*"). By comparison, legal [*fa*] means to resolve differences were known but not favoured. *De* remained the order of the day, since the assumption was that the lesser being would be inclined to see the light given proper guidance and example. Legal approaches were only used when the most inferior cannot be persuaded by the enlightened cultural and moral principles laid in front of them.

3.   *Structure of power relations: relationship between the centre and the core was hierarchical, as power fluidly flowed outwards and in cascading order; maintenance of cultural and moral (hence "nominal") superiorities were preferred over actual control.*

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[36] As already mentioned earlier, translation of the term *guo* vexes even the best translators of Chinese texts. Without getting into a debate, the term is used in this particular discussion to denote as a political entity which approximates "state" or "estate" in medieval European history—relative independence in running of day-to-day affairs, but a certain hierarchical structure of loyalties and affinities existed between entities of similar natures.

As already argued, *tianxia* was a highly moral- and cultural-based order. This brings us to the next point: what is the function of power within this cosmos? Fairbank (1968, p. 8) observed,

This ideological commitment was expected not only from the ruling elite within the Chinese world but also from the rulers of states outside China, insofar as they had any contact with it. It became established in the Chinese view that the mystical influence of the all-wise example and virtue [*te* (*de*)] of the Sun of Heaven not only reach throughout China proper but continued outward… to all mankind and gave them order and peace, albeit with gradually decreasing efficacy, as parts of a concentric hierarchy. The interior vassals of the Son of Heaven included high officials, feudal princes, and lesser lords within the area of China proper, where the virtuous influence [*te* (*de*)] of the Son of Heaven prevailed and both *li* (ceremonies) and *fa* (regulations were fully effective, whereas exterior vassals were of lower rank and ruled in peripheral areas on the borders of China where the imperial influence [*te* (*de*)] was only imperfectly diffused and the *li* were effective but *fa* were not (that is, the Son of Heaven lacked direct coercive power).

Power remained a factor but its application was inconsistent, and its effects often (purposely made) imperceptible at maintaining the system. Although at times covertly pursued, the exercise of power was often perceived as a lack of *de* in the regime and thus avoided except for the most desperate occasions (Graham, 1985, pp. 13-14). Superficiality of the "supreme authority" made this possible. The Son of

Heaven was no more than a symbol of unity as the reaches of the central government did not necessarily permeate the whole of the empire. The Chinese bureaucracy was traditionally very small in proportion to the vastness of the empire as well as the size of population it administered (Huang, 2008; Fairbank, Reischauer, & Craig, 1973, pp. 61, 272-273; Kiser & Tong, 1992, p. 312); until late Qing, the lowest reach of the central government was the county-level, where only one appointed magistrate presided over all local administrative functions, from judicial decisions to tax collection to maintenance of public goods. This was done with the support of a small magistrate office [*yamen*]. Historically, at the lowest stratum (i.e. below county-level) of the administrative structure, indoctrinated local elites were mobilised to provide order "while remaining loyal to the emperor as the keystone of the social order" (Fairbank, 1968, p. 8; Ch'ien, 1950, pp. 42-45).

It is necessary here to reemphasise that in this cosmos there was no internal-external divide. Every element was included in this ideological construct, where the Son of Heaven reigned over regardless whether he or his officialdom actually ruled, or had the capacity to do so. Boundaries—if they had existed—and frontiers were fluid. *Tianxia* accommodated moment of weakness by "China Proper" not able to exercise actual control over lands by virtue of its assumptions and mode of operations. For this reason, traditionally "non-Chinese" like Manchus were able to reign over "China Proper" for almost three centuries without causing a breakdown of the order—even better if the traditionally non-Chinese become "sinicised" by adopting the same cosmic outlook and culture in the process! The exclusivity of being "Chinese" carried with it an open invitation for being included. The whole point behind this cosmic system was not about controlling, but getting others to acquiesce to the vision provided by the model. Graphically, this approximates the

"graded rings of sovereignty" as already discussed (Fig. 1.1) in the introductory chapter.

This form of "supreme authority" was not "sovereign" by Westphalian standards. Differences between Chinese traditional and European forms of "supreme authority" are threefold. First of all, in the Chinese cosmos, there was no parallel "supreme authorities" possible. As aforementioned, while Westphalian sovereignty required two or more sovereign peers (or "supreme authorities" of similar construct) to co-exist, in *tianxia*, all entities were subject to the same, hierarchical structure under the Son of Heaven. Second, territoriality was a defining feature of the European order. Even though this dissertation would not go as far as to suggest that territoriality was unimportant in *tianxia*, all lands were notionally under the titular ownership of the Son of Heaven; *de facto* control was not the overriding concern if this image was given due recognition by underlings of the system. Third, the structural order of *tianxia* was cemented by the moral and cultural superiority of the Chinese civilisation and of its Son of Heaven; legitimacy of "supreme authorities" in the European context began with an absolute control over defined territories through the medium of material power.

III. Contact with Sovereignty: China's Responses

Lord George Macartney's diplomatic mission in 1793 to the Qing Court, ruling dynasty of the Chinese empire during that time, was a momentous event in the history of Chinese contact with the West. Until then, China's contacts with the Europeans were limited, and took primarily non-diplomatic forms like Christian

missionaries and border trade.[37] In terms of diplomatic outcome, Macartney's trip was unremarkable—the Qing Court and the British Empire failed to come to any meaningful agreements as a result of his mission. But still the mission came down as one of the most important case study showcasing the ideological differences between China and the West. The Macartney mission was promptly labelled as "tribute emissaries" by then Chinese court administrators (Spence, 1990, pp. 122-123; Fairbank & Goldman, 2005, pp. 196-197). Macartney's stubborn refusal to perform the "kowtow" ritual to the Chinese emperor was met nonetheless with "courteous" responses from the Chinese emperor and his officials. But the mission's requests to establish "fair and equitable" tariffs and to set up permanent embassy in Beijing (which in all would suggest equality in relations) were flatly rejected (Fairbank & Goldman, 2005, p. 197). The Qing Emperor and his court acted in accordance to the *tianxia* belief by acting "benevolently" (in the Chinese sense) towards the British representative, overlooking and responding to Macartney's supposed imprudence with courtly manners, while refusing all requests which he put forth on behalf of the East India's Company and King George III's government. A succeeding mission, conducted by Lord William Amherst in 1816, met with similar frustrations as the Chinese (hierarchical) world order contradicted with that (of nominal equality) of the West.

The clash between the different views of the world slowly evolved into tensions in the ensuing decades. The Chinese *tianxia* ideology faced its first challenge in the conclusion of a series of unequal treaties, following the First Opium War of 1839-42, between China and the West. The prototype of all these treaties was

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[37] Prior to Macartney's visit, the Qing Court's had already signed numerous treaties with Tsarist Russia, including the Treaty of Nerchinsk in 1689. But these were highly singular and exceptional events and not the norm in the diplomatic history of the Qing court during that period.

the 1842 Treaty of Nanjing. Arguably, the treaty marked the beginning of Chinese reluctant acceptance to treat all foreign states outside the Chinese dominion, in particular those considered "modern and western," "on footing of perfect equality" (*The Treaty of Nanking*, 1842, Art. XI). However, like the Treaty of Versailles was to post-World War I Germany, to Qing China, those treaties were forced upon it following the succession of armed defeats against the West in the 19th century. They were, unsurprisingly, regarded as less than "equal" from the Chinese perspective. It was this mentality, as well as fears over China's internal strife, which prompted the Qing court to embark on its "Self-Strengthening" movement [*ziqiang yundong* or *tongguang xinzheng*] in the early 1860s. The movement was a concerted effort by the Qing court, spearheaded by notable reformers such as Prince Gong and Zeng Guofan, to study "Western Ways" and adopt Western practices and technologies as a self-strengthening measure to save the ailing empire. This ended up in a comprehensive set of reform and modernisation programs extended across China, stretching from diplomacy to civil and military industries, to education and telecommunications. Two related developments during the period are important to this inquiry: the establishment of the *zongli yamen*, and translation of *Elements of International Law*.

Establishing Zongli Yamen and its Significances

Prior to this development, all "foreign" affairs of the Qing court were handled by two separate ministries, the Office of Border Affairs [*lifan yuan*] and the Ministry of Rituals [*libu*[38]]. The former, established in 1638, was in charge of all

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[38] While in pinyin, both "*li*" in *lifan yuan* and *libu* are similar, their corresponding Chinese characters are different and carry different meanings. "*Li*" (理) in *lifan yuan* means "manage" or "administer;" whereas in *libu*, the character (礼) refers to the rituals/proper ceremonial forms in Confucian ethics mentioned in earlier section of this chapter. The main function of *libu* was thus to administer rituals and ceremonial forms for the imperial court to ensure strict compliance to protocols. It formed one of

matters related to China's most "exterior" vessals—the Mongols, Zunghars, the central Asian tribes, *and most interestingly the Russians*. As Jonathan Spence (1990, p. 117) explained, the *"lifan yuan*'s task was to keep things quiet in China's dangerous northwest crescent." In traditional Chinese strategic outlook, the biggest threat China faced came from its north and west; the east was shielded by the vast ocean to give a false sense of security (Fairbank, 1987, pp. 84-85).

Meanwhile, relations with the "interior" vessals, like Korea, Japan, Burma, and others, which shared and practiced elements of Chinese culture, were managed by *libu*. The bureaucratic arrangement corresponded the Chinese vision of *tianxia*: "interior" vessals occupied a closer position to the Chinese world, by virtue of their relative conformity to the Chinese culture and *tianxia* concept, and was managed by a ministry-level [*bu*] entity in the Qing court; "exterior" vessals, meanwhile, were those considered "outside the Chinese cultural sphere" [*fan*, contra "foreign"] and were of lesser importance (though not of lesser concern) to the Chinese core, and was in that order managed by a lower, office-level [*yuan*] bureaucracy.

The establishment of *zongli yamen* changed erstwhile arrangements. While in name a *yamen* [magistrate office], the *zongli yamen* held more weight than its name suggests. *Zongli yamen* was supervised by a board of five senior officials, which initial composition included Prince Gong, uncle of reigning Emperor Tongzhi and trusted advisor of Empress Dowager Cixi, and Wenxiang, grand councillor (a member of the emperor's "inner" cabinet) and minister of war (Spence, 1990, p. 200; Lin, 2002, pp. 59-67), to name but two. The importance of the office within the Qing court's elaborate bureaucratic structure was obvious. Under the supervisory board

the Six Ministries which came into existence in Sui/Tang era, and had always been tasked to manage vessel affairs (Zhang C., 2005, pp. 168-171).

were "twenty-four secretaries, sixteen of whom were drawn from the various ministries in Peking (Beijing) and eight from the Grand Council staff" (Spence, 1990, p. 199). The office was truly "a general institution which integrated diplomatic and western affairs [*yangwu*] under one roof" (Lin, 2002, pp. 41, 35-57 [author's translation]). Its functions were wide and varied, justifying the need for personnel secondment from various ministries (Xu, 2006; Li & Chen, 2007). These functions included translating official (and diplomatic) communications, meeting foreign dignities, negotiating treaties, protecting the rights of overseas Chinese as well as purchasing ships and building railways, among others.

More importantly, its full name "Office of Management of the Affairs of All Foreign Countries" implied two major shifts from Chinese *tianxia* thinking. First was the creation of the idea "equality:" modern western powers were elevated to the status of *guo* (from *fan*). Given previous understandings of the term *guo*, this development was significant. In ever greater frequency in the 19th century, the Qing court used the term *Da Qing Guo* [Great Qing Empire-State] as a form of self-address in diplomatic exchanges. This was a subtle move away from the illusion of *tianxia*. For example, in the Chinese version of the Treaty of Nanjing, the term *Da Qing Guo* was nowhere to be found. The agreement signed was that between two persons, the "Great Qing Emperor" [*Da Qing Huangdi*], and the sovereign king of British Empire [*Da Ying Guo Junzhu*] (Xu, Wang, & Zhang, n.d., pp. 34-37). In comparison, by 1860 in the Treaties of Peking (with Russia, England and France), the term "*Da Qing Guo*" appeared (Wang & Zhang, n.d., pp. 8-19 [vol. 7], 4-7 [vol. 8], 5-8 [vol. 9]), as the seat of the Chinese Emperor became associated to a *guo* rather than to a chain of dynastic succession and mandate from heaven. Admittedly, the naming practice was not consistent in all documents, but it was clear that a shift

in the meaning *guo* towards its modern form, that is, to denote the *modern state*, had gradually taken place. Taken this into consideration, grouping modern western powers into *guo* was a move to elevate them to a status far more equal to the Chinese emperor than the court dared admit openly (Spence, 1990, p. 200). This was a striking departure from previous ideas of *tianxia*.

Second, the creation of the idea "foreign" reified existing "supreme authorities" outside Chinese world order. Not only did this new arrangement mark the beginning of the idea of "inside vs. outside," it seriously undermined the concept of *tianxia* and threw the Chinese world order into disarray. The importance of the introduction of these two ideas—"equality" and "foreign"—cannot be more emphasised here. They provided necessary ingredients to the concept "sovereignty" which was later incorporated to the Chinese thinking.

Notably, these were happening while *libu* and *lifan yuan* remained operational, thus dividing states in contact with the Qing court into two different categories: those considered modern, sovereign western states (and later to include Japan), and those considered Chinese traditional tributary states. In the words one analyst, "one diplomacy two systems" [*yige waijiao liangzhong tizhi*] (Quan, 2009) characterised this era of Chinese diplomacy.

Incorporating "Sovereignty" into Chinese Lexicon

Nevertheless the concept "sovereignty" remained alien to China. It was only in 1864, when a full translation of Henry Wheaton's *Elements of International Law* (in Chinese titled *wanguo gongfa*) was published, that the concept began to plant its roots in Chinese thinking. While translated sections of Wheaton's text were studied by members of Qing's key ministers, in particular those associated to *zongli yamen*,

as early as the 1850s and 1860s, it was the official translation—commissioned by *zongli yamen* and produced by W.A.P. Martin, an American missionary—which coined the word "sovereignty" [*zhuquan*] in Chinese lexicon (Masini, 1993, pp. 46-47; Wei, 2008; Spence, 1990, p. 201).

To be more exact, the word *zhuquan* is a polysyllabic construct of two different Chinese words *zhu* (host, owner, manage) and *quan* (power, strength) in their pre-modern forms. The latter word (*quan*) has attracted some academic attention since the 1990s.

In his linguistic analyses of *wanguo gongfa*, Italian linguist Federico Masini (1993, pp. 47) made some interesting observations of the term *quan* used in formation of words in Chinese,

> Over twenty years earlier [prior to the publication of *wanguo gongfa*], the concept of "right" contained in Vattel's work [Emmerich de Vattel's Le driot des gens] had been translated by Parker as *li* 例 ["rule"] and by Yuan Dehui as *daoli* 道理 ["reasoning"]. In Martin's translation, the term is rendered as *quan* 权, thus extending the original meaning of the term, which was "power," "strength." From then on, *quan* was used as a suffix to build words relating to every form of "right." We find some such compounds already in Martin's translation: for example, *tequan* 特权 "privilege" and *zhuquan* 主权 "sovereignty." When used as a generic expression, the compound

quanli 权利 is used to convey the concept of "right" and, as such, it

still exists in Modern Chinese.[39]

Lydia Liu (2004, p. 130) offered an explanation of this phenomenon in her book *The Clash of Empires*:

> … in the beginning of the nineteenth century, when Robert Morrison
> first arrived in China, English and Chinese were still behaving like
> strangers to each other. Although translation of the Bible and
> religious tracts made some headway in the first half of the century,
> make shift translations were the norm rather than the exception in
> political and philosophical discourse. It took a great deal of work for
> the first generation of translators, missionaries and their Chinese
> colleagues, to turn Chinese and English into each other's interlocutor
> for the sake of tolerable comprehensibility.

Without turning this dissertation into a linguistic analysis, herein the emphasis is upon the acquiring of new meanings of the word in the host language via the process of translation. Sometimes, for the lack of better choice of words, first generation translators need to locate their translations within existing words in the host language. The word *quan* is one such case. Originally taking the meaning(s) of "strength" or "power," the word was combined with the word *li* (interest, profit) to convey the meaning of "right" in English. Over repeated uses, *quan* subsequently acquired an "excess" meaning, or association, reflecting the concept "right" in both English and Chinese languages. In turn, other polysyllabic words consisting of *quan*, in particular

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[39] Chinese characters in original, but is changed from its complex form [*fanti*] to the standardised simplified form [*jianti*] used in this dissertation.

the case of *zhuquan* ("sovereignty") which first appeared in the same text but also in other works which appeared after the publication of Martin's *wanguo gongfa*, have the propensity to acquire complex meanings at the point of their inception.

James Crawford, a legal scholar, argued, "[s]overeignty, in its origin merely the location of supreme power within a particular territorial unit, necessarily came from within and did not necessarily require the recognition of other States or princes" (1978, p. 96; also Wight, 1977, p. 27). In other words, sovereignty first arose out of statemakers' *de facto* control over their territory by monopolising the means of violence within (Tilly, 1985, pp. 169-191).

At least for the two centuries after Westphalia, the *de facto* aspect of sovereignty is arguably more important than the *de jure* counterpart. Early modern states were expected the display competency in maintaining *de facto* autonomy before they were bestowed *de jure* independence. Autonomy remained one of the important criteria for the formation of a sovereign state in the immediate post-medieval Europe. This system slowly eroded in the following centuries. It finally underwent through a fundamental change in the twentieth century, during which the gradual acceptance of new universal principles cumulated to rapid decolonisation after the world wars, and overturned the primacy of *de facto* autonomy as the basis of international recognition of sovereignty. Robert Jackson thus argues that independence and the status of sovereignty have become "not a question of political capability or national unity or military power or national wealth or an educated citizenry or any other empirical or utilitarian criterion; it is a question solely of the right of a dependency to have it" (1993, pp. 111, 119-133).

The accounts above convey two extremities of "sovereignty:" the first as a derivative of "power," while the second as that of "right." Understanding "sovereignty" as a complex consisting of both "power" and "right," Chinese in the 19th century thus sat in a distinct position unique from other modern states. Unlike the Europeans, for whom "sovereignty" began life from actual control over a bounded territory, the Chinese saw more "right" in the concept. Yet, unlike those post-colonial states of the 1950s and 1960s, China had greater appreciation of "power" when the concept was introduced into the Chinese thinking. Chinese view in the 19th century seemed to be straddling somewhere on the continuum between the extremes of "sovereignty" as a manifestation of "power" and that as a "right." At the same time as Qing China understood the 19th century European idea of "power" having the propensity to give rise to "right," the Chinese also had a subtle appreciation of "right" as not necessarily a natural and logical progression from "power." To put it using the language of Hinsley (1966), Chinese initial understanding of sovereignty was thus "a final and absolute *power*/*right* within the political community, and no final and absolute *power/right* exists elsewhere."

IV. Juxtaposing *Tianxia* with Sovereignty

Grand shifts occurred in Chinese thinking of the world order when they came to colliding paths with the West in the nineteenth century. But these shifts were slow processes. It took six decades after the Macartney mission—not the least several conflicts with the West and ensuing unequal settlements—before a full treatise of international law was translated into the Chinese language and the word "sovereignty" introduced into its lexicon. Even the *zongli yamen*, an institution supposedly set up

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to perform diplomacy on equal footing with the west and staffed by dignitaries who wielded enormous political influence during their time, had to content with a somewhat miserly existence as an appendage of the Qing court's Grand Council (rather than a full ministry), and had also to fight head-to-teeth with *libu* and *lifan yuan* over Qing court's "foreign" policy (Fairbank, 1987, p. 110). It took a further six decades before the Qing Empire fell and a brand new republican state put in its place based on the principle sovereign equality.

Changes in the Chinese mindset were took their time, so to speak. After all, it was one thing for the West to socialise Qing China into their world order, quite another for the Chinese to internalise the new values and concepts within it (Goldstein & Keohane, 1993, p. 25). To be fair, Chinese contact with the West was not a unidirectional process; as much as the West brought in new ideas and technologies into China, the Chinese was reaching out to the West to search for new ideas for survival. But these "reaching out" gestures were more often motivated by the urge to preserve the Chinese order than to replace it. "Chinese learning should remain the essence, but Western learning be used for practical development" [*zhongxue weiti xixue weiyong*] was the philosophical statement underlining this conservative mentality (Spence, 1990, pp. 224-225). At the same time as intellectuals like Yan Fu, Kang Youwei, and even Liang Qichao, tried to bring in new ideas from the West, and internalise these ideas within the Chinese mentality, these actions were performed to restore Chinese centrality. Whether "social Darwinism" (by Yan Fu), "parliamentarism" (by Kang Youwei), or "nationalism" (by Liang Qichao), Western ideas were interpreted and translated in ways to cater to their Chinese audience. As a result, these ideas were frequently expressed not in their

own terms, but in relation to traditional Chinese values and teachings. For example, Peter Zarrow critiques on Liang's conception of "citizenry:"

> Liang used the term "*xinmin*" (literally, new people) to mean renewing the people so they could become citizens. The renewal of the people, meaning essentially their moral justification, was a central Confucian value, explicitly expressed in the *Great Learning*, an ancient text made a basic part of the educational curriculum by Zhu Xi (1130-1200). Liang self-consciously drew on this tradition as he tried to reconceptualize the role of the people, but he also went considerably beyond it. One sign of the emergence of new ways of thinking was a new vocabulary. Liang's use of the term *guomin* to describe a participating "citizenry" represented a logical evolution of a term that had previously simply referred to the "people of the kingdom" or the "commoners." That Liang did indeed mean to refer to a citizenry and not merely the commoners is clear from his support for popular participation. Liang defined citizenry not through individual rights but through their political membership…

Zarrow thus put Liang into the mould of an individual holding on to "an elitist belief in top-down reform under the stabilizing influence of a wise and strong emperor" (2005, p. 63). The attraction of holding on to an ideological system which stretched back millennia remained a very tempting option indeed (Zhang & Xu, 2007, pp. 415-428).

Similarly, the concept "sovereignty" could not have just parachuted in from the West and supplant *tianxia* overnight. Instead, the two different concepts came

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together and juxtaposed. The end result is a whole new interpretation that carries the baggage of both. To make its case, this chapter offers two explanations: the first involves the process commonly explored in philosophy of science and education studies called "conceptual change;" the second is the study on "residual culture" borrowed from the discipline of sociology.

To students of international relations, a more familiar application of study of "conceptual change" is perhaps Thomas Kuhn's "paradigm shift." In *The Structure of Scientific Revolution*, Kuhn (1996) argued that scientific "paradigms" are inherently hegemonic and self-perpetuating. When science is undergoing a stable period, one of such paradigm would be in place to provide adequate solutions to most phenomena and problems, govern the profession, and offer scope for further researches. However, within this stable structure there would always be unsolvable problems—Kuhn described those as paradigm "anomalies"—and when these anomalies accumulated, the erstwhile hegemonic paradigm would undergo increasing stress and face challenges from competing, newer paradigms. While proponents of the older paradigm may continue to work within the paradigm by simply ignoring the inconsistencies and contradictions, or improvise to accommodate those changes, there would be a critical point where a new paradigm would acquire substantial following to force the new paradigm to displace the older one as the hegemonic model. Conceptual change occurred. Kuhn termed this process of replacing one (conceptual) paradigm with another "paradigm shift."

In addition, to complement earlier conceptual change theories developed by Kuhn and others, science philosophers and education theorists have come to agree upon a set of basic conditions for conceptual changes to take place. They are:

1.   There must be grave dissatisfaction with current conceptions;

2.   A new concept must be intelligible;

3.   A new concept must appear initially plausible; and

4.   A new conception should suggest the possibility of a fruitful research
        program (Strike & Posner, 1992, p. 149).

Whether China's experiences had fulfilled all four conditions is highly questionable. There were clear dissatisfactions with the concept *tianxia*, but were the dissatisfactions significant enough to prompt a total overhaul of the original thinking? Was embracing the concept "sovereignty" seemed plausible to Qing court? More importantly, right from the beginning, the concept "sovereignty" was certainly non-intelligible to Qing Chinese, and the learning was done *in spite of* these differences. Qing China, as a learning subject, faced not merely two conflicting schemata, but schemata that shared little—if anything at all—between them. To make the concept more intelligible and work, the Qing court had to embark on an exercise to "own" the sovereignty concept. As those Chinese intellectuals did, embracing the new idea entailed grounding it within existing schemata, such that "current concepts… will function to guide the process of conceptual change" (Posner, Strike, Hewson, & Gertzog, 1982, p. 213; Özdemir & Clark, 2007). Even when "shifts" occur, old schemata and their concepts would retain certain relevance.

The second explanation offers lends more credence to this point. Taking a step back from "conceptual change" explanation, concepts like "*tianxia*" and "sovereignty" are embedded in cultural settings, as discussed earlier. In the view of Raymond Williams (1977 & 2005), all cultures are formed of three building blocks,

or subcultures: dominant, residual, and emergent. There would be a "dominant culture" which is the most "effective" or "hegemonic" of all three subcultures, and thus gives the basic outlook of the society in question. There would also be "residual cultures," which refer to "some experiences, meanings and values, which cannot be verified or cannot be expressed in terms of the dominant culture, are nevertheless lived and practiced on the basis of the residue… of some previous social formation" (Williams, 2005, p. 40). Meanwhile "emergent culture," as its name suggests, encompasses ideas and practices which are "new."

It is "residual culture" in which this dissertation is most interested, but its significance is not appreciable unless placed in relation with the other two subcultures. Williams' basic premise is that "… *no dominant culture ever in reality includes or exhausts all human practice, human energy, and human intention*" (Williams, 1977, p. 125, italics in original). Even as the dominant culture imposes a hegemonic presence within a society, gaps do exist for other subcultures to stay alive and active. Residual culture serves both utilitarian as well as political functions to the dominant culture. Utilitarian-wise, parts or versions of the residual culture are incorporated if the dominant culture is to make sense of areas in which the latter is deficient. Politically, the residual culture helps to maintain the hegemony of the dominant culture because "at certain points a dominant culture cannot allow too much of this kind of practice and experience outside itself" (Williams, 2005, p. 41).

In the context of this dissertation, the concept "sovereignty" and its corresponding international order became the dominant culture through a long-drawn process in 19th century China, while that of the concept *tianxia* was relegated to the residual role (see Table 2.1). Despite its loss of status as the dominating culture,

tianxia remains an important mindmap even for the politics of China today. This point forms the main basis of this dissertation and is explored in greater details in Chapters 3-6.

Table 2.1 Dominant, Residual and Emergent Cultures in China, 19th-21st Century

Historical Period	Dominant Culture	Residual Culture	Emergent Culture
Mid-19th century Qing China	*Tianxia* model	Other Chinese/Asiatic models	Sovereignty model
20th/21st century China	Sovereignty model	*Tianxia* model	Post-sovereignty models

V. Conclusion: "Sovereignty" Lost in Translation

This dissertation began with a puzzle about Beijing's delicate handling of Hong Kong and Taiwan affairs. Though by definition "sovereign" or domestic issues of China, Hong Kong and Taiwan hardly fit into to a tight "sovereignty" model which Beijing is either expected to follow, or claimed that it would follow in its rhetoric. Internationalisation of the two issues and practicality may have dictated Beijing's approach, but could there be other reasons as well? More important is Beijing's justification of its approach: China needs to validate its "flexible" approach towards its two sovereign claims by turning to a suitable schema for the purpose. Positing Hong Kong and Taiwan within the narrow gap between China's domestic and foreign policy requires careful manoeuvring on the part of Beijing, so as to ensure conformity to certain logics of operation and organisation consistent to the Chinese outlook.

In order to have a better grasp of this outlook, this chapter provides a historical review of China's contact with the concept of sovereignty. Sovereignty, rightly understood as an ideal type of supreme authority, is heavily-laden with cultural underpinnings unique to European-Christendom. While the concept has since dominated the world order today, its transfer, in the 19ᵗʰ century, from the West to China was ridden with difficulties.

Prior to the adopting the sovereignty model, China operated along a tribute system in the name of *tianxia*. The tenets of Confucianism formed the backbone of this system, where the world, known or unknown, were seen as both unified and hierarchical. "China," as a socio-politico-cultural entity, was deemed centre of this *tianxia* cosmos—hence the name "middle kingdom." Other socio-politico-cultural entities were placed around and under China according to their affinities to this system. The Son of Heaven, yet another Chinese construct, reigned supreme over this cosmos. However, the superficiality of this "supreme authority" meant that direct rule or governance was not essential to its reign. The *tianxia* system was founded not on coercion power *per se*, but on a cultural and political inclination to gravitate towards the centre called "China."

Hence, when West came in force, literally speaking, to China, the ailing dynastic court of China, the Qing, took decisive actions to import the concept "sovereignty" into its scheme of dealing with the westerners. Notably these actions included the formation of *zongli yamen* to handle the court's relations with the West, and the translation of Henry Wheaton's *Elements of International Law*. While the former event introduced new values to Chinese thinking, it was through the latter event that the term "sovereignty" was incorporated into the Chinese lexicon.

The translation of "sovereignty" into *zhuquan* was far more than a straightforward process. To make sense of the new term in the lexicon demanded earlier translators to sought out corresponding words in the host language (in this case, Chinese), and literally construct the word out of nothing, all based on the translators' nuanced interpretation of the concept "sovereignty" in the English language. The result was the formation of a term which was adapted to the cultural setting in which it was created, rather than in the original language. The Chinese corresponding term for "sovereignty" became strung out somewhere in the middle of the continuum between the extremes of "sovereignty" as a manifestation of "power" and that as a "right." At the same time as the European idea of "power" having the propensity to give rise to (sovereign) "right" was translated, the Chinese also saw "right" as *not* a necessary natural and logical progression from "power." By "sovereignty," the Chinese and the West may have been speaking of the same idea of "supreme authority," but coming from different value systems.

Are there merits to believe that the concept *tianxia* remains powerful even today? Some authors remained sceptical about the pervasiveness of this world image in the Chinese mentality. Benjamin Schwartz, for example, argued that "…however real the Chinese perception of world order may have been in the past, it *was* fundamentally undermined in the twentieth century," such that "we should be extremely sceptical of assertions that assign it great casual weight in explaining present or future Chinese policies" (1968, p. 284, emphasis in original). Others have disagreed. Mark Mancall (1963) took the view that Chinese tradition institutions and world order have eroded faster than the assumptions in which the order was based. In a similar thread of argument, John Cranmer-Byng (1973) contended that major assumptions of the traditional world order were retained by the Chinese despite

openly converting to the modern state system. This chapter adds to this list by arguing from the perspectives of education theories and cultural studies, that the Chinese mind has retained elements of the concept *tianxia* till this very day; hence perhaps Yong Deng's (2005) sense that "international status" is better than "power" in Chinese foreign policy? Previous conceptions of the world have greater staying power than some in the discipline would give them credit (Ford, 2010; Rodzinski, 1984).

In the next chapters, this dissertation explores Beijing's relations with Hong Kong and with Taiwan, nominally regarded under a single Chinese sovereignty. "Oddities" in Beijing's behaviours and sovereignty rhetoric are the most pronounced in these two issues, and succeeding chapters in this dissertation move with the objective of proving that revoking the *tianxia* model in analyses could make Beijing's policy actions more comprehensible vis-à-vis the two territories. Chapter 3 begins this endeavour with an examination of the Chinese academic discourses on "sovereignty."

"SOVEREIGNTY" IN CHINA'S ACADEMIA

A common problem with the Chinese academia is its inability to separate the policy language from the academic language.

Wang Zhengyi, anecdote[40]

The last chapter has argued that it is crucial to place the concept of sovereignty in its historical context, and in particular to the Chinese case, how "sovereignty" became internalised in the Chinese mindset. As this dissertation stands, it is necessary to consider the context in which the concept operates. China's historical and cultural memories remain relevant in the way China sees its sovereignty, and how Beijing manages its sovereignty policy today. Under the influence of *tianxia*, "sovereignty," as an imported concept, has retained elements of both Chinese traditional as well as Westphalian orders.

At this point, this dissertation follows through the argument by examining the discursive construction of "sovereignty" in China in the present day. By identifying key Chinese discourses about the concept, the dissertation is able to further isolate those interpretations which are uniquely or primarily "Chinese." These interpretations can then be applied to, and verified in, the later chapters of this dissertation when analysing China's actual policy towards Hong Kong and Taiwan.

To manage the extensive public-accessed literature, this examination is conducted in two interconnected chapters. This chapter reviews the notion of

[40] Quote from Wang during his seminar "The World System and China," presented in Institute of Asia-Pacific Studies, Chinese Academy of Social Sciences, 11 March 2009.

"sovereignty" in China's academic circle, by looking at related discussions by "academics" in China; in the next chapter, the focus then turns to the political discourse on sovereignty, as presented in government and policy materials, speeches by political leaders, and editorials of key periodicals in China. Together, the two chapters seek to forward an image of the concept of "sovereignty" *as discussed* in China today.

This chapter is divided into three sections. The first section provides a brief, overarching view of China's academia in general. The Chinese society has shared a relatively unbroken history of more than 2,500 years with its intellectual [*shi*] class (Yu Y.-s., 2009, "Introduction"). Unlike their contemporaries in the West, succeeding generations of this class have enjoyed a unique status within the social and political fabrics of the Chinese civilisation; they are, at the same time, teachers, administrator-bureaucrats, opinion-makers and the conscience of the society, and most importantly, they represent "the way" [*dao*]—the voice of "eternal truth" that is expected to live through the chaos of this world, be it dynastic successions, wars or famines. For their special roles in, and corollary responsibilities to, the Chinese society, the support from this group are important legitimating ingredients to any aspiring or established political order; an unrestrained and unsupportive Chinese intellectual class spells disaster to any regime.

For this reason, understanding the writings of Chinese academics becomes imperative to understanding the essence of political discourse at any one time. Analysing academic writings gives invaluable insights into how Chinese historical and political structures (on sovereignty) have interacted with the intellectual and societal minds. That is to say, all too often, the research agenda on "sovereignty" in

China—the literature upon which sovereignty is understood and argued, the focus(es) on particular aspects of sovereignty, the attention paid to particular events and case studies, etc—offers excellent expressions on the Chinese societal and intellectual view on sovereignty.

How, then, do academics brought up in the Chinese academic environment view Chinese sovereignty? Section two provides a review on major Chinese language academic papers, dissertations and books published through the post-reform years, between 1980 and 2008. The primary objective of this long section is to locate the Chinese academic discourses on the topic on hand via the techniques of categorisation and content analysis. To achieve this end, the section is further divided into three subsections: the first of these presents an analysis on Chinese writings on the topic of "sovereignty" through a quantitative perspective—reviewing research trends and topical interests; the second subsection follows through by offering a qualitative breakdown on the writings. Key findings and observations are then discussed in the last part of the section.

The third section moves from a general discussion of the topical interests of Chinese academia to zoom into one particularly interesting debate. This debate is this dissertation describes as an attempt to reconcile China's unique "sovereignty-governance gap." Only a handful of participants can be identified in this debate but this has not make the discourse any less important to this inquiry. The direction of the "debate" leaves strong impressions of a concerted attempt to analytically and conceptually separate "right of governance" from "sovereignty," as if to justify Beijing ceding its "right of governance" to Hong Kong, Macao and Taiwan in its unification drive. Similarly, this justification can also be applied to contested claims

like the Diaoyu (Senkaku), Paracel and Spratly Islands, where Deng's "setting aside [sovereignty] disputes and pursue joint development" [*gezhi zhengyi gongtong kaifa*] remains the guideline to Beijing's diplomatic gestures (Ministry of Foreign Affairs of the People's Republic of China, 2009).

These discoveries goes far to support the arguments of this dissertation, that the Chinese holds a far more sophisticated and differentiated view on its sovereignty than is generally perceived by its uncompromising façade. In this view, the *de facto* component (right of governance) is effectively detached from the concept. This interpretation allows greater space in flexibly accommodating different mix of *de facto* rights according to each respective context and issue.

I. China's Political and Academic Scenes: Two Sides of the Same Coin?

It is not uncommon for someone brought up in a Western tradition of education to be frustrated with what he/she reads in China. A large portion of the Chinese language so-called "academic" literature would probably be deemed otherwise under the close scrutiny of a staunch "Western-educated" academician. As aptly captured in the opening quote of this chapter, overlaps between "academic" and "policy" languages are a norm rather than an exception.

China has one of the longest-serving bureaucracies in the history of human civilisation. The formation and cooptation of a scholar-gentry, or *shi*, class to operate this bureaucracy was first recorded in China almost two millenniums back, since Han dynasty, while the formal introduction of the imperial examinations from Sui dynasty in the 6th century further entrenched the overlaps between the learned and

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the regime (Fairbank and Goldman, 2006, pp. 62-63, 66-71, 78). Whereas formal education was a product of religious enterprise in Europe during the middle-ages, in China, education was historically founded on the Confucius principle to perfect the "man" within a hierarchical cosmic order, and the exemplary role such a learned person would serve in positions of importance (Fairbank and Goldman, 2006, pp. 52-53; Yu Y.-s., 2009, chs. 2 & 3).[41] This was already discussed earlier in Chapter 2 when examining the concept of *tianxia*. The results of these socio-education traditions are the creation of a politically-driven scholar class in China, as well as the intertwining fates between the intelligentsia and the state. In his interesting accounts of the Qing dynasty—the imperial house that have ruled what-was-known-as China from the mid-16th till early 20th century—historian John K. Fairbank has repeatedly highlighted the role of the Chinese intelligentsia movement in the political processes in China. In *The Great Chinese Revolution, 1800-1985*, for example, he explained:

> One of the oldest Confucian adages confirmed by scholar-administrators like Wang Yang-ming was the unity of theory and practice, of knowledge and action. One should "seek truth from facts," and the acquisition of knowledge should be followed by its application in practice. The statecraft scholars of the Ch'ing (Qing) period had adhered to this idea. The man who knows has a duty to

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[41] The Confucius teachings, while not founded on serving the officialdom, nonetheless have discussed at great lengths about the relationship between learning [*xue*], conduct [*li*] and the government [*zheng*]. Only a person of high moral principles, acquired through learnings and manifested through his proper conduct, is fit for government. Some examples include, "when a man in office finds that he excels in his duties, then he studies; when a student finds that he excels in his studies, then he takes office." [*shi er you ze xue, xue er you ze shi*] (Confucius, 2007, Ch. 19-13[author's translation]), "if one focused on self-cultivation, an official post would come therein" [*yan gua you xing gua hui lu zai qi zhong yi*] (Confucius, 2007, Ch. 2-18 [author's translation]), or "one should focus on the way rather than the ends—if one tills the land, he will get fed by the fruits of his labour; if one studies, he will gain a salary through an official position" [*junzi moudao bu moushi geng ye nei zai qizhong yi; xue ye lu zai qizhong yi*] (Confucius, 2007, Ch. 15.32[author's translation]). These words link learning to the officialdom.

speak up to the authorities… Where a Western professor was

generally expected to stay out of politics, in China it would have been

an abdication of duty (Fairbank, 1987, p. 186).

These learned individuals become self-professed defenders of *dao* (*Tao* in Wade-Giles pinyin)—meaning "the way" or eternal truth—which guides the order of the cosmic (Chinese) world (Yu Y.-s., 2009, pp. 599-602).[42] For these reason, the Chinese *shi* have enjoyed an uneasy, though close, relationship with their political masters. At certain times or on particular issues, their relationship is symbiotic; when the existing political framework is able to entice and rein in the intellectuals, the latter serve important roles to legitimate the system—as academics, opinion-makers and/or spin-doctors, policy-advisors and think-tankers all in one form. In other instances or issues which they diverge, the Chinese intelligentsia becomes a potent force to be reckoned with, as they possess enormous potential to mobilise the society against the regime. It is thus a practice for existing political and policy frameworks in China to impose certain restrictions on the intelligentsia, at the same time build up a system of overlapping interests between the two parties so as to keep both on the same side.

The relatively closed academic environment imposed by the CCP has only blurred these lines even more. Many have written about the difficult situations confronted by intellectuals and academics within the Communist political system after 1949, that they usually faced the hard choices of either accepting cooptation by the system or be ostracise (Fairbank and Goldman, 2006, pp. 359-367). This is

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[42] The concept of *dao* is underpinned by a huge body of literature and philosophical thought that can be traced back to the Spring and Autumn Periods (8th-5th B.C.), and depending on the school of thought, it could have different meanings. For example, the orthodox Daoist (Taoist), as in Laozi (Lao Tzu) would consider the concept non-definable. This dissertation does not engage this debate and adopts an uncritical definition of "the way" or "eternal truth" (Elwell-Sutton, 1937, pp. 86-97).

perhaps true, but certainly not one that is solely attributed to the communist system. In China's case, the age-old emphasis on centralised authority of the state dictates that its scholar-gentry class relies heavily on the resources trickled down from the central regime. Arguably, this dilemma faced by China's intellectuals has become more acute in the post-reform era. Except for a handful who are fortunate enough to thrive in overseas institutions, as well as those notable few who has chosen to live outside the mainstream, the ever-growing cohort of scholar-intellectuals in China needs to cope with the expectations of the state. As the saying "publish or perish" applies to Western academicians as much as to Chinese scholars today, the strong state presence in academic publications hardly promote more emancipated thoughts.

Many Chinese academic journals now practice the peer-review system whereby similar to the practices in the West, submitted manuscripts are sent out to receive anonymous review(s) from academic peers. While the final decision to publish a manuscript of particular topic is fairly decentralised today, and left to primarily to the chief editor of each respective journal, the State remains a huge, if not the primary, player. Major journals affiliated to the State's political, tertiary and research institutions and these institutions are still heavily reliant on the State for funding.[43] The State's control over the financial viability of journals is augmented by other means of regulating academic researches and publications, to take for example, the CCP Propaganda Department's continuing practice of vetting already-published materials (through a "reviewing team" [*pingyue xiaozu*]). Also, the State controls the publication industry through issuance of printing permits. Not the least, the bulk of

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[43] This is verified by the short tenure, between February 2009 and August 2009, that the author of this dissertation had worked for the editorial team of the journal *Contemporary Asia-Pacific Studies* [*dangdai yatai*], published by Institute of Asia-Pacific Studies, Chinese Academy of Social Sciences. He was involved in providing editing services for the journal while doing his fieldwork in China.

the "goalkeeping" tasks falls into the responsibilities of the journals' editorial teams, which widely practice self-censorship to keep clear of political minefields (General Administration of Press and Publication of the People's Republic of China, 2006, Art. 15, 20, 25, 26).[44] Meanwhile, academics and scholars, whose careers are now dependent on their academic influence (primarily assessed by each publication profile)—again similar to the West—tend to operate within the "safe limits" of State-sanctioned policy discourses. A good example of such State influences is the incident involving outspoken journal *Freezing Point* [*bingdian*] in 2006. Allegedly, following the publication in the journal of the article titled "Modernisation and History Textbook" in January that year, the two Chief Editors of the journal were dismissed, and the journal suspended, by the Propaganda Department. The journal resumed after the incident created huge furors domestically as well as internationally, but has since mellowed down on its controversial reporting and editorial opinions.[45]

The end result is a further enmeshment of the academic-policy divide; indeed, it becomes extremely difficult to see where "academic" ends and "policy" begins. To square up for the deficiency of a more expansive research agenda, Chinese academics take on writing styles that are often normative and wrapped up in strong policy language, as most authors seek to provide their intellectual and policy "solutions" to the problems that they have identified in their writings. Moreover, this

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[44] Article 25 of the "Regulation on Publication Administration" specifically states that "all publishing units must observe editorial responsibility system to ensure contents of publication adhere to the provisions set out in this regulation." Meanwhile Article 26 lists out those prohibited contents, but each of the items listed are vague at best and are highly discretionary in nature.

[45] On a more personal note, and in addition, this author has personally experienced an incident when his Chinese manuscript about the 2007 HKSAR Chief Executive elections and Beijing-Hong Kong relations was redrawn *after* the article was readied for publication. The reason cited by the editorial team was that, having "democratisation" as one of the central themes, the article was deemed "too sensitive" for domestic audience. For some coverage of the *Freezing Point* incident, see *Lianhe Zaobao* (2006); *New York Times* (2006); *Economist* (2006); *The Wall Street Journal* (2006). For other remotely-related reports on censorship in the aftermath of the *Freezing Point* incident, see *South China Morning Post* (2006).

approach does not fundamentally contradict the role of a tradition Chinese intellectual in the first place, as already discussed earlier. In large, "academic" papers are problem-solving endeavours packaged in a scholarly manner that draws references to intellectual origins.[46]

Without lapsing into historical and cultural determinism, or reading too much into the relationship between the regime and the scholar/academician/intelligentsia in China, herein the chapter seeks to highlight the importance of reviewing Chinese academic writings *under a political lens*. By virtue of their learned and esteemed status in the society, Chinese academics and scholars form a group of powerful public opinion-makers in Chinese politics, even today. Their "academic" opinions are widely read and revered to by the general public; many in this group are prominent figures in the public scene through their regular contributions to newspapers and magazines, television and radio programs, and in more recent times, in personal blogs and websites. While not entirely unheard of, it is also true that not that many academics in the West can claim such fame and popularity, and exert such influence, in their respective public scenes.

The point of interest here is, of course, not about the state of the Chinese academia, but how this dissertation can still make use of Chinese academic materials on sovereignty despite their differences with the Western literature. After all, it is far easier to dismiss these materials as "unacademic" (in the Western sense) than to decipher them and put them under academic lenses to observe generalisations, peculiarities and key topical interests. This brief explanation of the roles played by

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[46] This is so common in the Chinese academic circle that the problem is not about finding one example, but rather listing all of them. In one edition, 2009:1, of the journal *Contemporary Asia-Pacific Studies*, which the author of this dissertation was involved in editing work, of the 8 articles published, 5 of them were noted to contain traits mentioned above.

the academia in China, as well as its corresponding relationships with the society and the regime set the stage for analyses in the subsequent sections. On closer examination and placing these materials in context, one would likely generate better understandings of the way the Chinese perceive the world around them, and how they believe this world is organised and sustained.

II. Academic Writings on "Sovereignty" in China: The Analysis

After determining the context within which academic materials in China can be analysed and interpreted, this section turns to the materials themselves. For the purpose of this inquiry, three different types of Chinese language academic materials are identified, collected and reviewed: published articles in academic journals, published books and volumes, and postgraduate dissertations (refer to Chapter 1: IV. Research Methods).

Some Statistical Findings[47]

"Sovereignty" has become an increasingly popular research topic in China in the recent years. Even when taking into account the expansion of Chinese-language academic publications over the past three decades, the growth in academic interest in the topic is still noteworthy. Throughout the 1980s, published articles with "sovereignty" listed as a keyword numbered less than 20 per year across all Chinese "core journals." It was in the mid- to late-1980s when year-on-year increases became

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[47] This section, in general, does not cite specific article due to the voluminous data involved in this research; as the sampling data is huge, there are often numerous examples for each case made, and it is unfeasible to cite all of them. Where citations are given, they are given primarily to offer a taste of the spread of writings and are by no means inexhaustible. The reader may like to visit website http://www2.warwick.ac.uk/fac/soc/pais/staff/breslin/sktthesis to access the bibliography of articles surveyed, compiled and translated by the author of this dissertation.

noticeable (see Graph 3.1). Year-on-year increments can be divided into four different stages: pre-1985, 1985-1993, 1994-1996, and 1997-1999 onwards. Each year (or year band) is characterised by a significant increment in the number of published articles from the previous stage, and by a relative stabilisation (or "plateauing") of article counts in the years succeeding it. For example, the increment between 1984 and 1985 was 67%; during the stage between 1985 and 1993, the increase in article counts averaged less than 10% per year. Similar cases can be made for the stages between 1994 and 1996, and 1997-1999 and beyond.

Graph 3.1: Number of Articles in China's "Core" Journals (Periodicals) with "Sovereignty" [*zhuquan*] Listed in Keywords, 1980-2007
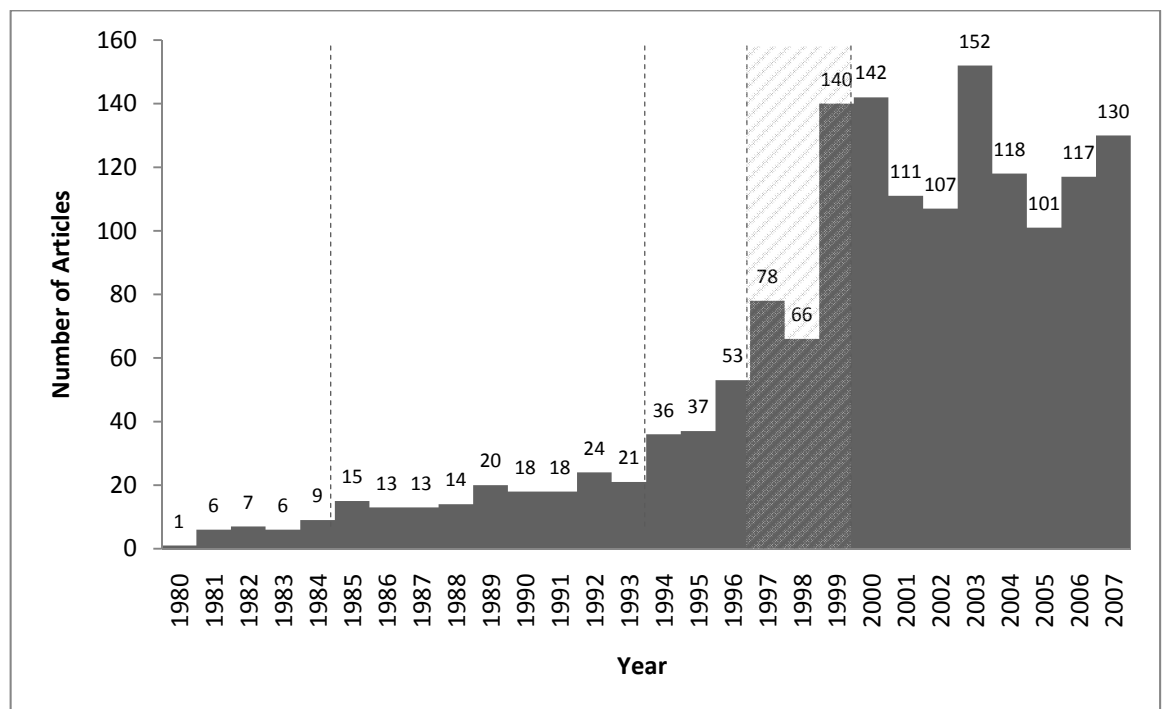
Source: Compiled by author via CNKI, http://www.cnki.net/.

When taking into account the different stages, sudden peaking in the numbers can be better explained. As one may see, each peak within a particular stage corresponds to changes in China's foreign relations vis-à-vis its sovereignty. Due to the smaller data sample, notes of little significance can be made of the pre-1985

stage. In the subsequent stage between 1985 and 1994, the years 1985, 1989 and 1992 were important years to China's foreign relations where "sovereignty" was concerned. In 1985, the Sino-British Joint-Declaration came into effect, and correspondingly more than half of the total published articles (8 out of 15) are related to the Hong Kong issue and Deng Xiaoping's principle of "one country, two systems." The Tiananmen Incident in 1989 and subsequent international sanctions imposed on China has led to a spike in related themes. In that year and the next (in 1990), many articles have offered criticisms on foreign intervention, warnings over the ills of the "open door" policy, and discussions on democracy and human rights, etc—all made with respect to the Chinese nation and its sovereignty. 1992 marked the year of China's slow return to the folds of the international community, and major efforts were posited at negotiating and rationalising Deng Xiaoping's deepening reforms (Zhao S., 1993, pp. 747-750), particularly moves aimed at reconciling Beijing's position vis-à-vis the rest of the world. Research topics during this year tend to be quite varied, but the theme seemed clear: exploring ways to preserve the Chinese state (and thus China's sovereignty) while satisfying its need for greater integration with the world. It is recorded that at least 9 published articles (out of 24) in that year were related to this theme. The conflation of the State and its sovereignty is a prevalent feature in the Chinese conception of sovereignty. Quite apparently, the reemergence of "strong state theories" in China in the early 1990s has further tangled the relations with the two (Zhao S., 1997; Zheng Y., 1999, pp. 16-17; Hunt, 1995, pp. 62-79). Beijing's devotion to "patriotic education" [*aiguo jiaoyu*] in the mid-1990s and the intensification of historical- and sovereignty-related issues refocused the academic attention on sovereignty views of the leaderships and intellectuals, past and present, and discussions on Hong Kong, Taiwan, Diaoyu

(Senkaku) Island, etc. More than half (69 out of 126 total) of the articles published between 1994 and 1996 fall into these categories. Arguably, the interest in sovereignty views of the leadership, particularly that of Deng, during this period can be attributed to the impeding return of Hong Kong and a slow building up of the movement to eulogise Deng and his contributions, both in 1997. The twin peaks in 1997 and 1999/2000 are far easier to grasp when putting in context: the retrocession of Hong Kong and Macau in 1997 and 1999 respectively, and the strong responses to the US bombing of the Chinese embassy in Belgrade in 1999. In 1999, almost half of all articles (68 out of 140) collected touched base on Hong Kong and Macau issue, Belgrade bombing, humanitarian intervention (especially in former Yugoslavia), human rights and sovereignty, etc. The last observable spike, in 2003, can be explained by the large number of articles engaging in contemplating the relationship between increasing economic globalisation and sovereignty, particularly with respect to China's World Trade Organization entry in 2001 (accounting for 82 articles out of 152) and spin-off discussions on sovereignty brought about by US invasion of Iraq (19 recorded).

The scenario in postgraduate researches is far less clear; the only meaningful observation being the increasing interest in the topic since 1999. Of those dissertations surveyed, no clear pattern of interests has emerged across those short period, though it is quite apparent that researches into globalisation and sovereignty (56 counts), and international regimes and sovereignty (48), are runaway favourites among postgraduate research students. At the same time as sovereignty topics related to human rights and new interventionism (8) and the experiences of the European

model (8) line up at the sides, a fair and surprising number of efforts are devoted to discussing classical and modernist literatures on sovereignty (19).[48]

Graph 3.2: Number of Master and Doctorate Dissertations with "Sovereignty" [*zhuquan*] Listed in Keywords, 1999-2008
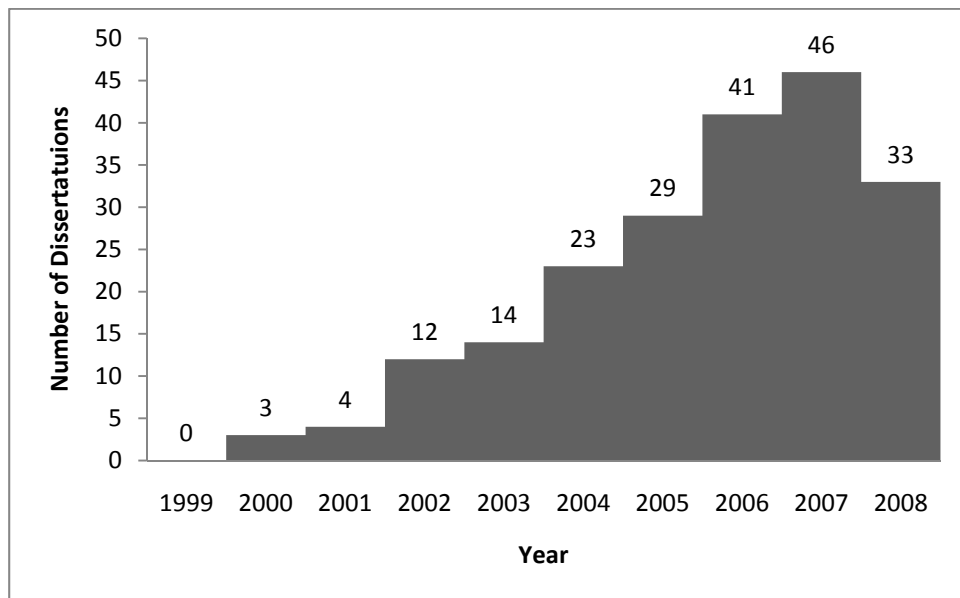
Source: Compiled by author via CNKI, http://www.cnki.net/.

In terms of published academic books, the numbers are also rising in recent years. "Sovereignty" as a research topic went relatively unnoticed throughout the 1980s, when the only notable publication was Wang Huning's short work *State Sovereignty* [*guojia zhuquan*], in 1987. As claimed by Wang in his introduction, the book provides a largely explanatory account of the concept of "sovereignty" from historical and functional perspectives, and does little to engage the sovereignty discourse (Wang H., 1987, p. 6). The situation has changed tellingly from the mid-1990s onwards, when sovereignty-related books began to appear in the market, initially on contested sovereignty issues facing China, and later from the turn of the

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[48] For clarification, by "classical" and "modernist" writings here, the chapter refers to a broad classification system to denote works of the pre-19th century and those of the 19th- and early 20th century respectively. Hence those literatures that have appeared from the later half of the 20th century will be considered "contemporary."

century, on globalisation and the Chinese sovereignty.[49] But even so, unlike those more conclusive observations that can be made from the statistics collated from published Chinese articles, lack of definitive data banks on books—efforts to digitise academic books are at preliminary stages and are largely uncoordinated to date—rendered this effort futile.

Reading Persistent Themes in China's Academic Discourse on Sovereignty

After surveying the expanse of sovereignty literature in the Chinese language, several persistent themes in China's academic discourse on sovereignty are identified. As has noted in the previous sections in this chapter, such persistence is perhaps less coincidental than it is structural. The often intertwining fates of Chinese academics and scholars and those of their political overlords have made it far more interesting to the intellectual mind by analysing the discourse from a qualitative perspective than statistical numbers can provide. Amongst many different threads, this chapter identifies five broad discussions.

i) China's sovereignty issues and territorial disputes

Amongst the various threads that can be identified in this chapter, discussions on China's sovereignty issues and territorial disputes stand out as one of the most common themes in academic writings, and for obvious reasons. China has in its hands today an astonishing number of unresolved sovereignty contests. It is up against a party of counterclaimants which includes both existing powers and aspiring powers, and is under constant fear for international intervention in its sovereignty

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[49] Earlier works include Lu Y. (1992); Zhou J. (1999); also more nationalist writings like Li & Peng (1995). The academic tone became more moderated after the turn of the century, when the focus changed to globalisation and Chinese sovereignty. Examples see, *inter alia*, Yu K., et. al. (2004); Cheng H. (2003); Liu D. (2003b); Chen A. (2002); and Liu J. (2001).

stakes. From the high-key issues like the Paracel and Spratly islands (China against various claimants in Southeast Asia), Diaoyu Island (against Japan), Arunachal Pradesh and Ajsai Chin (against India), and the Chinese-Vietnamese borderlands to lesser-known or intermittent disputes like China-Korea over Mount Paektu, Ieodo Reef and islands in Yalu and Tumen Rivers (*Yonhap News*, 2007; *The Korean Times*, 2007; *The Chosun IIb*, 2006), China-Myanmar (Burma), China-Bhutan, and elsewhere, China has disputes with almost all its immediate neighbours across its 22,117 km-long land border, not the least maritime disputes in its Eastern seaboard and the South China Sea.[50] These are in addition to sensitive "separatist" issues that Beijing consistently views as domestic affairs, like in the cases of Taiwan (Chinese Civil War), Tibet and Xinjiang. These are by-products of Chinese recent transition to the sovereignty-ordered international system, no doubt, as expounded in Chapter 2, and issues that Chinese political leaders of various regimes since the late Qing dynasty have been keen to impressed upon the Chinese people in their legitimatisation acts.

Due to their current nature, works in this category tend to be more descriptive and devote less attention to theoretical discussions. "Sovereignty" as a concept is assumed to be a universal organising principle amongst states, and is largely unquestioned and taken for granted; in other words, sovereignty is sovereignty is sovereignty—there is pretty much nothing more to say about it, let alone defining it. On rare occasions when the concept is dealt in more details, the legal-territorial definition is usually applied, and repeatedly emphasised (Xing A., 2003; Liu W.,

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[50] This figure is listed in *The World Factbook*. This includes the borders China shares with Afghanistan (76 km), Bhutan(470 km), Burma (2,185 km), India (3,380 km), Kazakhstan (1,533 km), North Korea (1,416 km), Kyrgyzstan (858 km), Laos (423 km), Mongolia (4,677 km), Nepal (1,236 km), Pakistan (523 km), Russia (northeast – 3,605 km, northwest – 40 km), Tajikistan (414 km), and Vietnam (1,281 km) (Central Intelligence Agency, 2004).

1999; Zhou Z., 1990). Notably and perhaps unsurprisingly, given China's difficult experience with international human rights, discussions on the "morality" of the sovereign states are all but skirted. Those which touch upon this issue are often highly critical of linking human rights with sovereignty (Zhu L., 2005; Jiang Y., 2004). In other words, the right to sovereignty is a right in itself, as far as these discussions are concerned; that this right should never be questioned nor denied, and should be defended at all cost.

China's territorial sovereignty is central to most discussions. Many of these involve finding legal justifications for China's ownership of disputed territories or maritime zones (Song, et. al, 2006; Zhao J., 2003); others attempt to locate the rationale through historical review (Guo Y., 2007; Ju H., 2003). Whichever the methodology used, the conclusions of the works are painfully similar: that the international system "owes" these territories to the Chinese nation, and that it constitutes a "right" for China to either reclaim or maintain sovereignty over the disputed areas (Xin Q., 1997; Wang C., 1995). Again unsurprising, and indeed a fair expectation for a deeply-aggrieved and proud nation, be it China, Russia, the United States, or the United Kingdom. Moreover, considering China's intellectual-political environment, described in earlier section of this chapter, and rising nationalist pressures of recent years, one would hardly expect otherwise (Hughes, 2006, ch. 2; Zhao S., 2004, chs 2 & 3; Gries, 2004, chs. 1 & 2).

ii) Sovereignty in a Globalised World

Another popular theme, most works listed under this category explore the state of sovereignty in the context of an increasingly globalised world. However, unlike most writings of similar themes in the Western literature, many of the Chinese

writings have pivoted their research on how to "preserve" China's sovereignty in the process of globalisation.[51]

Several debates raged on within this theme. Wang Jun, in his review of Chinese debates on sovereignty, categorised these debates into five camps: the sovereignty-strengthening advocates, the "benign" sovereignty-transfer proponents, those that argue for the two-sided nature of the relationship between sovereignty and globalisation, academicians who take sovereignty-transfer for granted to instead focus on the rights of a state to transfer sovereignty, and the camp which argue for the "indivisibility of sovereignty"(Wang J., 2006, pp. 347-350). In gist, the first group argues that sovereignty as an international organising principle has strengthened rather than weakened by globalisation (Chen R., 2000, pp. 28-36); the second explores the "benign" effects of globalisation on cases when sovereignty is transfer from the state to another body; the third camp argues that the relationships between sovereignty and globalisation are both conflicting and mutually-enhancing, and the main issue should be identifying the different processes of globalisation and improving on the "adaptability" of sovereignty (Wang J., 2006, p. 348); the fourth focus not on the state of sovereignty or whether a state's sovereignty has diminished when it is transferred, but rather the right of the state to transfer sovereignty as it deems fit, and how this right can be upheld (Wang J.c., 2000; Zhang J., 2002); meanwhile the last faction directs its efforts on systematically refuting those, particularly in the Western academia, who argue that sovereignty is divisible and

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[51] The efforts to "ground" their researches on "reality," particularly that deemed faced by China, appear to be the primary inspirations for works of this theme. Numerous writings are identified in the most recent decade that set off with the intent of providing answers to how China can cope with its sovereignty in the onslaught of international (western) influences and economic globalisation (Wang D., 2001; Chen H., 2000; Wang J.c., 2000).

transferrable in the modern times (Lu L., 2003, pp. 5, 19-31; also Wu & Zhang, 2003, pp. 4, 69-78).

Then again, instead of looking into technicalities of sovereignty—of its divisibility, transferability, etc—this chapter is more interested in the manner of which sovereignty is understood and portrayed. In particular, the "State" stands prominently in all arguments: partly due to the semantics in the Chinese language, sovereignty [*zhuquan*] is difficult to understand without the prefix "state" [*guojia*], but more importantly due to the fact that sovereignty is fundamentally understood as a principle borne out of the state, rather than mutually-constitutive elements of each other. The prevalence of understanding the state as the sole vessel for sovereignty makes it as if other debates on sovereignty, for example about the sovereignty of the people (see later discussions in this section), or parliamentary sovereignty, have never occurred in the first place in China. The concept of sovereignty cannot exist outside the state; sovereignty is associated to the State and the State only.

iii) Exploring the Meanings of Sovereignty as a Concept

This is a broad category that includes those works solely on theoretical development of the concept, to overlaps with works associated to other categories mentioned in this section—like that of exploring 'sovereignty' in the globalisation context, for example. Two particularly interesting observations were noted in this category of works. Further analyses reveal the epistemology of the concept in the Chinese academic thinking.

The first of the two observations is the academic fixation on western classical and modernist readings on sovereignty. While we can easily collect whole papers dedicated to classical and modern writers of sovereignty like Locke, Hobbes, Bodin,

Rousseau, Austin, and even Marx and Lenin (on popular sovereignty in particular) over the years, works on more recent debates of sovereignty are more uncommon sights in the Chinese academia, at least not until the very last decade (Wu Z., 2007; Song Q., 2003; Che, 2002; Shi, et. al., 2000; Bao, 1994). China's wholehearted engagement in the globalisation process since the 1990s has changed the research landscape to involve more contemporary debates, yet the appearances of numerous works debating against the "end of sovereignty" would certainly puzzle many Western readers (Lu L., 2003; Wu & Zhang, 2003; Wang X.f., 2002; Xing C., et. al., 2001). Ironically, Western sceptics have, since the late 1980s, moved on from the debate on "Is sovereignty obsolete?" Now it appears that a "theoretical gap" of more than ten years appears to gulf the academia in China and that in the West. Furthermore, there appears to be a discernable trend within the Chinese academia to refute the so-called "western academia" on the latter's misguided appreciation of the concept by evoking the arguments of classical and modern writers: amongst the Chinese legal scholars for example, the legal positivist thoughts of L. F. L. Oppenheim and John Austin are noticeably favoured in their writings, while China's socialist political environment has provided the impetus for discussions into the concept of "popular sovereignty" in the likes of Rousseau and Marx (Hu R., 2005; Liu D., 2003a; Tian, et. al., 2003).[52] Similarly, a quick survey on China's printed books market will reveal an extensive collection of translated works (into the Chinese language) from classical and modern theorists, but little of contemporary writers like Jack Donnelly, Robert Jackson, Stephen Krasner, Daniel Philpott,

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[52] In an interesting piece, and an excellent case to reflect Chinese academics' obsession with a traditional notion of sovereignty, see Zhang L., 2006. In the article, Zhang uses a self-professed "traditional" interpretation of sovereignty to apply to the cases of globalisation and global governance (p. 25). Even so, her sense of "traditional sovereignty" is interesting for the fact that it ended with Rousseau's work; works of modern legalists like John Austin, L. F. L. Oppenheim, and Hans Kelsen were not even touch upon in the piece.

Cynthia Weber, and so on.[53] The tedious and slow process of translating western works into the Chinese language—a matter of practical concerns as much as political decision—might have been a reason, especially considering the pervasive Chinese language environment in China at the moment, even though a greater possibility could be that the Chinese perception of sovereignty finds more resonance with the classicists' and modernists' interpretation of the concept.

The second observation is the propensity to add adjectives to "sovereignty" in the Chinese academic writings to modify referent of the concept. While this is not unheard of in the Western academic works, for examples "consumer sovereignty" as spoken in the discipline of economics or "cultural sovereignty" (Scitovsky, 1962; Brown, 2005, pp. 189-206), the Chinese academia has by far been more creative, and has been freer at using the formula of (adjective + sovereignty) in different contexts. Take an example: Monroe Price (2002) was particularly careful at titling his book *Media and Sovereignty* (in Chinese: *meiti yu zhuquan*) rather than "*Media Sovereignty*" (in Chinese: *meiti zhuquan*); the word "and" was used to conceptually separate one from the other in his analysis. Chinese academics are presumably less discerning at such endeavours. Increasingly since the early 1990s, academic papers and books, and postgraduate dissertations have experimented with sovereignty-

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[53] A catalogue search conducted on 21 March 2009 in the National Library of China has returned *no result* on translated versions of the works authored by the above-named contemporary theorists on sovereignty. Some of the more recent translated western works that are held by the library includes J. Hoffman (2005). *Sovereignty* [*zhuquan*] (Lu B., Trans.). Changchun: jilin renmin chubanshe, 2005; Yu, H., et. al. (Eds.) (2004). *De-stating a State? Famous Western Scholars on Globalisation and Sovereignty* [*guo jiang bu guo? xifang zhuming xuezhe lun quanqiuhua yu guojia zhuquan*] (Yu, H, et. al., Trans.). Nanchang: jiangxi renmin chubanshe; J. A. Camilleri & J. Falk (2001). *The End of Sovereignty? The Politics of a Shrinking and Fragmenting World* [*zhuquan de zhongjie? riqu "suoxiao" he "suipianhua" de zhijie zhengzhi*] (Li, D., Trans.). Hangzhou: zhejiang renmin chubanshe. Interestingly, one of the more recent translations on sovereignty held in the library's collection was C. E. Merriam's 1900 doctoral dissertation *History of the Theory of Sovereignty since Rousseau* (2006)—again manifests the view the Chinese fixation on classical and modernist writings on the topic in China. Nonetheless it is important to note that the *English* texts of these authors are also held in the collection, and are available for public viewing.

associated concepts such as "education sovereignty" [*jiaoyu zhuquan*],[54] "cultural sovereignty" [*wenhua zhuquan*] (Sun W., 2005; Xie X., 2002; Li Y.x., et. al. , 2002), "economic sovereignty" [*jingji zhuquan*] (Xu Q., 2006; Jiang H., 2003; Xu K., 2002; Meng G., 2000), "communications sovereignty" [*chuanbo zhuquan*] (Duan J., 1996), "information sovereignty" [*xinxi zhuquan*] (Yang K., 2006; Su, et. al., 2001), "currency sovereignty" [*huobi zhuquan*] (Zhang Q., 2002; Yu T., 1999; Ai M., 1995), "judicial sovereignty" [*sifa zhuquan*] (Dong M., 1999; Meng P., 1983), even "food sovereignty" [*liangshi zhuquan*] (Dong X., 2006), and so on. The list is virtually endless. This is one of the most distinctive features of Chinese academic writings on this topic.

On hindsight, the phenomenon offers a plausible explanation to Allen Carlson's methodology to divide his analysis on Chinese sovereignty into those tight little "sovereignty bundles," as raised in chapter 1 of this dissertation (Carlson, 2005, pp. 11-20; also Carlson, 2000). Robert Jackson, for his opposition to such conflation of concepts in relation to "sovereignty," like in the case of "economic sovereignty," which he criticised "are best kept in separate compartments if we wish to be clear," will surely despair at the prevalence of these practices in the Chinese literature (1999, p. 10).

iv) Sovereignty and Human Rights

Researches and publications on human rights have remained a politically sensitive issue, and are restricted to a handful of trusted institutions in China, as Peter Harris (2002, pp. 161-162) rightly pointed out. But this out-of-bounds marker

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[54] "Education sovereignty" is one of the most common recurring terms in Chinese academic writings, such that it is impossible to cite all examples herein (Ru Z., 2004; Miao R., 2002; Xu G., 2002; Xin F., 1992).

has not deterred swamps of Chinese scholars to explore the relations between human rights and sovereignty, if only to endorse the State's unsaid "rule" of the supremacy of the state's sovereignty above all else (Wang J., 2006, p. 351). With the exception of a few scholars, most authors who write on this theme would show the propensity to tag along the line that treat sovereignty and human rights in a master-slave relationship, as one of them has written,

> To a nation's defence, human rights are subservient to sovereignty. Many aspects of human rights, especially basic human rights issues like the citizens' rights to politics, economics, social and culture, to the protection of ethnic minorities, women and children, etc are issues of domestic politics, and belong to the jurisdiction of domestic bodies. *If a state loses its sovereignty, inevitably nothing can be spoken of human rights*. Hence, our country has always insisted that to a nation, human rights begin with the people's survival and the country's independence… Protection of human rights should always be built upon the basic principle to respect a state's sovereignty… (Zhai L, 1997, p. 58 [author's translation, emphases added])[55]

Elucidating similar views, another author puts it across in a stronger and more descriptive manner: human rights, in the absence of sovereignty, are like "water without its source, and a plant without its roots" (Wang S., 1995, p. 53).

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[55] Also see Song X. (1996, pp. 21-29). This is a usually common line of argument that Chinese authors would used in this theme. Another technique often applied in the mid-1990s to supplement this argument includes the review of the thoughts of China's past and then political leaders like Mao Zedong, Deng Xiaoping and others (Li Y.q., 1995, pp. 11-13; Ran C., 1995, pp. 5-10; Wang X.t., 1995, pp. 39-41). On views of a minority group of scholars who opted to see sovereignty and human rights in other perspectives, see for examples, Ruan J. (2003, pp. 65-70); Wang Y. (2000, pp. 4-10).

The attention on human rights-sovereignty nexus was given extra boosts in the immediate years after 1999 and 2003, after the Belgrade bombings (Yugoslav Wars) and US invasion of Iraq respectively. Issues of "new interventionism" took hold of the Chinese academic scene. Yet again, the "final verdict" has been rather unanimous across the board, as that activities of new intervention, particular that of the US and NATO, have demeaned the sanctity of the principle of sovereignty and thus constitute serious threats to the international order (Lu B., 2003; Chen Y., 2000; Fan G., 2000; Pu P., 2000; Wen B., 2000). Even if one were to take into account the fierce debate and controversies on this issue in the West (Holliday, 2002, pp.557-575; Glennon, 1999, pp. 2-7), the solidarity displayed by the Chinese academics is remarkable, the least to speak. Regardless of their political affiliation, almost *all* Chinese scholars from across the political left and right wrote in condemnation of such interventionist actions—some even ascribing to explanations bordering "conspiracy theories" about the US intentions (Deng Y., 2001, pp. 349-352). The speaking of relatively "one" voice is a defining feature of Chinese discussion on this theme. Calling these discussions a debate surely is an overstatement; a monopolistic discourse on sovereignty and human rights seems more appropriate.

v) Alternative "Visions" of Sovereignty

There is also a small group of scholars who engage the sovereignty debates in China from "alternative" perspectives, and most often in indirect manners. Zhao Tingyang (2008, 2005 & 2003; also see Callahan & Xu, 2008; Wang Q., 2008; Zhou F., 2008), for example, leads the way in discussing the "all-under-heaven" [*tianxia*] concept, which is perhaps as old as the Chinese civilisation itself, to reconceptualise contemporary Chinese international relations. Coming from similar veins, Shang

Huipeng (2008 & 2009) is the principal contributor to an ongoing project to review contemporary Chinese foreign policy via historical conceptions of the Chinese relations with its neighbours, in ideas such as "the moral being" [*lunren*] and "the tributary" [*fuguo*]. The main thrust of the second project calls for the reconceptualisation of China's international behaviour through a personification of the Chinese State in the Confucius teachings of *lun*—filial piety [*xiao*], brotherly love [*ti*], loyalty [*zhong*], trust [*xin*] and respect [*jing*]—and arrange its relations with other entities according to that moral order. The works of these scholars coincide with the greater endeavour to develop so-called "International Relations of Chinese characteristics." More affectionately known as "the China School" [*zhongguo xuepai*] this wider project attempts to locate China's International Relations by returning the wisdoms of China's unique historical concepts, diplomatic and political experiences (Liu, Gao & Liu, 2003; Callahan, 2004). While this dissertation does not follow the steps of this movement and make a claim for Chinese exceptionalism, it nonetheless finds the concept important to the understanding of Chinese view of sovereignty today, as the concept of "all-under-heaven" has already been briefly discussed in Chapter 2. Since this discourse is still at its nascent stage, this chapter shall devote no more words to it than to point out that these alternative views are beginning to gain wider academic attention as this dissertation is written.

"Sovereignising" Security?

Sovereignty *has always had* an innate security dimension, right from the day its modern understanding was conceived. It began its modern life to provide security to the post-Westphalian regimes from Vatican intervention, encapsulated in the principle of *cuius regio, eius religio*. The concept then slowly shifted to secure the

peoples from discrimination and oppression, through the period bracketed by the French Revolution to the post-World War years.[56] It will be difficult, if not impossible, to deny that by the maintenance of internal-external demarcations (see Chapter 2), sovereignty as a principle serves to create a factual, legal, as much as psychological sense of sanctuary and well-being to whoever is within it (Makinda, 1998, pp. 281-292).

But quite apparently, sovereignty is not just about, and certainly *is not*, security. Just as security does not predicate the existence of a principle called sovereignty, sovereignty needs not be a prerequisite for achieving security; as the princes and dukes of the medieval realms surveyed the many options laid out in front of them in securing theirs and their subjects' rights to religious choice, "sovereignty" (admittedly in its primitive form) was but a contingent outcome of that struggle for "security." Yet when reading the Chinese writings on the subject, one cannot but see sovereignty and security as two sides of the same coin (Makinda, 2001, pp. 401-408).

In manners that are little different from what the Copenhagen School (Buzan, Wæver, & de Wilde, 1998; Wæver, 1995, pp. 46-86) would call "securitisation" of issues, the speech-act process in the Chinese academia involves placing issues within the discourse of sovereignty in order to raise them to the level of security. In categories (i) to (iv), and to a lesser extent (v) as well, all discussed above, sovereignty is treated less as an organising principle of the present international structure, than as a security issue that China needs to address. When some of these

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[56] By this statement, this author accedes to the common line of argument in the Chinese academia, that *at its early stages*, the principle of human rights was far from being a universal value, and its maintenance was contingent to the existence of the State (and its ability to maintain its sovereign status) that provided the guarantee. However, whereabouts the human rights principle is embedded today is not a focus in this dissertation, neither is the dissertation going to engage in a debate on whether human rights is subservient to sovereignty here.

academics spoke of sovereignty as a founding principle of the current system, they were always keen to impress on their readers the "inviolability" of sovereignty; they often refer to the wisdoms of classical and modern philosophers and legal scholars on sovereignty as if the concept has not undergone profound changes since the philosophers' times (in contrast to the argument in Chapter 2 that basic understandings of sovereignty have clearly shifted). How could one argue for a position that takes sovereignty as a *natural right of the State*, insists on its characteristics of "absoluteness" "inviolability" and "indivisibility" above all else (for example, "universal human rights" and "legal" intervention), and at the same time be "politically-correct" by reaffirming the Chinese State's founding legitimacy of "people's sovereignty?" Certainly the "progressive" writings from the cohort of Jackson, Donnelly and Philpott, for examples, would offer little comfort as compared to those of Bodin, Rousseau, Grotius, Austin, Oppenheim, and to a greater extent, those of Marx, Hegel and Lenin. Roll in the influences of Chinese historical experiences (again see Chapter 2), this is a practical and epistemological understanding of sovereignty at its very best.

The apparent willingness of Chinese academics to talk sovereignty within the domain of security is remarkable. Arguably, particularly in the case of placing issues alongside sovereignty in the (adjective + sovereignty) formula discussed in (iii) above, sovereignty is further "securitised" than the concept would suggest in a piece of Western writing. In a mindset tuned to the centralised planning orthodoxy, to talk about "economic sovereignty" in an era of marketisation and globalisation could mean more than stating the fact that international market forces are on the rise—it evokes the images of exploitation of the labour forces, and the enslavement of the proletariat to the greed of capitalism. Of course, there is also this element of

nationalism to consider on this issue. Similarly, raising the issue of "education sovereignty" to a civilisation ever so proud of its education legacy (in Confucianism) and State-controlled education system, or the mentioning of "customs sovereignty" or "tax sovereignty" to a nation which only has very fond, recent memories of customs and tax independence from external powers (after World War II), are means to place these discussions within the security context. Discourses on sovereignty are thus instinctively "defensive" responses in the Chinese academic circle. The almost unanimous and vigorous defence via the classical and modernist understandings of sovereignty within the Chinese academic circle only serves to further support this view. These responses suggest a dominant siege mentality related to issues of sovereignty.

At this point, this chapter wishes to acknowledge the more varied discussions on sovereignty that go beyond this siege mentality in more recent literatures, especially those since the turn of the century.[57] Citations become more varied too, as more recent works in the West appear in growing frequencies in Chinese writings on the subject. Nonetheless, there are doubts about how far this change in mentality has manifested itself given that "political-correctness" in China is changing ever so slowly. One could perhaps quickly point out (as a Chinese colleague of the author of this dissertation did on passing mention during his tenure in the Chinese Academy of Social Sciences in 2009) that very few today would genuinely believe those arguments of "politically-correct" scholars;[58] yet it is also just as true that the works

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[57] The more varied discussions on sovereignty were also noted by Wang Jun (2006), and he has explained that this phenomena via the theoretical developments in China since the mid-1990s, especially the turn from orthodox Marxism to adopt other Western International Relations theories and discourses, as well as the practices of relative scholastic autonomy that are slowly seeping through the Chinese academia. This author concurs to Wang's arguments.

[58] By "politically-correct" in here, this dissertation refers to strict adherence to the "Chinese orthodoxy" with regards to sovereignty issue. It would, for examples, be politically incorrect for a

of such scholars, laced with politically-correct, almost messianic, languages, continued to be printed in Chinese "core" journals. As recent as 2007, there were published articles that still wrote about the mission of uphold sovereignty as akin to a war of the good against all evils: as a principle sovereignty "triumphs over hegemony" and is foundation to "building a just, peaceful and stable new order" (Tang L., 2007, p. 49 [author's translation]), or that China should continue to expand its cultural diplomacy so as "to protect our country's cultural interests, oppose the cultural hegemony of the West, and preserve our cultural sovereignty" (Liu & Sun, 2007, p. 85 [author's translation]). Unfortunately, to an outsider's ears, these arguments may ring louder than other "noises" in the Chinese sovereignty discourse.

III. In Focus: "Sovereignty" [*zhuquan*] versus "Right of Governance" [*zhiquan*]

Did Bodin try to analytically separate "sovereignty" from "right of governance" in *Six Books of the Commonwealth*? He would probably have, argued Wang Bangzuo and Wang Huning in their article published in 1985 following the enactment of the Sino-British Joint Declaration. They claimed that Bodin had tried to separate the two concepts via his account of the various combinations of "right of governance" under the predominant forms of "monarchy," "aristocracy," and "popular," each of which is made up of elements of the others. For example, "monarchy" can take the form of (pure) monarchy, aristocratic monarchy, popular monarchy, or even combinations of all three, and this categorisation manifests Bodin's understanding of the relationship between "sovereignty"—which in earlier

scholar to suggest that sovereignty is in decline, or that human rights is a universal value that should be placed above the principle of sovereignty.

example the predominant form of monarchy—and "governance"—monarchy, aristocratic monarchy, popular monarchy, or other combinations. Wang and Wang then cited Rousseau in support for Bodin's points, in that while "popular sovereignty is unshakable, and according to individual or institutions, government (governing power) can be divided into popular, aristocratic *and* monarchy" (Wang & Wang, 1985, p. 14 [author's translation, emphasis added]). Beneath these logical puzzles, what they have actually intended to do was to "prove" that various forms of governance ("and" instead of "or") can co-exist with the others under the same notion of sovereignty in Western literature on sovereignty, and thereby giving credence to Deng Xiaoping's idea of "one country, two systems."[59]

There are no qualms about analytically separating "sovereignty" from "right of governance," as any respectable academic with a keen eye to conceptual details would. In any case, most conceptualisations of "sovereignty" are in terms of "authority" not "right of governance" (see Chapter 2).[60] But Wang and Wang's argument is riddled with problems, and is questioned in this dissertation on at least two accounts. First, Bodin had "government" in mind rather than "right of governance." Thus his Book I opening sentence concerns "rightly ordered governance (Bodin, 1967, p. 1, original French was *un droit gouvernement*), Book II is titled "Of the Different Kinds" (1967, p. 51, original French was *de toutes Sortes*) of government, and the phrase "right of governance" (*droit de gouvernance*) is absent throughout. In parallel developments, it is noted that many contemporary

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[59] Not mentioned in the main text above, Wang and Wang's (1985) argument contains a twist. While they attempted to find explanations of "one country, two systems" in the classical literatures of Bodin and Rousseau, they were also quick to point out the differences between the parallels that they had tried to establish by listing the differences between Bordin's and Rousseau's conceptions, and Deng's conception. In conclusion, they lauded Deng's ideas as an "innovation" in Political Science.

[60] There are academics like Alan James (1986, pp. 13-14) who listed the basic characteristics of sovereign *state* as 1) territory, 2) people, 3) government (but not governance!).

scholars have progressively differentiate between the "government" and "right of governance." In simple terms the former would often refer to the structure of authority and public power, while the latter denotes the right to "collective problem solving in the public realm" (Richards & Smith, 2002, p. 4; Caporaso, 1996, p. 32). Wang and Wang appeared to have clouded the concepts in ambivalence (note their bracketed words while citing Rousseau above, by conflating "government" with "governing power"), and is deemed to have favoured "right of governance" over other understandings. Second, the perceived political utility of the article diminishes its value towards theoretical development of the subject. To a reader, it is difficult to grasp the logic of the authors' argument as, in their bid to provide justifications to the Chinese government's policy towards Hong Kong, they have failed to provide adequate explanations and definitions to crucial concepts, and have left large gaps to the reader's imagination. As a result, a reader familiar with contemporary western literature cannot help but be left puzzled: what then, is the relationship between this "right of governance" and "authority?" Wang and Wang have provided no answers to that. The lack of proper referencing has only added more frustrations to the readers' effort.

Notwithstanding these discontents, were one to read the piece from a *political* perspective, as suggested in the first section of this chapter, its significance would be considerably heightened, since the more pertinent question would then be: have the Wang and Wang been successful in their endeavour? By surveying subsequent works in China on sovereignty, the answer is a "yes." Their work was one of the very first of its kind to project the ideas of "sovereignty, minus right of governance" or "sovereignty, multiple rights of governance" within the vast array of Chinese literature tracked by this dissertation. For that accolade, Wang and Wang have seen

influences of their interpretations extended not only to academic literatures regarding unresolved sovereignty issues like Hong Kong, Macau and Taiwan, but also vis-à-vis globalisation, on China's relations with international organisations and international regimes, and on transfer of sovereignty, etc. While not all are associated with the writings of Wang and Wang in the most direct manner, the general acceptance of this image of sovereignty has been fairly consistent across the years.

Consider the following argument:

Sovereignty and right of governance are powers of different levels. Right of governance and of administration are powers bestowed through the State's constitution to the State's functional organs. From this understanding, constitution is above right of governance, and for *a regime* to possess the legitimacy to rule, *its constitution* must first protect and consolidate state sovereignty, which is to say, sovereignty is above constitution … In short, *right of governance is power derived from sovereignty*.

The same author then went on to write:

But *the total sum of rights of governance is not sovereignty*. The reasons are (1) sovereignty is a qualitative concept, while right of governance is a quantitative concept, and the two concepts are non-interchangeable… (2) But more importantly, right of governance or of administration cannot explain the whole of "sovereignty." As Rousseau says, there can only be one sovereign authority; if we divide it, we cannot but destroy it. [Theories about] "Divisibility" of sovereignty obviously negates the elements of "highest form" and

"wholesomeness" in sovereignty. This is a *misunderstanding brought about by conflating "sovereignty"* [as a concept] *with its implementation and manifestation* (Lu L., 2003, pp. 14-15 [author's translation, emphases added]).[61]

The separation of, as well as the hierarchical relations between, "sovereignty" and "right of governance" is clear in these words. Lu Lingyu's (2003) discontentment over theories of "diminishing sovereignty" or "transferability of sovereignty" (another popular theme in China since the 2000s) is also clear. Unclear, however, are Lu's understandings of sovereignty and right to rule as essentially "powers," and the constitution as a mechanics of a *regime* rather than that of the state. In the first instance, it is difficult to fathom "sovereignty" as "power," since most authors of the subject wrote appreciate it more in terms of "authority" (Jackson, 1999, p. 11; Weber, 1995, p. 1; Hinsley, 1966, p. 26; Arendt, 1958). The understanding of "right of governance" as "power" is just as baffling. Furthermore, constitution of a regime to "protect and consolidate" state sovereignty? A rather unthinkable proposition as most (in the West) will associate such an objective in the constitution of the state rather than of the regimes. Perhaps this is another product of Chinese historical experiences?

More importantly, this chapter wishes to highlight Lu's eagerness at putting forth the argument, in line with that proposed by Wang Bangzuo and Wang Huning (1985), that sovereignty is not about implementation and manifestation. No doubt, this line of argument has its corresponding advocates in the West, as seen in Lu

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[61] An additional note on the translation of power/authority: in the article, the words *quanli* and *quanwei* have both appeared, and common translation practices are to relate the former to "power" and the latter to "authority." Subsequent analyses made in this chapter are based on this translation and all misunderstandings are attributed to the author of this dissertation and him only.

(2003, p. 15) citing Robert Jackson (1999) and others in support of his argument. However, while one can argue that sovereignty *is not all about de facto* control, it is debatable if one is able to prove sovereignty *precludes all elements of de facto* control from its contemporary understanding. Admittedly, Lu has not made this point clear in his article, but appeared to suggest so. Then again, were sovereignty really a legal and qualitative concept as Lu argues, his definition of sovereignty as a form of "power" is a fundamental self-contradiction of his thesis.

Despite these problems of reconciling his own arguments, Lu's ideas—as well as Wang and Wang's and others in this discourse—bode well with the Chinese historical and political experiences. Through the eyes of an average Chinese academic, there are two components to understanding "sovereignty:" *de jure* above *de facto* sovereign*ties*. This correlates to the core argument of this dissertation: that the Chinese view of "sovereignty" effectively detaches the *de facto* component (right of governance) from the concept. To the Chinese academics (as well as to Beijing), the need to justify certain "objective realities" requires explanations that separates *de jure* from *de facto* perspective: that Taiwan remained occupied by the Kuomingtang "bandits," Hong Kong and Macau under foreign rule before 1997 and 1999 respectively—and after those years the "one country, two systems" on operation in the HKSAR and Macau, Beijing's concessions to its sovereignty claims (discussed further in later chapters), etc. These constant tugs and tussles between *de facto* and *de jure* sovereignty created a market for intellectual contributions to achieve a theoretical breakthrough along this line, though any attempts are ultimately frustrated by the symbiotic relationships between the State and the scholars. The *de jure* logic may be more favourable at explaining the current political situations in Hong Kong and Macau ("one country, two systems"), Taiwan ("separated

brotherhood" in Hu J., 2008) and Tibet ("an inalienable part of China"[62]), etc, but there are always lingering doubts if this thinking will persist should the situation change. Eternal struggles between an ever growing demand for fresh conceptions of sovereignty for China and satisfying the political orthodoxy has put Chinese scholars persistently on the defensive: unable to break out the shackles of being a Chinese scholar and chasing the shadows of the West in sovereignty discourses.

IV. Conclusion

As the first of the two chapters in this dissertation to examine sovereignty discourses in China, this chapter studies the discursive construction of the concept within the Chinese academic circle through two analytical perspectives: quantitative and qualitative analyses.

In the former approach, the chapter reviews the data, in journal articles, books and postgraduate dissertations collected in Hong Kong and China, to observe the trends and particularities in Chinese academic sovereignty writings across the time dimension. In this aspect, two observations are noted. First, sovereignty as a research topic has expanded both horizontally, in scope and numbers, and vertically, in depth, since the 1980s. The relative disinterest in this topic thirty years ago stands in sharp contrast with the enthusiasm the Chinese academic circle showers on it today; at the peak of its academic interest, in 2003, "sovereignty" has accounted for more published journal articles than the total sum of related articles published throughout the decade of the 1980s. A similar development trend is reflected in

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[62] This quote is taken from the starting sentence of the 2009 Chinese government's white paper on Tibet (State Council Information Office of the People's Republic of China, 2009).

Chinese academic books and postgraduate dissertations, despite their relative small sampling pools. Second, and perhaps more importantly, the themes written on "sovereignty" over the years show remarkable correlation to the changes in China's international environment. To substantiate this point, the numbers of articles and dissertations, in particulars, reflecting on events that have happened in the years 1985 (Sino-British Joint Declaration came into effect), 1989-90 (Tiananmen Incident and its aftermath), 1994-6 (China's turn to patriotic education, Taiwan Strait confrontation), 1997 (retrocession of Hong Kong), 1999 (retrocession of Macau and Belgrade bombing), 2001 (China's entry into the WTO), and 2003 (US invasion of Iraq) are noted with interests. These statistics go on to support the earlier point made in the first section of this chapter of the expected role of an intellectual-academic-scholar in the Chinese cultural context, and the close, many times symbiotic, relationships between the Chinese scholar-gentry class and the ruling regime.

As a follow-up, the qualitative exercise reveals more about the Chinese sovereignty discourses by categorising the works collected into major themes. Altogether, five major themes are named: China's sovereignty issues and territorial disputes, sovereignty in a globalised world, the meanings of sovereignty as a concept, the relations between sovereignty and human rights, and "alternative" (perhaps more aptly, "Chinese") visions of sovereignty. While these five themes by no means cover all the different works written on the topic, they represent a good portion of writings on "sovereignty" since the 1980s. From this thematic categorisation, a fair picture on the Chinese discourses on sovereignty is painted. In many of these writings, the role of the State stands out among other agents of sovereignty. From the way the State has always been emphasised in the discourse of sovereignty—the territory, the regime or government, all elements of the "State" not "sovereignty"—it appears that

the academic circle in China, *to a Chinese*, stands from similar assumptions that sovereignty is located within the State and the State only. Discussions on human rights and popular sovereignty find themselves entrenched in the same camp, in arguments so commonly found in the Chinese academia: that sovereignty is the highest form of public good; the only way to preserve other supposedly public goods like human rights and democracy is to first protect the State's monopoly on its sovereignty. The strong sense of historical debt that the international society "owes" to China in terms of its "sovereignty deficit" is particularly strong, especially in discourses on China's territorial claims. Moreover, these academic discussions were performed with strong insinuation to regard sovereignty as "security." Like the Copenhagen School of Security Studies would term "securitisation of issues," the Chinese are seen to perform the same speech-act via the process of "sovereigntisation," as through "sovereigntising" an issue "removes it from the realm of normal day-to-day politics, casting it as an 'existential threat' calling for and justifying extreme measures." [63] As a result, the many instances which "sovereignty" has appeared in the Chinese literature—as in the cases of (adjective + sovereignty) formula—are in effect discussions about the security of a particular issue, rather than sovereignty itself; it would be more difficult to comprehend, for example, the idea of "education sovereignty" in the context of sovereignty than in that of security. This discourse gives the impression that China holds on to an "absolute" view of sovereignty which approximates the Westphalian ideal.

That impression would have lasted if not for another sovereignty discourse which ran parallel to the other discourses mentioned so far. The third section of this

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[63] These are the words of Michael Williams (1998, p. 435) to explain the process of "securitisation," but the same description is just as suitable to describe "sovereignitisation" in this context.

chapter has focused on this particular discourse: writings promoting the analytical separation of "right of governance" from "sovereignty." Despite having relatively few proponents between themselves, those in this discursive "camp" are made up of notable academics who wield enormous influence in China, both in the academia as well as in the policy circle. This is also a huge academic following to this discourse, to the extent that the analytical separation of "right of governance" from "sovereignty" is all too often treated as a given, and most followers simply fail to critically acknowledge this assumption. In this discourse, "sovereignty" is inviolable, but "right of governance" is negotiable. Notwithstanding some similar voices in the West, the readers would be struck, yet again, with the relative uniformity within this discourse. "Sovereignty" is defined more in terms of its *de jure* than *de facto* component.

Linking back to the previous chapter that has placed sovereignty in the Chinese historical context to this chapter, the question is put back on the table: are the Chinese academics mere mouthpieces of the country's political elites? The relative uniformity of the discourses gives clues to the answer. While not going to the extent of putting the political elites and scholars firmly in the same camp, there is an obvious expectation—on top of their societal expectations—for the modern Chinese scholar-gentry class to toe closely to the political lines. If anything, the academic discussions on sovereignty reflect, to a degree, the thoughts of the political elites, which, by the findings of this chapter, are rather sophisticated. In particular, the manifestations of the differentiated view between Beijing's "right of governance" and China's sovereignty deserve closer examinations. This is the task that will be undertaken in the next chapter, on the policy discourses on sovereignty in China.

IMAGINING ONE SOVEREIGN: SOVEREIGNTY IN CHINA'S POLITICAL
DISCOURSE

To the Chinese, sovereignty is not a legal issue, but a moral one.

David Kerr, anecdote[64]

The diversity of the Chinese academic discourse on "sovereignty" appears to converge at some point. As discussed in the last chapter, recent years have seen a remarkable increase in the number of academic works related to the subject, though many are deemed treading close to the official line and offer little breakthroughs in its theoretical development. Notably, the tendency for the Chinese academics to place "sovereignty" outside and above the realm of "right of governance" was raised in the chapter. The waters of Chinese intellectual thinking appear to flow along the same course, despite chaotic currents that lie underneath.

In this second part of the examination of sovereignty discourses in China, this chapter presents a similar picture: that Beijing's insistence of the "indivisibility" of its sovereignty stands in sharp contrast with the surprising level of flexibility that it often adopts in its arrangement with sovereign claims. To achieve this objective, this chapter focuses on looking at the various legal and political documents in Communist (Mainland) China.

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[64] Quote from Kerr during PSA Pacific Asia Politics Specialist Group Workshop "China Engages Asia: Regional Perceptions, Regional Responses," held in University of Warwick, 14 January 2009.

In China today, "rule by law" remains the dominant legal mode of thinking. Despite decades of reform efforts, the country has been slow at adapting to the principles of "rule of laws" (Peerenboom, 2002, pp. 8-9; Baum 1988). Writing in the late 1990s, legal scholar Margaret Woo described that the Chinese legal system "remains more of discretion supplemented by law than a system of law supplemented by discretion" (2000, p. 186). The highly discretionary nature of legal codes suggests two contradictory, but related, issues: one, the legal codes are, more often than not, window-dressings to serve ostensibly "higher" political needs of the State and/or the regime. But two, since they are window-dressings of highly politicised nature, these legal conventions usually contain more than just legal contents—they embody the very political messages that the State and/or regime was trying to send to its audience. They reflect the political concerns and discourses at the time of encoding; between the lines are the prime evidences of the political currents within China at any one time.

Following through from the "sovereignty-right of governance" discourse discussed in the last chapter, the below table shows the relevant materials which are pertinent to this chapter.

Table 4.1 Framework of Analysis

Region	Level of Analysis (Governance)	"Sovereignty" (*de jure*)	Right of governance (*de facto*)	Key Discourses and Documents Reviewed
Mainland Provinces	Core	+	+	Constitution of PRC
Autonomous Regions (Other Provinces)	2nd tier	+	+/-	Constitution of PRC, Law on Ethnic Regional Autonomy
HKSAR/Macao	3rd tier	+	+/-	"One country, two systems," Basic Laws of HKSAR and Macao
Taiwan (ROC)	4th tier	+	-	"Message to Taiwan Compatriot," "Ye's Nine Items," "Jiang's Eight Items," "Hu's Four Points," "1992 Consensus," Anti-Session Law, etc

Note: "+" denotes presence of condition, while "-" as absence. "+/-" denotes restrictions and/or uncertainties.

This chapter is made up of three sections. Each section analyses materials related to its corresponding level, as displayed in Table 4.1. Central to the first section is the Constitution of the People's Republic of China. Assuming that the Constitution represents a verbalization the Chinese State itself, the focus of the section is on how "sovereignty" has been perceived, and manifested in China's political realm. Related public addresses by key political leaders are also analysed when reviewing the changes to political views of Chinese sovereignty across the years since 1949. Apparently, the contents of "sovereignty" of the Chinese nation-state in its 1954 (first) Constitution bear differences to that in the current one (fourth), which came into effect in 1982. This section reviews the changes to Chinese sovereignty discourse by comparing the different versions of the State Constitution.

It helps to forward the argument that "sovereignty" as a policy subject is highly reflective of China's political, social and historical experiences. The section also helps to provide an overview which is useful when considering other laws, legal writings, policy directions and political rhetoric related to Chinese sovereignty issues in the subsequent sections.

The second section moves the discussion to review the Hong Kong-Macao case, encapsulated in the "one country, two systems" arrangement. As Deng Xiaoping's main initiative to resolving China's outstanding sovereignty issues, including that involving Taiwan, the "one country, two systems" [*yiguo liangzhi*] idea is an important indicator of Beijing's thinking on "sovereignty." How, then, is the idea manifested legally and discursively? This section analyses key speeches made by Chinese top leaders as well as the legal arrangements (in the Basic Laws of Hong Kong and Macao) between the Mainland and those named territories. The main task is to highlight how "special" these "special administrative regions" (SARs) are in the Chinese system. The "grey" shades of sovereign authority that Beijing exerts over these regions are also given due attention to discover their anomalies in comparison with the sovereignty principle.

Even though "one country, two systems" was officially and discursively the backbone of Beijing's policy towards Taiwan, as mentioned above, seismic shifts in Taiwan's domestic political landscape throughout the years had led to a corresponding shift in Beijing's approach to the Taiwan issue. The contents, as well as their changes, of these sovereignty thinking are dealt with in the third section. From the 1979 "Message to Taiwan Compatriot" to the Anti-Secession Law [*fan fenlie guojia fa*], passed in March 2005, this sections exhibits that Beijing's

discourse on Taiwan is a further gradation of "Chinese sovereignty" from the "one country, two systems" arrangement. Beijing's change of heart from the early 2000s to offer concessions on certain *de jure* aspects of sovereignty—in its promises of discussing Taiwan's international status and international space, as well as the promise to allow Taiwan its own armed forces—represents a remarkable shift to the Chinese sovereignty discourse, and would certainly merit more discussions.

This chapter is structured to discuss "Chinese sovereignty" as perceived at different levels of "right of governance" through Beijing's eyes. Its objective is *not* to find gaps within different sets of Chinese legal documents. By analysing the practical (mainly legal) as well as discursive arrangements that Beijing has set up to manage its sovereignty issues, this chapter relates to the previous in painting a overall view of this "sovereignty" from the discursive angle. Together, these two chapters, forming a part of this dissertation, goes to prove its case that from the Chinese viewpoint, its "sovereignty"—as well as its management—displays more shades of grey than the commonly-perceived inflexibility and contiguity its rhetoric often suggests.

I. Is China a Unitary State?

Since the establishment of the People's Republic in 1949, there have been four different official versions of the Chinese State Constitution, passed in 1954, 1975, 1978 and 1982 respectively.[65]

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[65] Technically, there are two more constitutions for the People's Republic, namely the "Outline Constitution of the Chinese Soviet Republic" ("Outline Constitution"), passed in 1931, and the "Common Program of the Chinese People's Political Consultative Conference" ("Common

Henceforth in this chapter these four different versions are named according to the year each was passed, and each is representative of the era of Chinese Mainland politics of its time. The 1954 Constitution was the first "complete" constitution of the PRC in the sense that it contained an extensive preamble outlining the spirit of enacting such a document, and chapters and articles to detail the nature of the Chinese State, from explicating the relations between branches of its government to written words to cover issues like citizens rights and obligations, the national flag and emblem, etc. The post-revolutionary euphoria was a consistent undertone in the 1954 codes (*Constitution of the PRC*, 1954, Preamble, Chs. 1 and 3). The 1954 Constitution lasted the first decades of the PRC, only to be replaced by the 1975 constitution, an embodiment of the revolutionary fanaticism of the Cultural Revolution (*Constitution of the PRC*, 1975, Preamble, Art. 12, 13 and 25). Following the death of Mao and the downfall of the "Gang of Four", a new constitution was drawn up, and passed in 1978. This 1978 Constitution was aimed at removing zealous political signposts from the 1975 Constitution (Cohen, 1978, pp. 804-805). However, presided by Mao's named, though transitory, successor Hua Guofeng, many legacies of the Cultural Revolution were retained. [66] As such, this new constitution eventually became little more than a monozygotic twin of its predecessor. The 1978 Constitution was to become as short-lived as its 1975 twin, as a newer, more comprehensive constitution was put together and passed in 1982. A product of Beijing's new reform thinking after Deng displaced Hua as China's

Program"), which acted as an interim constitution between 1949 and 1954, but these two supposedly "constitutions" are only mentioned here in footnote due to their primitive and temporal natures. The Chinese Constitutions are not reproduced in this dissertation despite the value of comparing the different versions. This is due to the word limit impose on appendices. Nonetheless, readers can visit the website of Chau Pak Kuan at http://e-chaupak.net/database/chicon/ to download scanned copies of the English versions of 1954, 1975, 1977 and 1982 Constitutions.

[66] For example, many references to Mao and his legacy, as well as institutions of the Cultural Revolution, can be identified in the constitution (*Constitution of the PRC*, 1978, Preamble, Art. 13, 14, 41 and 45).

paramount leader, the 1982 Constitution has been used ever since, for almost three decades until the time when this dissertation is being written.

Table 4.2 below offers a summary of comparisons between the four different versions of Chinese constitutions and their sovereignty-related contents.

Table 4.2 Comparing the 1954, 1975, 1978 and 1982 Constitutions of the PRC

Year of Constitution	1954	1975	1978	1982
No. of Amendments since Inception	0	0	2	4
Central Theme(s)	1. Post-revolutionary optimism 2. State-building	Cultural Revolution fanaticism	Post-Cultural Revolution rehabilitation	Reforms and economic development
Nature of PRC as a State	"… a unitary multinational state." (Art. 3)	"… a unitary multinational state." (Art. 4)	"… a unitary multinational state." (Art. 4)	"…a unitary multi-national state built up jointly by the people of all its nationalities." (Preamble)
On International Relations (in order of mention)	Communist International	1. "International class struggle" 2. Five Principles of Peaceful Co-existence	1. Five Principles of Peaceful Co-existence 2. "International class struggle"	1. Internationalism 2. Five Principles of Peaceful Co-existence
On Ethnic Nationalities and Autonomous Regions (in order of mention in Ch. 1)	1. Equality; anti-racial discrimination. 2. "…people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs." 3. Self-governance; "…all the national autonomous areas are inalienable parts of the People's Republic of China." (Art. 3)	1. "…all areas implementing national autonomous self-governance are inalienable parts of the People's Republic of China." 2. Equality; anti-racial chauvinism and anti-local nationalism. 3. "…people of all nationalities have the freedom to use their own spoken and written languages." (Art. 4)	1. Equality; anti-racial discrimination; anti racial chauvinism and anti-local nationalism. 2. "…people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs." 3. Self-governance; "…all the national autonomous areas are inalienable parts of the People's Republic of China." (Art. 4)	1. Equality; anti-racial discrimination; anti-separatism movements. 2. Speed up economic and cultural development "in accordance with the peculiarities and needs of different ethnic minorities." 3. "…organs of self- government are established for the exercise of the right of autonomy." 4. "…all the national autonomous areas are inalienable parts of the People's Republic of China" 5. "…people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs." (Art. 4)
On Hong Kong and Macao	None	None	None	None
On Taiwan	None	None	"Taiwan is the sacred territory of China. We must liberate Taiwan, to accomplish the great task of reunifying the motherland" (Preamble)	"Taiwan is part of the sacred territory of the People's Republic of China. It is the highest duty of the entire Chinese people, including our compatriots in Taiwan, to accomplish the great task of reunifying the motherland" (Preamble)
On Overseas Chinese	"The People's Republic of China protects the proper rights and interests of Chinese resident abroad." (Art. 98)	"The state protects the just rights and interests of overseas Chinese." (Art. 27)	"The state protects the just rights and interests of overseas Chinese and their relatives." (Art. 54)	"The PRC protects the legitimate rights and interests of Chinese nationals residing abroad and protects the lawful rights and interests of returned overseas Chinese and of the family members of Chinese nationals residing abroad." (Art. 50)

Source: *Constitution of the PRC* (1954, 1975, 1977 & 1982).

On first sight, it is not difficult to connect Beijing's uncompromising stance in its sovereignty policy to its articulated position in its constitution. Routinely described as a "unitary multinational state" [*tongyi de duo minzu guojia*] the PRC leaves little imagination in its rhetoric outside that description. Other than that, the Constitutions consistently present the PRC's foreign policy objectives in the shape of the Five Principles of Peaceful Co-existence, pledging "mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence in developing diplomatic relations and economic and cultural exchanges with other countries" (*Constitution of the PRC*, 1982, Preamble).

The imagination of the "Chinese State," together with how this state relates with its counterpart in the international system, presents an unambiguous, "core" view of Chinese sovereignty. This correlates to a sharp distinction between the internal and the external—as if China lives in a sterile "bubble" where everything outside is kept out of its internal living environment, to recall a colloquialism "bubble boy." There is this expectation of Beijing being in total control of *all* aspects of its "sovereignty." Indeed, the Chinese state is conceived as a true model of the Westphalian state, albeit the religious dimension subsumed within the label "internal affairs," and not in the seventeenth but the twenty-first century.

However, that is about all to say about the "exclusiveness" and "absoluteness" of Chinese sovereignty. Within these labels, "sovereignty" from Beijing's perspective exhibits certain fluidity that is oblivious to a casual eye; these irregularities will surface only when comparing the contents of different constitutions. In a gist, since 1949, the interpretation of "Chinese sovereignty" has

see-sawed between tightening of sovereign control at some point of time and over certain issues, and loosening in others; "sovereignty," or the absence of it, moves along a certain continuum of tolerance that is otherwise undetected. Comparing the different versions of the Chinese constitution gives invaluable glimpses into the sovereignty thinking in Beijing across the years.

To start off, "sovereignty" was *not* the focus of PRC as a new state in 1949; instead the focus was on forging the Communist International and continuing struggle against imperialism. This was clearly outlined in the order of mentioning in the preamble of the 1954 constitution, where "sovereignty" was placed after China's alliance with the Union of Soviet Socialist Republics (USSR), and the objective to "develop and strengthen" friendships with "peace-loving peoples of the world" (*Constitution of the PRC*, 1954, Preamble; Houn, 1955, pp. 200-201). No words were devoted to the issue of Taiwan, neither was there any insinuation towards "unification" or "liberation" of unrecovered territories, as multiple uses of past participles—"has completed," "has created," "have formed," etc—in the language suggested a forward-looking attitude towards state-building. This was duly reflected in Franklin Houn's assessment, "…the adoption of the present [1954] constitution was primarily intended to give the regime's program of 'socialist transformation' 'popular endorsement and support'" (Houn, 1955, p. 229). While no provisions were offered to the autonomous regions to secede from the PRC (similar to subsequent Constitutions), ethnic minorities were guaranteed—at least on paper—the rights to "develop their own spoken and written languages, and to preserve or reform their own ways and customs" (*Constitution of the PRC*, 1954, Art. 3).[67] There was little

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[67] It would be interesting to note that the "Outline Constitution" of 1931 was an exception of this issue, as it contained provisions of secession. However, these terms were not replicated in all Constitutions that succeeded it (*Outline Constitution of the Chinese Soviet Republic*, 2007, Art. 14).

urgency, if any at all, in the language that suggested Beijing's concerns over sovereignty issues.

The 1975 and 1978 Constitutions were transitory constitutions which combined to last for less than a decade. When compared to the 1954 Constitution (21 years) and the 1982 Constitution (more than 25 years to date), the 1975 and 1978 Constitutions were less significant and their real impacts had been minimal. Nonetheless, their contents offer interesting comparisons against other versions of the Chinese Constitution. The 1975 Constitution was the first to raise the issue of racial chauvinism and local national separatism in its articles. Moreover, in terms of the ranking of the priorities of the state, autonomous regions as "inalienable parts" of the PRC superseded other minority issues, as minority rights was serious curtailed in the document. The 1978 Constitution reiterated similar concerns about racial chauvinism and national separatism, but the political leadership had chosen to expand and re-elevate minority rights above the "inalienable" pledge. The Five Principle of Peaceful Co-existence became a top foreign policy priority, whereas in the past it was placed beneath other considerations.[68] In addition, Taiwan was mentioned for the first-time in the 1978 document, as the Constitution stated very explicitly that the PRC "must liberate Taiwan." Despite their differences, both documents suggested a tightening of the "sovereignty" concept, as the State and the Party struggled with the intense political, social and economic contradictions brought about by the Cultural Revolution. "Sovereignty" became more important as a state

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[68] It is, however, important not to read too much into this as an important function of the 1978 Constitution was to rein in the fervours of the 1975 Constitution. This could have contributed more to "international class struggle" being relegated below the Five Principles of Peace Co-existence as a result.

agenda, even though "class struggle" and "continue revolution" remained the priorities.

If the 1975 and 1978 Constitutions had tightened their reins on "sovereignty," then the 1982 Constitution once again placed the issue on the backburner. With the national attention turned towards reforms and economic development, the new constitution was drafted with the aim to legitimise Beijing's new policy to capitalise and marketise the Chinese economy. The self-governing authority of the autonomous regions was enlarged (Weng, 1982, pp. 496, 503). As "right of governance" drifted further away from the "sovereignty thinking" in Beijing, a wholly new article (31) allowing the State to establish special administrative regions (SAR) "when necessary" opened up ever greater possibilities of multiple layers of governance under the notional umbrella called "Chinese sovereignty." In connection to this development, the Taiwan issue was toned down, as Taiwan became a matter of "highest duty to unify," rather than a messianic mission to liberate; whereas "to liberate" necessitates a political solution such that a reoccupied Taiwan be under Communist rule, "to unify" leaves life-after-unification an open-ended, national issue running on an indefinite timetable. Foreign policy-wise, internationalism, minus the ideology component, regained its position above the Five Principles of Peaceful Co-existence. And a minor, but suggestive, observation is that the word "sovereignty" was mentioned *only once* in the constitution which contains 138 articles. While not a big difference from its predecessors, which all recorded 2 such mentions in their respective contents, it is yet again a hint on playing down the sovereignty discourse as the CCP steers gingerly on the tight rope of economic liberalisation, where pragmatism and practicality triumphs all other concerns.

Beyond Sovereignty? Overseas Chinese, Citizenry and Border Controls

A persistent peculiarity observed in the constitutions is the article to protect the rights and interests of overseas Chinese. Found in the chapter that detailed citizens' rights and obligations, this unique article breaches the traditional notion of "sovereignty" that is characteristic of Beijing's position. The article effectively endorses a dual citizenship arrangement with those deemed "overseas Chinese" that is otherwise unavailable to naturalised Chinese citizens (*Nationality Law of the PRC*, 1980, Art. 3). Issues of equality and constitutional inconsistency aside, the constitutional commitment to protect the rights and interests of overseas Chinese, even those "residing outside China" as specifically stated in the 1954 and 1975 Constitutions, poses a serious challenge to Beijing's repeated assurances of "non-interference in each other's internal affairs," and throws wide open the question of what are deemed "sovereign" to other states' relations with the PRC. There are two reasons:

First is the issue of citizenry. As already mentioned, the articles in the constitutions suggest a form of dual citizenship within the Chinese state: naturalised Chinese and overseas Chinese. Even though the wordings of this particular article has been toned down with each newer Constitution, the issue of who qualifies as an "overseas Chinese" was not legally resolved until 1990, when *Law of the People's Republic of China on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese* was passed. Only then was the definition of "overseas Chinese" moved from a sociological and ethnological understanding that included all ethnic Chinese outside China—many of whom have taken up citizenship in countries which they have resided for generations even before

the PRC was established—to a legal one that spells "Chinese citizens residing outside China" (*Law of the Peoples Republic of China on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese*, 1990).

Prior to the passing of that particular law, however, being ethnic "Chinese" is synonymous to being "national Chinese." This was as good as telling, for example, a naturalised Singaporean Chinese that he/she was in fact also a citizen—albeit an "overseas" one—of China, which under Singaporean and Chinese laws, would result in the loss of one's citizenry when another is acquired voluntarily (*Constitution of the Republic of Singapore*, 1999, art. 126, 128, 129, 134; *Nationality Law of the People's Republic of China*, 1980, Art. 3). Not only did these constitutional arrangements to protect overseas Chinese contradict China's own Nationality Law, they contravened with the limited character of "sovereignty." Instead of one single supreme authority within a limited territory presiding over a citizenry, the Constitutions of the PRC were staking claims over ethnic Chinese across the world by announcing the State's objective to protect their "just rights and interests." In the four decades until *Law of the People's Republic of China on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese* was passed, China's extra-territorial jurisdiction over "overseas Chinese" had been a thorn in its relations with other nation-states, particularly those with sizeable ethnic Chinese population (Fitzgerald, 1972; Skinner, 1959; Zurbechen, 2002). Undoubtedly this was further heightened by the ideological standoffs between China and the rest of the world during that period of time.

This brings up the second issue: borders. "Sovereignty" insinuates that borders ultimately define the spatial limits of the supreme authority residing inside them. Passports and identity cards are deemed icons of one's citizenship (and loyalty), while their issuance the "sovereign right" of the State—John Torpey explains these products as modern states seeking "to monopolize the legitimate means of movement" (2000, p. 10; also ch. 1 & "Conclusion"). "China" hence emerges a strange exemplar that operates contrary to such conventions. In China's case, both the HKSAR and Macao, after their return to the Mainland, are allowed by each respective Basic Law to issue their own passports and identity cards to residents in the territories (*The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, 1997,[69] Chs. V and VII; *The Basic Law of the Macao Special Administrative Region of the People's Republic of China*, 1999,[70] Chs. V and VII). More than that, both territories are allowed to exercise their own border controls, implementing their own regulations at controlling the flow of both human and goods in and out of the territories, even those originating from the Mainland. Indeed, one could argue that these customs controls are targeted *particularly* at human and goods originating from the Mainland. Till this day, it remains a fact that Chinese Mainlanders require a "Re-entry permit," which is equivalent to a visitor's visa, to enter the HKSAR and Macao SAR for a limited period for a limited number of entries (usually single entry), while passport holders from some 170 (HKSAR) and 66 (Macao) countries around the world enjoy multiple, visa-free entries into the territories (Immigration Department of the Government of the Hong Kong Special Administrative Region, 2010; Macao Public Security Police

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[69] Hereafter *BLHK* (1997).

[70] Hereafter *BLM* (1999).

Force Immigration Service, 2010)! "Border" hence takes different meanings from that in Westphalian "sovereignty:" it demarcates the limits of "right of governance" but poses no barrier to Beijing's "supreme authority."

Back to the point of this dissertation and in furtherance to the argument in Chapters 2 and 3, this little observation goes some way to re-highlight the point that Beijing's view of its sovereignty (and of others) is a contingent product of its historical roots. Beijing's perceived obligation to all "Chinese" stands in stark contradiction to its pronounced position of sovereignty—non-interference, effective *de facto* and *de jure* authority, and the principle of reciprocity. Quite apparently, "citizenship" and "borders" hold very different meaning when "sovereignty" is contextualised to the Chinese setting. Likewise, Beijing's struggles to reconcile between its rigid posturing on sovereignty issues and its actual belief and practice have found their way into other parts of the Chinese Constitutions. There can only be more surprises, and indeed, more internal contradictions in Beijing's position on "sovereignty" when the constitutional, legal and political arrangements Mainland China has with Hong Kong, Macao and Taiwan are taken into the picture.

II. Hong Kong SAR and Macao SAR: "One Country, Two Systems"

The previous section has mentioned about Article 31 of the 1982 Chinese Constitution, which entrusted the State to create "special administrative regions" "when necessary." Curiously enough, that was all that was said about the SARs. The principles unpinning these SARs were not further enunciated in the Constitution. Except for the actual codes of the Basic Laws of Hong Kong and Macao SARs themselves, there are no other documents in China's legal archives to outline the

actual makeup of an SAR, should the State decide to create one. That is to say, other than it being an "administrative" geographical entity with an attached "special" status, nothing else is offered as to the shape, form and structure of such a region, since these details will be decided upon by China's top legislative body, the National People's Congress (NPC) (*Constitution of the PRC*, 1982, Art. 31). The SAR is listed as a *separate* article (in Article 31) from the one (Article 30) listing the "administrative divisions" of the PRC from the provinces right down to the counties and national autonomous areas. The SAR was mentioned only in passing in Chapter 3 of the Constitution ("The Structure of the State"), which authorised the NPC to decide on the viability of establishing one, as well as the form the SAR should take (*Constitution of the PRC*, 1982, Art. 62[13]); the SAR was not mentioned in Section 6 of Chapter 3 ("The Organs of Self-Government of National Autonomous Areas"). These clauses effectively classed the SARs as separate from other constitutional and administrative structures of the Chinese State.

The implications are obvious. The SAR is clearly not so "administrative" as its name suggests; with each case to be considered, the eventual level of "administrative-ness" is a political question that is subject to the political currents within the PRC. Since the SAR's status is indeterminate, its possibilities are limitless. Until the time this dissertation is written, only two SARs have been established so far, Hong Kong and Macao. An intended third SAR, Taiwan, is discussed in the next section.

For the time being, Beijing's approach to the SAR has been late-Deng's doctrine of "one country, two systems," which to sum up in his own words,

> … we have said this many times, after our government regain the excise of sovereignty over Hong Kong, Hong Kong's current societal and economic system will not change; the law will basically remain unchanged; the livelihood will not change; Hong Kong's status as a free port, and as an international trade and financial centre will also not change; Hong Kong can continue to maintain and develop economic relations with other countries and regions. We have also said this before, that other than stationing troops, Beijing will not send any cadres to the government of the Hong Kong Special Administrative Region, and this as well will not change. The troops we will send are to protect the state's [*guojia*] security, and *not to intervene in Hong Kong's internal affairs…* (Deng, 2008, p. 58 [author's translation])

Note Deng's careful choice of words when he described a post-handover Hong Kong to his audience. His avoidance to speak about the Hong Kong's political future may or may not be intentional, but his words gave some indications of what he was envisioning: the "administrative separation" Mainland China and Hong Kong does not involve only economic and social dimensions, but perhaps political as well. To augment this point, it is important see that this governance-sovereignty formula—which came to be known as the "one country, two systems" [*yige guojia liangzhong zhidu*, or simply *yiguo liangzhi*] arrangement between China, Hong Kong and Macao—did not warrant even a single mentioning in the Chinese Constitution. Instead, this principle was listed under the caption "General Principle" in the Constitution of the Chinese Communist Party (2007), and also in provisions of the Basic Laws of HKSAR and Macao SAR. The "solution" that Deng has proposed,

and which was eventually implemented in Hong Kong in 1997 and Macao in 1999, was hence a political one that was peculiar to the contexts of the two territories, and with the Taiwan hovering at the back of Deng's mind (BBC, 1984). This apparently involved less of the principles of sovereignty than those which took pains to preserve the status quo, even at the pretence of one "sovereign." By promising not intervening in "Hong Kong's internal affairs," Deng was for all practical purposes suggesting an enclave—social, economics, and political—outside Beijing's control. Deng further explicated his vision in the same speech,

> Our long-term, unchanging policy towards Hong Kong will not affect Socialism in the Mainland. China's mainstay [system] must be Socialism, but [China] would allow some regions within it to implement the Capitalist system, like Hong Kong and Taiwan. The Mainland has opened up some cites to allow some foreign investments to enter. This is to supplement the Socialist economy and benefiting the development of the production forces in [China's] Socialist society… China's mainstay is Socialism (Deng, 2008, p. 59 [Author's translation]).

By "socialism," did Deng really mean socialism as an economic system, or that as a political system? His real intentions may never be made known except to his closest confidants. But the blurred position which he had drawn, were it be considered intentional, brought us to back to the same conclusion, that he had *meant more than* just an artificial separation of the economies and societies of "China." And in this light, his reiterations of the point "China's mainstay is [must be] Socialism" seems conspicuous.

Even if the Chinese Constitution retains a constitutional "link" from the SAR back to Beijing, it still does not repudiate the fact that this link is only as strong—or one may say, as weak—as the Chinese political leaders in Beijing want it to be. This stretches further the argument of "sovereignty vs. right of governance" beyond conventional understanding of "sovereignty," and which prompted Deng to ask rhetorically, "(l)ooking back at world history, which government has formulated such an enlightening policy [of 'one country, two systems']? In the history of Capitalism, as well as that of Western countries, which country has done that" (Deng, 2008, p. 60)?

Exercising "High Degree of Autonomy"

In the Basic Laws of the HKSAR and Macao SAR, each territory is described to be an "inalienable part of the People's Republic of China" (appearing as Article 1). Both are "local administrative governments" [*difang xingzheng quyu*] which are authorised by the NPC to "exercise a high degree of autonomy [*gaodu zizhi*] and enjoy executive [*xingzheng guanli*], legislative [*lifa*] and independent judicial power [*duli de sifa*], including that of final adjudication [*zhongshen*], in accordance with the provisions of this Law" (as Article 2). In addition, there is again in each case a follow-on article (Article 5) to specify that "the socialist system and policies shall not be practiced" and that "the previous capitalist system and way of life shall remain unchanged for 50 years" (*BLHK*, 1997, Art. 1, 2, 5 and 12; *BLM*, 1999, Art. 1, 2, 5 and 12). Passed respectively by the NPC in April 1990 and March 1993, the two documents are the epitomes of Deng's "one country, two systems."

What does "two systems" cover in this package? Its economics dimension is straightforward as stated above: Mainland China shall continue to practice "socialist

market economy" [*shehui shichang jingji*] (*Constitution of the PRC*, 1982, "Preamble") while the SARs are free to pursue their "previous capitalist system" of economic activities. Whatever the actual differences between Mainland China's "socialist market economy" and "capitalist economy" elsewhere are inconsequential, as the message from Beijing is that the SARs can continue pursue their desired economic policy without hindrance—ideologically-driven or otherwise—from Beijing; Hong Kong can thus inherit its laissez faire free market practices centred primarily on the service industry, while Macao can pursue even greater liberalisation of its gaming industry after 1999. Landownership issue is slightly more complicated, as all lands in Hong Kong are transferred under the name of the Chinese State, while private ownership and state ownership continue to co-exist in Macao, a carried-over from its colonial days. The two SAR governments can continue to issue their own currencies—in Hong Kong dollar and Macao petacas—and maintain separate monetary policies from Mainland China (*BLHK*, 1997, Art. 110-113; *BLM*, 1999, Art. 107-109).

Politics-wise, the SARs are allowed to set up their own executive and legislatures. While technically, the Chief Executive is elected locally via an Electoral College system, in both cases Beijing retains its right to confirm his/her appointment through the NPC (*BLHK* 1997, Art. 45; *BLM*, 1999, Art. 47). This confirmation process is also applied to other members of the Executive Councils of the SARs. In Hong Kong, the legislature is formed locally by a complex, electoral system that combines of popular election with that of "functional" elections. The exact proportion of councillors elected by popular votes and by functional votes has been decided in advance, and written into the Basic Laws (*BLHK*, 1997, Annex II). On the other hand, Macao's legislature and election systems differ from that of Hong Kong.

Macao's Legislative Council does not have "functional" seats, and is made up of councillors who are directly elected, indirectly elected, as well as appointed (*BLM*, 1999, Annex II.). Another interesting point to note in both Hong Kong and Macao is the continuing presence of a large number of political parties independent of the state. Representing different political platforms, these parties are registered either as limited companies or as societies in the SARs (Cullen, 2005, pp. 2-3). This contradicts the political environment in the Mainland, where only eight "democratic parties" are allowed by the CCP-dominated system (Information Office of the State Council, 2007). While the Basic Laws, or their related enactments, do not cover issues of political parties, Beijing's continued tolerance for such political organisations in the SARs is in no doubt intriguing to any steadfast believer of the sovereignty principles.

That is, however, about all that are shared between the political "systems" in Hong Kong and Macao. Most glaringly, while Hong Kong has a provision written specifically to realise universal suffrage for both Chief Executive and Legislative Council elections, Macao has none of that written in its version of the Basic Law.[71] Also, the Basic Law of Macao stipulates that its public officials and legislative councillors will have to swear allegiance to both the Macao SAR *and* the People's Republic of China, but this is not the case for Hong Kong. The Hong Kong code demands the individuals concerned to take the oath *only* "to uphold the Basic Law" and "swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China." Direct allegiance to the PRC is sorely missing in the writings.

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[71] The Hong Kong Basic Law specifically states universal suffrage as its "ultimate aim" in both the selection of the Chief Executive, as well as the "election of all the members of the Legislative Council" (*BLHK*, 1997, Art. 45 and 68).

Furthermore, this extraordinary level of "right of governance" granted by Beijing to the SARs is also extended to their international space. This is because idea of "Chinese sovereignty" became further stretched when the SARs are authorized to carry out active "*external relations*" [*waishi*] on their own, "in accordance" to their respective Basic Laws (*BLHK*, 1997, Art. 13; *BLM* 1999, Art. 13). Other than currencies, the SARs are given the rights to issue their own passports and identity cards (already mentioned in previous section), implement their own aviation and maritime policies, and operate as separate customs area, etc, all independent of the Mainland practices (*BLHK*, 1997, Chs. V and VII; *BLM*, 1999, Chs. V and VII). Other than asserting that Beijing "shall be responsible for the foreign affairs" relating to both Hong Kong and Macao, and its Ministry of Foreign Affairs "shall establish an office" to deal with such issues, no words in the Basic Laws are devoted to stopping the SAR governments from exploring their own international space *at their own interpretation*. While Hong Kong and Macao are not members of the United Nations (UN), SAR officials can join PRC's foreign missions and represent the interests of the SARs in the name of either "Hong Kong, China" or "Macao, China" rather than simply "The PRC." This also includes other international organisations like UN-affiliated agencies, which members are sovereign nation-states (Constitutional and Mainland Affairs Bureau, 2005). Likewise, the HKSAR and Macao SAR are participants in World Health Organization (WHO) regional activities in the form of "health territories" and enjoy the privilege of having their own name plates—separate from the PRC—in WHO regional meetings; in World Trade Organization (WTO) they joined in the form of "Separate Customs Territories (of HKSAR and of Macao SAR)." This is discussed in greater details in Chapters 5 and 6.

In international organisations which members need not be sovereign nation-states, as well as in certain "appropriate fields," both Hong Kong and Macao can conduct their independent "external relations" without Beijing's oversight. And perhaps most interestingly, missions of foreign nation-states which were already present in Hong Kong and Macao prior to the handovers, but which did not have diplomatic relations with the PRC, were allowed to continue their diplomatic representation in the territories (*BLHK*, 1997, Ch. VII; *BLM*, 1999, Ch. VII). In the Chinese official discourse, the distinction between those considered "foreign affairs" and those of "external affairs" do not seem *that* clear after all.

In short then, the Basic Laws of the SARs have announced wide-ranging rights and authorities to the territories, so much so that the territories concerned are literally and discursively independent entities from the state except for certain singled-out issues like defence. This raises doubts about how much *de facto* control Beijing actually *desired* to be considered "sovereign," since for all practical reasons and purposes, Hong Kong and Macau are free to pursue separate social, economic and political life outside the PRC, and as the next chapter (5) will show, are in actual fact leading such life. The "sovereignty-right of governance" divide that is so emphasised in Chinese academic as well as official discourses provides further evidence to this doubt. This also returns us to one of the key questions that this dissertation attempts to answer in the first place: does "sovereignty," to the Chinese, merely means a simple *recognition* of Beijing as the supreme authority of "China?"

Also, there are reasons to believe that to the PRC, "high degree of autonomy" in name could encompass a huge variation of autonom*ies*, so long as Beijing feels secure with the arrangement. And on hindsight, the phrase "…in according with the

provisions of this Law" ever so emphasised in the various articles of the Basic Laws seems too much like a fallback plans of sorts, particularly considering the already high level of autonomy granted to each territory, explicit or otherwise.

III. Shifting the Goalposts of Sovereignty through "One China"

The "SAR-formula" was designed with due consideration to eventual unification with Taiwan (Peng, 2007, pp. 69-70). Ye Jianying, then Chairman of the Standing Committee of the NPC and second to Deng in the Standing Committee of the Central Committee, made his case very clear in his important speech regarding Taiwan. In one of the points in the speech, which come to be known as "Ye's Nine Items" [*ye jiutiao*] (see Table 4.3), the offer (to Taiwan) is that "after the nation is unified, Taiwan can become a special administrative region, enjoy a high level of autonomy, and retain its armed forms… the Central Government will not interfere in Taiwan *local* affairs" (Xinhua News Agency, 1981 [Author's translation, emphasis added]). The perceived hierarchical relations between Beijing and Taipei after unification underpinned Beijing's thinking.

Table 4.3 Comparing Different Positions of the Chinese Leadership on Taiwan Issue Since 1982

Ye Jianying's "Nine Items" [*ye jiutiao*] [Author's Translation]	Deng Xiaoping's "Six Items" [*deng liutiao*] [Author's Translation]	Jiang Zemin's "Eight Points" [*jiang badian*] [Author's Translation]	Hu Jintao's "Four Points" [*hu sidian*] [Translation in Original]
• The CCP and the KMT hold talks on the basis of reciprocity to realise a Third CCP-KMT United Front. Together, we can achieve unification of the motherland.	• At the core of Taiwan issue is unification of the motherland. Peaceful unification has become the common language between the CCP and the KMT.	• Adhere to "One China" Principle. • We (Beijing) have no objections to Taiwan developing non-governmental economic and cultural relations.	• Never sway in adhering to the one-China principle. • Never give up efforts to seek peaceful reunification.
• Both sides act to facilitate and reach agreements on issues pertaining to postal links, trade links, transport links ["three links'], and cross-Strait relative visits, as well as academic, cultural and sports exchanges.	• While the systems can be different, international representation of China can only be the People's Republic of China.	• Carry out talks on peaceful unification across the Strait. The talks can involve representatives from political parties of both sides, as well as from community organisations. With "One China" as pre-condition, issues of all natures, including those held as concerns by Taiwan authorities, can be discussed. As a first step, both sides can negotiate and agree on an official ending to hostility across the Strait. On this foundation, both sides can share the responsibilities of preserving China's sovereignty and territorial integrity, and plan together future developments of cross-Strait relations.	• Never change the principle of placing hope on the Taiwan people. • Never compromise in opposing the "Taiwan independence" secessionist activities. [Abridged, full text see Appendix I]
• After the nation is unified, Taiwan can become a special administrative region, enjoy a high level of autonomy, and retain its armed forces. The central government (in Beijing) will not interfere in Taiwan's local affairs.	• Will not agree to Taiwan having "complete autonomy," since "complete autonomy" is equivalent to "two Chinas," and not one. Autonomy cannot be infinite, and cannot undermine the interests of a unified nation.		
• [After unification] Taiwan's current social and economic system will remain unchanged; lifestyle in Taiwan will remain unchanged, and economic and cultural relations with foreign states will also remain unchanged.	• After the motherland is unified, Taiwan as a special administrative region can practice its own system, and possess special rights unique from other provinces, cities, and autonomous regions in China. Its legal system will remain separate and independent, and Beijing need not be referred to for final adjudications. Taiwan can also have its own armed forces, but they should not pose threat to the Mainland. The Mainland will not station its personnel	• Work hard to realise peaceful unification, since Chinese people will not fight Chinese people. Our refusal to denounce the use of force is not a measure against Taiwanese compatriots, but against foreign interferences on China's unification process as well as against conspirators	
• The Taiwan authorities and representatives of various sectors of the society will be allowed to take up leadership roles in national institutions			

and participate in national government.

- When Taiwan, as a locality, encounters financial difficulties, the central government will offer discretionary subsidies and aids.

- All peoples and peoples from all communities in Taiwan who wish to return to the Mainland to settle will be offered proper resettlement arrangements; non-discrimination and freedom to travel will be guaranteed

- Taiwan's industries and businesses will be welcomed to invest in the Mainland in all sectors of the economy.

- Everyone bears a duty to reunite the motherland. We warmly welcome all peoples, people from all communities, and community organisations to provide suggestions and discuss national issues through various channels and methods.

in Taiwan; there will be no Mainland personnel from the armed forces, there will there be any from the state administration. Party, political and military systems in Taiwan will be administered by Taiwan itself. The Mainland will also set aside a quota for Taiwan to be represented in the central government.

- Peaceful unification is not to annex Taiwan, neither can it be the Mainland being taken over by Taiwan—unifying China with the so-called "Three Principles of the People" [sanmin zhuyi tongyi zhongguo] is not realistic.

- The two parties (CCP and KMT) hold talks on the basis of reciprocity, and there will be no mention of negotiations of central-local nature, to actualise the third United Front. Official announcements will be made after both parties reach agreement, but at no time and occasion should foreign states be involved in the process. That can only mean that China is not independent, and the consequences are grave.

for "Taiwan independence."

- Vigorously develop economic interactions and cooperation across the Strait so as to promote co-prosperity and benefit the whole Chinese nation.

- Together, compatriots from both sides of the Strait need to inherit and carry forward the fine traditions of Chinese culture.

- Need to fully respect Taiwan compatriots' aspirations to their own lifestyles and be masters of their own affairs; need to protect all proper rights of Taiwan compatriots.

- We welcome leaders of Taiwan authorities to visit China in appropriate capacities. We are also willing to accept invitations from Taiwan authorities to visit Taiwan, be it to discuss national affairs, or to share opinions about certain issues.

Sources: Xinhua News Agency (1981, 2005, 2009); Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region (n.d).

Just as was stated in the first post-Mao NPC document regarding Taiwan, "Message to Taiwan Compatriot" [*gao taiwan tongbao shu*], these early statements mapped a unified "China" under the banner of "The People's Republic of China" (National People's Congress, 1979). In other words, the solution proposed demanded the jettisoning of "Republic of China" to place Taiwan under the sovereignty of a CCP-led China. Later in "Deng's Six Items" [*deng liutiao*], a refinement of "Ye's Nine Items" and articulated in 1983, Beijing cleared out any lingering doubts about its intention. During a meeting with a visiting delegation, Deng was recorded saying that "while the systems [between the Mainland and Taiwan] can be different, international representation of China can only be The People's Republic of China," and that Beijing "will not agree with *complete* autonomy, as 'complete autonomy' is equivalent to 'two Chinas;'" Deng's insistence that "unifying China with 'Three People's Principles' is not realistic" provided further evidence of Taiwan's subordination to the Mainland after unification (Xinhua News Agency, 2009 [author's translation]). All these words conveyed Beijing's confidence and intent to be the political overlord of the whole of "China." The resulting relationship between Beijing and Taipei can only be that of central-local relations. This was later reiterated in Deng's "one country, two systems," idea, which was already mentioned in earlier section, and which became the unsaid guiding principle for establishing *all* SARs in China. Eventually, the "SAR" is defined as a local administration in the provisions of the Basic Laws (*BLHK*, 1997, Ch. II; *BLM*, 1999, Ch. II).

Despite its relatively non-compromising stance, this post-Mao vision of "One China" withstood China's domestic political currents in the 1980s and set the stage for the Wang Daohan-Koo Chen-fu (otherwise known as the "Wang-Koo") Summit that took place in Singapore in 1993. In that year, the Chairman of Association for

Relations Across the Taiwan Straits (ARATS, representing the Mainland), Wang Daohan, met up with the Chairmen of Strait Exchange Foundation (SEF, representing Taiwan), Koo Chen-fu. The Summit was then the highest level of all public contacts between non-governmental representatives across the Strait since 1949. The meeting produced four agreements between Beijing and Taipei, and was followed by a series of non-governmental talks of various levels up till 1999, when the talks were suspended after Lee Teng-hui's "special state-to-state" rhetoric (Wu R. R.-k., 2003).

This chapter is more interested in the way image of "One China" that Beijing held before the actual summit took place. Using the SAR model to "solve" Taiwan issue remained a dominant thinking within Chinese leadership circle at that time. The lead-up to the meeting almost became dogged with Beijing's insistence on Taipei to accept the "One China" principle as a prerequisite to the talks. In October 1992, during a working meeting in Hong Kong, while minutes of the meeting remains unavailable to public at this stage, public announcements on both sides show that the negotiating parties, ARATS and SEF, had agreed to "verbally state" the contents of what it means by "One China" on each side (Association for Relations Across the Taiwan Strait, 2008, pp. 11-12; Strait Exchange Foundation, 2008). Exactly what was agreed about this "One China" at that time is not critical in this dissertation—except that this "consensus" was to become the controversial "1992 Consensus" (to discuss later). Quite apparently, there were still some unresolved contradictions in Beijing's stance at that time. Tang Shubei, then-Vice Chairman of ARATS, wrote in a letter to Chen Chang-wen, then-Secretary-General and Deputy Director of the SEF, that "…our association [ARATS] have not included the meaning [of 'one country, two systems'] in our insistence of the 'One China'

principle during routine negotiations…" (Association for Relations across the Taiwan Strait, 2008, pp. 46-47 [author's translation]), Tang appeared to have dropped "one country, two systems" in favour of a more practical approach to negotiating with his Taiwanese counterpart. However, Chinese state press like *Renmin Ribao* and Xinhua News Agency were at the same time publishing articles to contradict Tang's claim (*Renmin Ribao*, 1991; Xinhua News Agency, 1991). Writings in the state press exhibited that the discourse on "One China" had remained firmly set upon the SAR model in the spirit of the 1982 Constitution and Deng's "one country, two systems," even if Beijing at that time was deemed softening its position on that definition in its negotiation with Taipei.

In the years to follow in the 1990s, seismic changes occurred to Taiwan's domestic political scene brought about a strategic rethinking on the subject. Surprised by Lee Teng-hui's political manoeuvrings in the mid-1990s, including carrying out a series of reforms to liberalise politics in Taiwan (Chao & Myers, 1994, pp. 222-229; Dickson & Chao, 2002), Beijing was placed on the defensive as it reacted to the shifting political grounds in Taiwan. "Jiang's Eight Points" [*jiang badian*] named after China's then-State President Jiang Zemin who spoke on the issue in January 2005, looked very much like a hastily patch-up response. Nonetheless, "Jiang Eight Points" made several breakthroughs in its discursive contents, amongst which three shall be highlighted here. First, "Taiwan separatism" [*taidu*] emerged for the first time as one of the key points in a public communication of China's top political leader. "Anti-separatism" mentioned alongside "unification" in China's thinking about Taiwan represented a landmark event for Beijing-Taipei relations. The language of "unification" was diluted from the official discourse as a result, and from thereon has to contend with the rising importance of the "anti-

separatism" in subsequent discourses. Second, the noticeable shift of emphasis towards a broader-based "One China" principle signalled an end to erstwhile approach which had focused more on party-to-party (i.e. CCP and the Kuomingtang) collaboration (see Table 4.3). The "Chinese nation" [*zhonghua minzu*] returned to the agenda for the first time since Ye and Deng were deemed more favourable towards a political solution over achieving popular consensus. Furthermore Jiang eschewed saying out loud "The People's Republic of China" except for once in his whole speech—and that was an unavoidable occasion when he cited a legal document of the PRC. Third, the words "consultation [and negotiation] on equal grounds" [*pingdeng xieshang*], *less* the precondition "party-to-party," appeared in the Chinese official discourse for the first time. No longer were cross-strait negotiations subject to the issue of hierarchy—as in central-local, winner-loser (of the Chinese civil war) relations—but one founded on principle of equality between negotiating representatives so fundamental in the idea of sovereignty. By Jiang's design, "Chinese sovereignty" was seen to be de-politicised, "re-nationalised," and to an extent, "desovereigntised."

Jiang's new "One China" discourse has not elicited its desired effects on cross-strait relations. The increasingly dimmed prospects of unification from the late 1990s brought about by the rise of indigenous (or "green") political forces in Taiwan had pushed Beijing to look for a new expression regarding this issue. The return to the "1992 Consensus" was a direct response to Lee Teng-hui's "special state-to-state" theory,[72] if only to open up a Pandora box that Beijing had failed to anticipate at the

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[72] Depending on which side one reads, there are many different names given to Lee's theory. While Lee himself first used the words "special state-to-state relations" [*tebie guo yu guo guanxi*] to describe the relationship between the Mainland and Taiwan, Beijing prefers to label Lee's theory as one propounding "two state." At a later stage Lee published a biography titled *Taiwan's Proposition* [*taiwan de zhuzhang*] (1999), he used the words "two statism" [*liangge guojia zhuyi*] to further clarify

start. Beijing's original intention was to evoke the memories of Taiwan "acceptance" of the "One China" principle during the 1992 Hong Kong meeting. "One country, two systems" came back to dominate the discourse to combat the rising crescendos of Lee's "two statism." The main thrust was that the idea "one country" must precede "two systems," rather than Lee's proposal to recognise "special state-to-state" relations (i.e. "two states") before meaningful discussion can be carried out to realise "one country." But beyond Beijing's expectation, the mentioning of the "1992 Consensus" has provided further munitions to the sympathisers of Taiwan's green camp, who grabbed the opportunity to remind Beijing that the Mainland had during the meeting accepted Taiwan's verbal version of "One China" along with the Mainland's version. To the green camp, this was in effect translated to a consensus of two different "Chinas."[73] A war of words and interpretation across the Taiwan Strait—reminisce of a mud brawl—on the "consensus" ensued.

From thereon, Beijing's discourse on its sovereignty vis-à-vis Taiwan hit a snag that was not recovered until 2003. The stepping down of Jiang paved the way for his successor, Hu Jintao, to regain the initiative by talking about "Hu's Four Points" [*hu sidian*] immediately after taking over the State Presidency. The most important idea related to "sovereignty," enunciated during Hu's working meeting with delegates of the Chinese People's Political Consultative Conference (CPPCC), was captured below. In bid for greater accuracy, this author's own translation (from the original Chinese text) is used rather than the official translated version commissioned by Xinhua News Agency, reproduced in Appendix I:

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his ideas. This dissertation does not engage in the specifics of this theory but notes the controversy around it.

[73] Examples of this debate are too numerous to list all. For an idea of the extent and intensity of the debate, see for example, the collection of articles listed in Association for Relations across the Taiwan Strait (2008) and National Policy Foundation (2001).

So long as the Taiwan authorities recognise the "1992 Consensus," cross-strait dialogues and negotiations can resume immediately, and all issues can be discussed. Not only can we discuss about ending cross-strait hostility… the international status of Taiwan region and its corresponding international space, the political status of the Taiwan authorities, the structure for stable development of cross-strait relations, we can also discuss *all practical issues* which need to be resolved to realise peaceful unification… So long as one recognises the "One China" principle, recognises the "1992 Consensus," no matter who he is, which party it is, and whatever they have said or done in the past, we are willing to talk to them on developing cross-strait relations... so long as the precondition "One China" is met, we are willing to respond directly to any ideas and suggestions that are beneficial to preserving the peace in the Taiwan Strait… (People.com.cn, 2005 [emphases added])

Apparently, "Hu's Four Points" have brought the "One China" principle and its related idea of "Chinese sovereignty" even further away from its predecessors. While Deng previously stated that "international representation of China can only be "The People's Republic of China," Hu has made it clear that Beijing would leave all doors open during negotiation in order to get Taiwan to respond to its calls, and these would include Taiwan's "political status," "international space" and "all practical issues," on top of previous offers encased within "two systems." Not only was "the People's Republic of China" totally absent in Hu's plea to Taiwan compatriots, previous messages promising that Taiwan shall enjoy a "high level of autonomy" after unification were also glaringly missing from this new discourse. Only once was

"one country, two systems" mentioned in Hu's doctrine, but this was deemed no more than perfunctory. The mention mainly served to link back the new doctrine to Deng's leadership legacy provide the required legitimacy to Hu's new initiative. Meanwhile, the emphasis on anti-separatism increased, as "Taiwan separatism" appeared in three of the four points raised.

Then, Chen's re-election success in March 2004 yet again forced Beijing to reconsider its approaches. Premier Wen Jiabao was reported saying that Beijing was "seriously considering" the enactment of a "Law of Unification" [*tongyi fa*] while meeting the local Chinese community in London in May 2004, prior to Chen's inauguration (*Ming Pao*, 2004). In addition, the State Council's Taiwan Affairs Office (TAO) issued a communiqué on 17 May, noticeably leaving out "one, country, two systems" altogether in the 1,200-word document. While the TAO later clarified that Beijing remained "unwavered" in its commitment to the "basic guidelines of peaceful unification, and 'one country, two systems,'" the initial absence of such *standard* wordings in an premeditated, official—and extremely important no less— document to pre-empt Chen's inauguration speech was way out of the ordinary; the fact that the spokesperson mentioned "one country, two systems" all but once throughout the *whole* press conference, and in direct response to a question of related nature, only served to validate the suspicions (Taiwan Affairs Office of the State Council, 2004, p. 65).

The title of the act, "Law of Unification," was re-titled "Anti-Secession Law" and was passed in the subsequent year, in March 2005 during the NPC meeting. Unsurprisingly, given earlier accounts, the exact wordings "one country, two

systems" were totally omitted from the final write-up.[74] More than that, this law shows Taiwan moving further out from Beijing's "core" sovereignty level on at least two other accounts. One was already suggest in the title. By changing the title from the initial "unification" to "anti-secession," Beijing was suggesting a discursive shift in its strategic thinking vis-à-vis Taiwan. Unification was no longer a primary objective of the PRC or the CCP with regard to the island; anti-secession and anti-Taiwan separatism has superseded that. The sovereign duty of the Mainland was no more about bringing all its sovereign claims under its wings, but preserving the claims of a single, sovereign entity. At the same time as Beijing created a super image of "One China" and that its "sovereignty" now be taken for granted, the actual *practice* of sovereignty became an issue of lesser importance. In a way, the objective of the largest shareholder of "China" has just become easier. Beijing is not compelled to act since state actions are required only for the purpose of preventing secession, but not unification; no action whatsoever is expected of Beijing so long as the "status quo"—the political separation of Taiwan from the Mainland—is maintained. This moves "right of governance" further away from the concept of "sovereignty," which, in the law, was reduced to the level of *de jure* only. And of course, the definition of what actually constitutes "secession" lies firmly in the hands of Beijing. The provision that calls for state actions against separatist activities, including "non-peaceful methods and other measures," places the trust in the State Council and the Central Military Commission to decide on the situation, and are only required to "report to the Standing Committee of the National People's Congress" (Taiwan Affairs Office of the State Council, 2005, p. 5).

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[74] Article 5 nonetheless suggests an arrangement to the effect: "after the peaceful unification of the state [China], Taiwan can implement a different system from that in the mainland, [and] a high level of self-governance" (Taiwan Affairs Office of the State Council, 2005, p. 3).

The clue to the other issue is also already suggested in the title of the law. The English translation of the new law did not give enough credit to the underlying meanings in the Chinese language title. A more precise translation should be in the like of "Law on the Prevention of Breaking up the State," though this title would probably sound quite a mouthful. Unlike other legal documents in Mainland China which are given the suffix "…of the People's Republic of China" in their titles, this law has omitted naming the state altogether. Specifically, the use of terms like "Mainland" [*dalu*] to suggest the PRC and "Taiwan" to represent the ROC in the provisions suggested that the "state" [*guojia*] concerned in the law is neither the PRC nor the ROC, but the idea of a totality called "China."[75]

In other ways, the content of the law was fairly consistent to the sovereignty views already expressed by Hu. There are no pressing reasons for a massive rethinking at this point of writing, since cross-strait relations has stabilised since Ma Ying-jeou succeeded Chen in 2008, and that Hu's successor is not expected to officially take over until 2012. The offer to discuss Taiwan's international status and international space, as well as "all other issues relayed to actualising peaceful unification" remains on the negotiation table (Taiwan Affairs Office of the State Council, 2005, p. 4). In terms of the interpretation of "Chinese sovereignty," however, the discourse would have been rather unrecognisable by previous designers of China's policy towards Taiwan.

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[75] Like translating the word "*guo*," translating "*guojia*" from Chinese to English is also a vexing issue, as the term covers almost every definition between the "nation" and the "state" in modern international relations, to "continuation of the Confucian order of imperial China" as preferred by some authors. Other translations also exist. In this specific context, this dissertation presents its translation as understood by its author (Wong, 1997, p. 512; Yang M. M-h, 1988; Jiang Y-h., 2006, p. 148).

Recognising Taiwan's Right to the Monopolisation of Legitimate Means of Violence?

There is also another important discursive agenda which this dissertation seeks to highlight as further evidence to the differentiated nature of "sovereignties" in the case(s) of HKSAR (and Macao SAR) and that of Taiwan. It is Beijing's guarantee to Taipei that the latter would continue to exercise its monopoly to the means of violence within the territory after unification. While Taiwan would be treated as a local administration, Chinese leadership in the 1980s was surprisingly clear about guaranteeing Taiwan's right to retain its military capability. Ye specifically declared that Taiwan "can… retain its armed forces." Deng was more cautious, saying that "Taiwan can also have its own armed forces, but they should not pose threat to the Mainland." In any case, these were huge concessions on the idea of "sovereignty."

Jiang and Hu were more cautious about the same issue, though they intimated the same position on separate armed forces in their doctrines. For Jiang, the clue lies within his proposal that both Beijing and Taipei "can share the responsibilities of preserving China's sovereignty and territorial integrity…" and in his recognition that Beijing should "fully respect Taiwan compatriots' aspirations to their own lifestyles and be masters of their own affairs." Hu was less ambitious about the prospects of unification and offered less vision of a unified China, but nonetheless accepted the possible existence of Taiwan's armed capabilities by suggesting the "establishment of military mutual trust" [*jianli junshi huxin*][76] (see Appendix I) across the Strait.

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[76] Hu may in fact be referring to establishing confidence-building measures (CBMs) between the militaries of the Mainland and Taiwan.

These suggestions are intriguing because of the significance Beijing has always attached to stationing troops. Deng, when referring to Hong Kong issue in 1984, spoke about stationing troops as the *only* manifestation of sovereignty in the territory: "I say, other than stationing troops, how else can China give expression to its sovereignty in Hong Kong?" [*wo shuo chule zai xianggang zhujun wai zhongguo haiyou shenme nenggou tixian dui xianggang xingshi zhuquan ne*] (Deng, 2008, p. 75 [author's translation]). This was consistent to the Weber's theory of the State, which was built around the fundamental idea of the monopolisation of the legitimate means of violence (Gerth & Mills, 1946, pp. 77-128; Giddens 1985, ch. 1; Tilly (1992, pp. 19-28, ch. 3). By guaranteeing Taiwan its right retain its armed forces in the event of unification, what does that speak of Beijing's consistency in terms of managing its "sovereignty?" Does that mean that while Beijing's can manifest its sovereignty over Hong Kong by stationing troops in the territory, it need not manifest "sovereignty" in the same way in the case of Taiwan?

The logic in the discourse is confusing, unless one takes the position that Beijing's treatment of its "sovereignty" in Hong Kong as fundamentally different from that in Taiwan. As this dissertation argues, the Chinese view of sovereignty is differentiated, and Beijing's political discourse regarding Taiwan has placed the island at a level of sovereignty "further" than that the Mainland would regard Hong Kong (and Macao). In every shift that has occurred, the "space" in terms of "right of governance" made available to Taiwan on the negotiation table appeared to move further away from which would be expected from a "normal sovereign state," let alone one which proclaimed to be a unitary state and that all its territories are "inalienable." More recently, Beijing's discursive flexibility over its sovereignty has even taken a further step, as of now, it has all but stopped short of recognising

Taiwan as a fellow sovereign, particularly considering its offer to the island an open cheque while negotiating for "unification." For all that students of international relations would understand about the concept, "sovereignty" may not be as *de jure*," and almost certainly not as *de facto*," to Beijing as the White Paper on "The One-China Principle and the Taiwan Issue", released in 2000, would suggest (Taiwan Affairs Office & the Information Office of the State Council, 2000). With regards to Taiwan at least, the contents of Beijing's "sovereignty" appears more graded and negotiable as time passes.

IV. For the Sake of the Game? The Act of "Righting the Name"

In the hierarchical order of the Confucian cosmos, every part has its rightful place; "lord is lord, subject is subject, father is father, son is son," as the Chinese sage had said.[77] In this cosmos which the Chinese has structured their thinking for the past two millenniums, "sovereignty" as a modern international relations concept appears like a young adopted child from another entirely different cosmic system.

From the discussions in this chapter, the PRC is presented to the readers as one interpreting its sovereignty from the widest possible angles. Beijing's attempt at this endeavour has begun from its Constitution. A comparison of different versions of the Chinese Constitution, as the chapter has done, comes to show that the Chinese official discourse has its own contradictions in understanding its own sovereignty issues. "Sovereignty," even at the core level of its debate and practice, moves along a

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[77] Author's translation. The second half of this timeless quote is a reply from Confucius' dialogue partner, the Duke of Qi, who agreed that "How very true! If the lord is not lord, subject not subject, father not father, and son not son, even if there are more than adequate food, can I possibly still feed myself?" In this world, everything must be in its order to function and be "correct" (Confucius, 2007, p. 111).

continuum that would be incomprehensible unless taking sovereignty out of its conventional understanding. Beijing's view of its sovereignty is "flexible," so to say, and is contingent to its history and its immediate concerns, domestic and international.

The second section on the discourses on Hong Kong and Macao furthers this argument. While both are conferred SARs of the PRC, and are highly autonomous as dictated by their respective Basic Laws, each of the SAR, in reality, are assigned with different "autonomies" from the other. To carry further the "right of governance" issue discussed in the previous chapter, it all appears that Beijing is more than willing to weigh against giving up much of its "right" to govern, in exchange for a *de jure* recognition of its sovereignty over the territories concerned. Then again, how much of this "right" Beijing is willing to give up is also contingent. Indeed, as things stand today, would Beijing's discourse of the SAR model be more appropriately named "one country, *n* systems," where *n* represents a variable? Given earlier discussions (Chapter 3) about Chinese academic discourses on "sovereignty," Beijing's assertion of the "inalienability" and "indivisibility" of its sovereignty seems again restricted to the *de jure* dimension. Taking these into account, at best, China remains today an awkward unitary state. While this dissertation has no intention to get embroiled in the argument if "sovereignty" as a modern international relations concept is really "divisible," the Chinese (Beijing's) perspective certainly sees it as such—even though Beijing would no doubt vehemently deny that it does. Chinese "sovereignty" has been elucidated in such a way as to place overwhelming emphasis on *de jure* sovereignty in the cases of Hong Kong and Macao. Have the works of Chinese scholars on the "sovereignty-right of governance" topic merely served to justify such a view?

Furthermore, for the case of Taiwan, even Beijing's grip on *de jure* dimension of sovereignty was slowly loosening. Beijing's discourse towards unification has moved so drastically over the years. It began with a parallel drawn to the SAR model of Hong Kong and Macao, which to repeat again, one that clearly divides "right of governance" from "Chinese sovereignty." When Beijing's initial discourse became untenable, as the political situations in Taiwan (and arguably Hong Kong and Macao as well) changes, Beijing did what it has done: to adjust the bars of "sovereignty" to accommodate the new conditions. By this chapter's analysis on the "One China" principle, it is evident that Beijing has been shifting its bottom-line on sovereignty. Today, this sovereignty discourse over Taiwan is one that is very different from its early years. The tone now is unmistakably anti-separatism, nationalised, de-politicised, and ever increasingly "desovereigntised." Notwithstanding a demand for formal international recognition of a "sovereign" Taiwan, Beijing's discourse is now more capable of accommodating all other possibilities, having bent the rules of sovereignty—if any in the first place, of course—to suit the situation and fit in "One China."

These analyses provide evidences to the dissertation's central argument: in China's view of sovereignty, the *de facto* component (right of governance) is detached from the concept. Beijing's academic and policy discourses towards Hong Kong (and Macao) and Taiwan hence flexibly accommodates, at times voluntarily concedes, different mix of *de facto* rights according to each respective context and issue. This view is maintained so long as the idea that a single sovereignty resides in Beijing is not fundamentally challenged.

Is it all then just in a name? The changes to Beijing's discursive positions on its sovereignty seem to suggest so. As did Confucius when he told off his student of the importance of "righting the name": "when then name is not right, then justification cannot be achieved; when justification cannot be achieved, then the objective cannot be achieved…" (Confucius, 2007, p. 117 [author's translation]). To "right the name" of its sovereign claims, Beijing has adopted a "flexibility" approach. All things considered then, the image of Beijing casted as hopelessly obstinate and defensive on issues related to its sovereignty comes under serious doubts. These discourses reaffirmed the hypothetical view (See Figure 1.1) that has been set up in the Chapter 1, where Beijing sees it "sovereignty" made from concentric rings of "graded sovereignties." Non-contiguity and non-uniformity are its defining characters.

ACCOMMODATING TWO GOVERNANCES UNDER ONE SOVEREIGNTY: HKSAR'S DOMESTIC SPHERES AND INTERNATIONAL SPACE

No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.

BLHK (1997), Art. 22

… other than stationing troops, how else can China give expression to its sovereignty in Hong Kong?

Deng Xiaoping (2008, p. 75 [Author's translation])

The previous two chapters were dedicated to the discussions of sovereignty discourses within Mainland China's academic (Chapter 3) and political (Chapter 4) circles. The most important finding in the chapters is the conceptual separation of "sovereignty" from "right of governance," in the sense that from the views of the Chinese, "sovereignty" takes more of a *de jure* meaning and Beijing's right of governance is not considered a necessary component of the sovereign whole. While this unique conception does not theoretically "divide" sovereignty *per se*, it again questions if the Chinese still see sovereignty as absolute, "Victorian," or "inalienable." Furthermore, in the last chapter, it was discovered that China's sovereignty, at the discourse level, places Hong Kong and Macao on different "levels." In turn, Taiwan holds more leeway than Hong Kong in terms of the way Chinese sovereignty is spoken and imagined. From the words in public documents and leadership doctrines, how sovereignty actually manifests itself in Hong Kong

and Taiwan appears the lesser issue compared to the maintenance of a unified *de jure* sovereign entity centred upon Beijing.

In this next part of the dissertation, more evidences are gathered to substantiate these findings by looking at the two cases of Hong Kong and Taiwan. In the next two chapters, starting with the analysis on Hong Kong in this chapter, the dissertation reviews Beijing's behaviours towards actual control over its sovereignty claims when the talking stops, and action (or inaction) begins. Is the Mainland Chinese government committed to its conception of its sovereignty? If so, how does this discourse of "sovereignty" translates itself on the ground? The main objective is to posit Beijing's policy behaviours vis-à-vis the internal as well as the external dynamics of each case and how much "spaces" each of the two entities enjoys under the umbrella of Chinese sovereignty.

With the 1997 handover, China's sovereignty over Hong Kong is no longer considered an outstanding issue in Beijing's political agenda. This is *the* central difference between China's policy towards Hong Kong and that towards Taiwan. Paradoxically, because its sovereignty is no longer in question, the HKSAR's international space is not restricted by Beijing ("O" in Fig. 5.1). However, questions have been raised about the reality of Hong Kong's freedom to tackle its domestic issues under the watchful eyes of Beijing ("O/X" to signify freedom by promise, but doubts casted in actual state of affairs).[78] The case of Taiwan is directly reverse of

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[78] See for examples the works of numerous academics like those who have contributed to Joseph Cheng's (2001) edited volume *Political Development in the HKSAR*, amongst others. This dissertation makes no attempts whatsoever to discredit these works, as it is admittedly far easier for the author of this dissertation to appreciate the situation in the HKSAR from the other side (the mainland's side) of the story than one who has lived through Hong Kong's unique political and social conditions from the 1970s right through the 1990s, and would like to maintain the view of glass half-filled rather than half-empty, given similar narratives of events that had happened in the HKSAR (see Lam J., 2001; Roberts 1996; and a collection of interesting narratives from Hong Kong's students in Chai, 1998).

that in Hong Kong. Taiwan's domestic sphere is entirely outside the control of Beijing ("O"). Its international space, while openly denied by the PRC and pursued autonomously by the ROC, is in reality a result of active bargaining and negotiation between the Beijing and Taipei ("X/O"). The discussions raised in these two chapters seek to push further the main argument of this dissertation, that despite common (mis)perception about China's sensitivity towards its sovereignty issues, Beijing's emphasis is *de jure* sovereignty, and the Mainland regime has retained a large degree of flexibility when dealing with *de facto* sovereignty. It is the sovereignty as a *de jure* principle that matters to Beijing's management of Hong Kong and Taiwan; "right of governance" is a lesser concern. This is true at least for the present stage when this dissertation is written. The resulting policies correspond to Beijing's graded levels of "sovereignties" that this dissertation has repeatedly emphasised in all its chapters so far, and this view is certainly far from a rigid and absolute as is commonly perceived outside China.

Figure 5.1 Matrix of the Domestic and International Spaces Enjoyed by the HKSAR and Taiwan in Their Relations with Mainland China

	Domestic Space	International Space
HKSAR	O/X	O
Taiwan (ROC)	O	X/O

This chapter on the HKSAR contains two sections. The first section examines Hong Kong's international space and its domestic sphere of autonomy under Beijing's sovereignty. It offers an overview of the political, social, institutional, economic and international arrangements China has with its HKSAR. The objective is to provide the evidences to Beijing's unique application of its sovereignty in Hong

Kong. When Hong Kong's sovereign master put the "one country, two systems" promise to action, the end result is one Hong Kong that stretches the meaning of "autonomy." Beijing called its relationship with the HKSAR "highly autonomous," but in truth the artificial separation of the Mainland and its SAR went beyond physical and governmental-structural differentiations. Due to its unique status in Beijing international and domestic politics, and the constitutional arrangements with the Mainland, the HKSAR clearly sees its governance more in the form of a "right," an opinion that Beijing appears to oblige by keeping its distance from HKSAR's affairs. This section first reviews Hong Kong's international space, in terms of its participation in international organisations and regimes, after the handover. It then turn to HKSAR's domestic realm to discuss examples of how this special right extends to the realms of HKSAR's legal, political and social (religious) arrangements with the Mainland.

But tensions are inherent in this arrangement. The problems arise whenever status quo of that "right" comes under challenge. On three occasions in the HKSAR's short history, tensions in Beijing-HKSAR relations came to fore. As the domestic dynamics in Hong Kong changed, greater clarification of that "right" became necessary. To address challenges to its supreme authority, Beijing has opted for three law interpretations, in 1999, 2004 and 2005. The second section covers these three events and grounds them in context. The key here is about when Beijing performed those "interventions" and how it did it. Through the three law interpretations, Beijing was no more than reasserting its *de jure* sovereignty over the territory. Its actions reaffirmed the institutional and constitutional structure of Beijing-HKSAR relations—without directly denying the HKSAR of its "right of governance." The legal approaches that Beijing adopted are also noteworthy. The

accounts suggest that while Beijing voluntarily relinquishes its "right of governance" over Hong Kong to the latter's local administration, it appears less willing to see its *de jure* sovereignty challenged or questioned.

I. Managing the "Hong Kong Expectation," Separating of "Right of Governance"

Before this chapter begins proper, it seems necessary to indulge in a little anecdote that would help to place the readers' view in context:

Crossing the "border" shared between the HKSAR and the Chinese customs at Luohu (or Lo Wu as known in HKSAR) can be an intriguing experience. In particular, standing at the middle of the enclosed bridge across the Ng Tung River in Lo Wu's "Immigration Checkpoint," which marks the actual boundaries between within the HKSAR and Mainland China, one cannot but feel standing at the threshold between two different worlds. On one side of the bridge stood the HKSAR immigration officers in their western-styled dark suits and ties, while the public address system blabbered away in the Cantonese dialect so commonly-spoken— indeed one would say *primarily*-spoken—in the territory, and posters and signs written in the traditional Chinese characters [*fanti*]. On the other side are Mandarin-speaking Chinese customs and immigration officers whose appearances are visibly different from their HKSAR counterparts (especially, though not limited to, their People's Liberation Army-styled insignias), and an enormous electronic board above the immigration hall displaying the immigration laws of the PRC in the simplified form [*jianti*] of the Chinese language. Looking outside the bridge into the river one could be more perplexed by the sights at both sides of its banks: high fences with

menacing triple concentina wires curled at the top stood opposite each other. Only with proper travelling documents can a traveller carry on his/her next part of the journey across the bridge. Travel restrictions were also placed upon Hong Kong and Mainland travellers travelling between the two territories. HKSAR residents would need a multiple-entry visa [*gang'ao jumin laiwang neidi tongxingzheng*, or more commonly known as *huixiang zheng*] issued by the China's Ministry of Public Security's local station in Guangdong (The Central People's Government of the PRC, 2005). Restriction for Mainland travellers is more stringent. Despite its expansion over the years, the so-called "Individual Visit Scheme," which allows Mainlanders to visit the HKSAR on personal capacity, is nonetheless available *only* to Chinese residents in 49 cities in the Mainland in 2011 (Hong Kong Tourism Board, 2011). For the residents of these 49 Chinese cities, they would need to apply for a Re-entry permit [*laiwang gang'ao tongxingzheng*], again the equivalence of a visitor's visa, before they can enter the HKSAR. And beyond those border checkpoints, a quick switchover from usual social practices the "other side" are accustomed; for one, a traveller from the HKSAR side now has to start fishing out *renminbi* instead of Hong Kong dollar (HKD) before any purchases at the "duty-free" shops in the Chinese side; while the HKD remains acceptable, it is in the form of currency exchange rather than legal tender, and the exchange rate now stands at almost 1:1.2[79] to the Mainland's favour. To a European traveller, for example, this short trip from Hong

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[79] The HKD, the currency issued and circulated in the HKSAR, is pegged to the U.S. Dollar since 1983, and has remained so despite the 1997 handover. The territory's monetary policy is managed separately by a local "central bank," the Hong Kong Monetary Authority, rather than centrally managed by the People's Bank of China. Besides the question of sovereignty, this monetary arrangement has its own set of issues which would not be discussed in this dissertation (Kueh & Ng, 2002; Wei Sh.-j., et. al., 2000; Lu & Yu, 1999). Given the complexity of the exercise, Beijing's continuing support for the maintenance of two separate currency regimes—or *three* separate currency regimes were the Petacas in circulation in Macao SAR is included in the picture—should not go unnoticed.

Kong's side of Luohu to the Chinese side certainly feels more like travelling across a *national* border than one between territories under a single sovereignty.

Language, education, barriers, customs checkpoints, currency, etc—the two systems stood in sharp contrast to each other. The surrealism of this experience to travel across "one country, two systems," and between the "sovereign*ties*" of China, cannot be understated.

Beijing's motivations to keep the "two systems" running are well-documented in the discipline and in public sources. Back in the 1980s and 1990s, the fate of Hong Kong was one of China's outstanding sovereignty issues that involved a major western power. Two others being Macao (a lesser issue with Portugal) and Taiwan (deemed tacitly supported by the United States via the Taiwan Relations Act). Successful negotiation between Beijing and the Great Britain that eventually lead to the retrocession of the territory was—and still is considered today—a matter of national pride and honour; in the words of former Chinese President Jiang Zemin who oversaw the historic return, the eventual handover was akin to "using snow to clean up the blood of the hundred years of national humiliation" [*xuexi bainian chiru*]. [80] Given the CCP's push to "derevolutionise" politics in favour of "renationalisation" since embarking on its open door reforms (Wang J.s., 1994), the resolution of the Hong Kong issue held enormous promises to boost the legitimacy of the party. This opportunity was not to be passed up easily. The political concessions offered in return of the territory back into the *de jure* sovereignty of China looked very much a bargain for the ruling party which was founded on

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[80] This statement is considered extremely strong by the semantics of the Chinese language. It was made in Jiang's 1997 New Year speech broadcasted over the state media. See TRS WAS (1997).

China's shame-inspired nationalism as much as the tenets of Leninist-Marxism (Zarrow, 2007, chs. 9 & 10).

Indeed, as suggested by Michael Yahuda at the eve of the handover,

If China's communist leaders were able to honour the pledge of allowing Hong Kong to maintain its rule of law and basic freedoms that have underlaid its unique success as a centre of capitalism and international finance, China would continue to benefit from the enormous economic contribution the territory makes to its modernisation and it deepening engagement with the international economy, and the beneficial political consequences would be immerse. Such a display of tolerance for an autonomous Hong Kong would consolidate its new relations with the Chinese communities outside China, strengthen Beijing's stance regarding Taiwan, reduce anxieties in Southeast Asia, ease China's relations with the USA and Japan, enhance the process of China's integration with the Asia-Pacific region, and improve China's international standing generally (1996a, p. 1).

The importance of Hong Kong made all arrangements in the lead up to the handover the private purview of the top echelons of Chinese leadership. It is no secret that Deng himself took special interests in the negotiations with the British government (Yahuda, 1996a, pp. 14-16, 89-101). Chinese initial position towards Hong Kong was uncompromising. The British government's proposal to continue to retain administrative control over Hong Kong after 1997 was rejected outright, as Beijing made it clear that the whole of Hong Kong would be recovered when the territory's

lease ran out.[81] In Margaret Thatcher's autobiography *The Downing Street Years* (1993), she noted Beijing's strong commitment to this position when she spoke to Zhao Ziyang, then-Prime Minister of China, "In answer to my vigorous intervention about the loss of confidence which such a position, if announced, would bring, he said that if it came to a choice between sovereignty on the one hand and prosperity and stability on the other China would put sovereignty first." Deng's response to Thatcher's queries the following day was even more forceful, as the latter recounted, "He [Deng] was not to be persuaded... at one point he said that the Chinese could walk in and take Hong Kong later today if they wanted to" (Thatcher, 1993, pp. 261-262).

Deng's, and indeed the whole of Chinese leadership's, refusal to give in about Hong Kong issue was motivated primarily by nationalist sentiments, and more importantly, the question of CCP's legitimacy. The nationalism factor was two-sided; to the outside world and in particular to the British, Beijing wanted to overturn the image that "foreigners look down on the Chinese, and humiliate the Chinese... the intellects of Chinese are not worse than the foreigners, the Chinese are not morons [*dineng*], and don't ever think that only foreigners can do better;" to the internal audience, the purpose was to exhibit that the CCP was fighting for the rights of the Chinese nation (Deng, 2008, p. 60 [author's translation]).

On the issue of CCP's legitimacy, it cannot be clearer in Deng's statement to Thatcher,

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[81] While the Hong Kong *island* and Kowloon Peninsula south of Boundary Road today were ceded "in perpetuity" to the British Empire in the Treaty of Nanjing (1842) and Treaty of Peking (1860) respectively , the rest of the territories (like New Territories and Lantau Island, etc) adding up to what is known as the HKSAR today were technically leased. The lease was due to expire on 30 June 1997 (*The Treaty of Nanking*, 1842; Wang & Zhang, n.d., pp. 4-7 [vol. 8]).

If China in 1997, which is 48 years after the establishment of the People's Republic of China, cannot recover Hong Kong, no one in the Chinese leadership and in the government can answer to the Chinese people [*xiang zhongguo renmin jiaodai*]. They cannot even answer to the peoples of the world. If Hong Kong is not recovered by China, it would mean that the Chinese government is the same as the late Qing government, and its leaders are like Li Hongzhang! [82] We have already waited for thirty-three years… if Hong Kong remained unrecovered after fifteen years, there will be no reason for the [Chinese] people to trust us, and any Chinese government should relinquish its power and leave the political scene. There is no other option (Deng, 2008, pp. 12-13 [Author's translation]).

Hong Kong was hence the ultimate symbol of Chinese nationalism and of CCP's legitimacy. The issue of Hong Kong carries with it externalities which are critical to the politics in post-1978 Beijing. This is not simply maintaining a façade of Deng's "one country, two systems" *per se*; Beijing must fulfil its "Hong Kong expectations" to pass the test under the scrutiny of its own people as well as the international audience at large. The "two systems" must survive Hong Kong. In this deal, the Mainland Chinese regime stands to gain the most from the successful implementation of the arrangement, though the stakes are just as high: its political and international creditability hangs on the balance.

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[82] Throughout the post-1949 years until the 1980s, Li Hongzhang (1823-1901) was criticized in Mainland official history for his part in concluding several unequal treaties with the Western powers. This version of history, however, was revised from the 1990s onwards. Rather than being seen as proactively seeking to undermine Chinese (Qing) interests for personal gains, Li was "rehabilitated" and his role became one of passive acquiescence to then-state-of-affairs (Cai S., 1989; Ding Z., 1951).

However, even if compromise with the British was not possible, compromise within the sovereign confines of Beijing was given some careful thoughts. The powerful discourse of "one country, two systems" drew out new thinking in the concept of "sovereignty" as Chapters 3 and 4 has discussed. If Deng had spoken about "one country, two systems" at the spur of the moment, then the academic discourse "sovereignty, less right of governance" took the idea further and provided a firm starting point for the materialisation of the "Hong Kong model" in the later years. Until 1997, the primary, if not sole, objective of China's sovereignty policy towards Hong Kong was to recover the *de jure* sovereignty of the territory; the rest of the issues, including both HKSAR's domestic order and international space, were negotiable.

Sound political discretion was the order of the day, as the leadership treaded carefully and attempted to incorporate the Hong Kong elites as a show of faith and in hope to ease the transition. The composition of the Committee for Drafting Basic Law of HKSAR was a prime example, within which Hong Kongers of various political backgrounds were called up for the purpose.[83] In a similar vein, thirty-seven out of the fifty-seven members of the Preliminary Working Committee (PWC)—the Committee was set up in 1993 to oversee all details of the handover and led by then-Vice President and Foreign Minister Qian Qichen—under the Standing Committee of the National People's Congress were of Hong Kong decent.

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[83] These include notable figures like Louis Cha, Szeto Wah and Martin Lee. This author is aware of the tacit Beijing-democrats alliance in the 1980s, and that some of these fervent critics today owe much of their grievances to their involvement in the Committee. A majority of these HK democrats left the Committee in manifestation of their frustrations towards the high-handed attitude of the CCP and over the Tiananmen Incident (though Szeto and Lee were expelled from the Committee for their alleged link to Tiananmen movement). Nonetheless, the fact that Hong Kongers of various political backgrounds were incorporated into the Committee in the first place drives the point that Beijing did try to be sensitive by co-opting local figures into the transition processes. For a critical view, see Chan M. K. (1991, pp. 3-35).

However, Beijing's political attentiveness to Hong Kong evaporated virtually overnight after the handover. Beijing tried to live up to its promises by practically withdrawing all its political presence from Hong Kong, leaving no more than a mere handful of bureaucratic representations in the territory. Even these Mainland Chinese offices which remained operational were kept more for the purpose of coordinating the relations between Beijing and Hong Kong rather than to administer the returned territory. Beijing's sole and official representation—in the capacity of a "shadow" governor office—in Hong Kong, prior to 1997, the Xinhua News Agency Hong Kong Office, was downgraded from its status as ministerial-level organisation, and was renamed The *Liaison* Office of the Central People's Government in the HKSAR. This certainly was not an innocent, apolitical move. The Chinese Foreign Ministry has opened a new office, the Office of Commissioner of the Ministry of Foreign Affairs in HKSAR, but it is again a light-weight, sub-ministerial institution. Meanwhile, the People's Liberation Army garrison, arguably the most important institution to "give expression to" Chinese sovereignty in the HKSAR, was little more than what it was meant for—a showcase. Confined largely to its camps, the garrison did little to stamp their presence in the territory, except during public relations events like the PLA Day or the anniversaries of the handover (People.com.cn, 2007). Even as Deng's vanguard of Chinese sovereignty in Hong Kong, as quoted at the fore of this chapter, the PLA garrison has not been too keen to exert its presence in the territory after all. On the day of the historic handover, the HKSAR government took its place as the succeeding regime to the British colonial government in Hong Kong. It inherited the original civil services and employees and operated little differently from its predecessor (Zheng & Tok, 2007, pp. 237-241). The philosophy of rule by Beijing, if any at all, remains remarkably similar to that

during the colonial days, in the same vein as Dennis Duncanson (1988, p. 15) described British laissez-faire governance style to a form of "positive non-intervention." Indeed, the transition went on so smoothly, and so unobtrusive, a commentator marvelled, three months after the handover, at the continuity of life in Hong Kong, that "(nothing else except) one thing has been altered: all the red mailboxes (leftovers of the British Royal Mail) on the streets have been painted green just as a symbol to remind people that the Chinese are now in charge!" (Chu G. H., 1997)[84]

More than Just a "Separate Customs Territory?"

No doubt the Chinese (Beijing) are keen to impress upon people that they are back in charge of the territory. But Beijing's policy differentiation towards Hong Kong is more than just skin-deep; that devolution of its rights of governance saw effects that went beyond the differentiation of government structures between that in Beijing and Hong Kong, and definitely beyond simply the repainting of mailboxes.

The first is the very physical and geographical separation of the territory from the Mainland. As already explicated in the anecdote earlier in this section, the HKSAR is conceived as a "separate customs territory" under Chinese sovereignty, to borrow the term describing Hong Kong's membership with the World Trade Organization (WTO), and earlier, with General Agreement on Tariffs and Trade (GATT). As if to depoliticise (and to "economise") that special membership status, this GATT and WTO workaround enable political non-states to take a seat in the

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[84] The same observation was raised by another commentator, but with a more cynical twist, as he deemed "the new order (in HKSAR under Chinese rule), so keen to remove symbols of the past, has been equally keen to restore the past in the shape of recreating an abandoned form of colonial government" and that "(a)fter a century and a half of British colonial rule, China has acquired a new colony." Vines (1999 & 1998).

organisation. Despite Beijing's nationalist discourse about exerting *total* control over its customs and immigration arrangements, the whole issue about the separate customs and immigration status of Hong Kong is all but taken for granted.[85] As stated clearly in the Basic Law, Hong Kong is given all powers and authority to maintain that special customs status, and set up its own customs arrangement, tax goods, and issue passports and travel documents in line with its "highly autonomous" status.

Compared to Beijing's opposition to Taiwan's entry to the WTO in the early 1990s, also as a separate customs territory (this issue is dealt with in the next chapter) (Feng Y., 1990), Beijing's relative silence towards Hong Kong's international status was remarkable. In reality, Beijing has never voiced strong, open objections against Hong Kong's participation in international institutions and regimes, both before and after the handover. With the exception of Hong Kong's withdrawal from organisations under the Commonwealth,[86] and the addition of "China" to the suffix of "Hong Kong" in memberships with others, the HKSAR's *effective* participation in international politics has hardly been curtailed. To mark the words in the Basic Law, the HKSAR "may *on its own*, using the name 'Hong Kong, China,' maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields…" (*BLHK*, 1997, Art. 151) The standard ratification process in all China's international

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[85] China's obsession with its "customs sovereignty" is reflected in numerous works written on the matter, and the manner of which accounts of the right (as well as the loss of that right) to Chinese customs arrangement was narrated in history textbooks (History Working Group of People's Education Press, 2000, pp. 15-18).

[86] Hong Kong withdrew its membership with the Commonwealth, as well as related organisations like the Commonwealth Commercial Unit and the Commonwealth Legal Advisory Service, among others, but maintained links with Commonwealth non-governmental (especially professional, sports and other utilitarian-type organisations) units.

commitments, usually decided upon by the Standing Committee of the National People's Congress, does not apply to Hong Kong's case (*Constitution of the PRC*, 1982, Art. 67/14); furthermore, the usual language of "report… to the Standing Committee of the National People's Congress… for the record," as specified in other articles of the Basic Law, is glaringly absent from the clauses outlining Hong Kong's external relations.[87] In layman terms, the HKSAR has been granted the legal and political authority equivalent to that of a nation-state in its interactions with foreign entities. The territory is also legally capable of concluding international agreements, as well as implementing these agreements—all without prior, explicit acknowledgement from Beijing. To place this in a comparative context, it is equivalent to the Scottish parliament bypassing the United Kingdom parliament in Westminster when entering into and implementing an international treaty (assuming that it has the power to do so in the first place) with another nation-state or international regime. The international space endowed to the territory after the handover is *huge*, the least to speak.

Given Beijing's undisputed position as the sovereign (read: supreme authority) over the territory, let there be no doubt that this capacity is conditional and a matter of degree, rather than an absolute and natural right enjoyed by states, as Gerald Chan wrote in 1997,

> To China, functionalism [of international organisations] is subservient
>
> to *realpolitik*. As a policy, functional approach does not seem to
>
> figure in the mindset of the Chinese leadership. Power politics and

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[87] The only exception related to HKSAR's external relations is that the Standing Committee of the NPC needs to be informed when the territory establishes "official or semi-official economic and trade missions in foreign countries" (Art. 156). Other examples of cases whereby the HKSAR government needs to report back (BLHK, 1997, Arts. 17, 90, 156, and Annex I/7, II/III).

national interests are the major considerations in its strategic

calculations… There is no clear sign yet to indicate that China's

policy [of the HKSAR's membership in international organisations]

will remain consistent. Much depends on the will of a few top leaders

of the Communist Party… This, of course, would also depend on the

policy and behavior of the Hong Kong SAR government toward

Beijing. In other words, whether the Hong Kong SAR government

will be strong enough to resist possible interference from the central

government or skilful enough to manage its relations with China will

have a strong bearing on the future shape of things to come (Chan G.,

1997, pp. 447-448 [Italics in original]).

Is this realpolitik or really something else? There is a hint of ambivalence in Chan's tone. This also suggests that the HKSAR's international space is never in question. The real autonomy that Hong Kong enjoys as a separate entity from Mainland China is as much a result of active politicking and bargaining as reading of the Basic Law, though at the present stage Beijing has voluntarily "broken up" its international space (and effective governance of that space) into two, with the minor half placed in the hands of the administration in the HKSAR.

HKSAR's Domestic Autonomy

HKSAR's international space is further underpinned by its domestic arrangements within "one country, two systems." Some academics have re-echoed views of earlier-cited observer on the relative status quo in Hong Kong since the handover, that China has, by and large, lived up to the "Hong Kong expectations" (Hsiung, 2000; Kuan H.-c., 1999). Almost all segments of the Hong Kong society,

from professional sectors to medical services (free public healthcare), education and language (the use of the Cantonese dialect in place of Mandarin, even as a medium of instruction) to economics ("free market economy"), were left intact as they were on the eve of the handover. To further its case about the extent of China's separation of this right of governance in the HKSAR, this chapter focuses on three examples: politics, legal order and the issue of religion. The three examples cover different "rights of governance" the HKSAR currently enjoys—political, legal and social (religious) respectively—under the auspicious of "one country, two systems."

By politics, this chapter concerns itself more with the political culture and order in the HKSAR than the structural arrangements, which are, again, clearly differentiated from the ones in the Mainland. Freedom of political organisation and participation, for instance, remains a feature in the HKSAR but absent in Mainland politics, where the CCP presided over all matters of state politics with the help of its eight state-sanctioned parties of the "democratic league."[88] The last Chief Executive election in the HKSAR in 2007, when Beijing's candidate and incumbent Donald Tsang ran against Civic Party candidate Alan Leong in the final balloting of votes held by HKSAR's Election Committee, was evidence to that point. Likewise were the Legislative Council (Legco) elections, where the so-called pro-Beijing parties battled their pro-democratic counterparts in both geographical and "functional" constituencies every four years. Some have validly questioned how truly "democratic" and "free" these elections were, since Beijing controls the election system by "remote" through the National People's Congress (Ming S., 2004, pp.

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[88] However, it is also worth noting that political parties in the HKSAR, unlike their counterparts in the United Kingdom and Australia, are corporate bodies with legal personalities. As such, many are incorporated as companies limited by guarantee As a result they are not given due recognition as associations of unique nature, which reduces their effectiveness as political platforms. Moreover, the current arrangement does not provide adequate measures to regulate the activities of political parties (Cullen, 2005, pp. 1-5, 8-9).

200-207; Lee M. C. M., 2003; So, 2000). While not necessary assured all the time of the results Beijing desires in the HKSAR, the constitutional links, through the Basic Law, between the HKSAR and Beijing can be activated should things get out of hands in the territory (Cheng J., 2004, pp. 752). Sitting comfortably with a fallback plan in place, Beijing can thus more or less appear hands-off and let politics to run its course in the territory, which in reality, accounts to no more than a highly localised affair.

However, the very fact that these concerns were raised in the first place is intriguing. These issues would not have been issues *per se* had the political order in the HKSAR been clearly defined along that in Mainland China. Even the dichotomies—for example "pro-Beijing" versus "pro-democrat"—and the terminologies and vocabularies applied—Beijing's action as "intervention," universal suffrage, election campaigning, etc—suggest a clear delineation between Hong Kong and Mainland China on political matters. Beijing is expected to play the part of an uninterested party in Hong Kong political developments after the reversion of sovereignty is bewildering; and that it actually has been trying hard to do so for political expediency is nothing short of wonderment (Zheng & Tok, 2004).

To Bodin, the true attribute of the sovereign is "the power to make law" (1967, p. 43). Nonetheless, the picture of sovereign unity is somewhat less clear when applied to China, the HKSAR and Macao SAR. Another part of the deal for "one country, two systems" was the preservation of their respective pre-existing legal system in the returned territories after the handover. If one were to include the continuing practice of Portuguese legal system in Macao after 1999, "China" (excluding Taiwan for this particular discussion) today practices three *different and*

separate legal systems. Each system is based on a different set of legal traditions and philosophy, and yet co-existing alongside each other under one single "sovereignty:" the common law system in Hong Kong, the (Portuguese) continental law system in Macao, and socialist legal system in the Mainland. The differences between these legal systems cannot be more profound. While Bodin did not specifically preclude different sets of law within one "sovereignty," he assumed that there had to be a centralised location from which the laws of the land originated (1967, pp. 28 & 35). Furthermore, in each case, the practicing legal system has its own court of final appeal which is supposedly independent of the others (*BLHK*, 1997, Art. 82; *BLM*, 1999, Art. 84). In other words, Beijing's legal jurisdiction is not extended uniformly throughout its sovereign claims, marking yet another feature of the separation of rights of governance (the governance of legal systems) under one single "sovereignty." Designed specifically to fulfil Deng's visionary "one country, two systems," this separation of legal orders renders Beijing incapable of reacting to issues when they move from strictly the legal realm into the legal-political nexus (it eventually did in 1999, as is discussed in greater details in the next section). More tricky issues, however, are reconciling different sets of assumptions, objectives and procedures in the different systems (Wesley-Smith, 1997, pp. 106-107). Given the different legal philosophical foundations across the land, "justice," therefore, is not a uniform value in "One China." This is no minor issue as, by extension, this co-existence of different legal orders within one single nation-state translates to different citizen rights and obligations: the civil/legal rights of a Hong Konger are not the same as that of a Macanese or a Mainland Chinese. This fundamentally challenges notions of "equality" and/or "equity" amongst all rightful citizens under Chinese sovereignty.

A third useful example is the separation of spiritual governance between that in Hong Kong and in China. The ongoing tensions between Vatican City and Beijing are well-documented (Leung, 1992, ch. 4). That tension, which has seen the Vatican City and Beijing see-sawing for decades over the control of the Church community in Mainland China and the diplomatic status of Taiwan, certainly has its effects on the returned territory—Beijing's refusal for the Holy See to visit the SARs in 1999 was a fine example (Hook & Neves, 2002, p. 116). But it is also important to note that the Vatican has not once been denied its right to appoint bishops to its dioceses in Hong Kong and Macao, even after the handover. While Beijing constitutionally controls foreign policy of the SARs, in this case the guarantee of freedom of social policy in the territories precedes the Chinese state's foreign policy principles. The latest Vatican appointment to Hong Kong was Bishop John Tong Hon to replace outgoing (and outspoken) Cardinal Joseph Zen in 2009, while Bishop José Lai Hung-seng was appointed to head the Diocese of Macau in 2003. Notwithstanding the enormous influence which the Catholic Church exerts in Hong Kong and Macau in the form of Church attendance as well as a major education provider (Tan J. K., 1997; Hook & Neves, 2002, pp. 116-118), China has carefully avoided open confrontations with the Vatican over religious issues in the HKSAR and Macao SAR. Beijing's cautiousness is all guaranteed by Article 141 of the Basic Law, which states the *HKSAR government* "shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the *Region*" (*BLHK*, 1997, Art. 141 [Emphasis added]; *BLM*, 1999, Art. 128). Whether or not Beijing, as the central government, is bound by this restriction when it comes to spiritual matters in the HKSAR and Macao SAR has never been debated, but the earlier "non-interference"

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clause cited at the fore of this chapter should preclude any blatant actions on the part of the Mainland regime. It is thus no surprise that controversial religious group Falun Gong, outlawed and branded an "evil religious organisation" in the Mainland (Xinhua News Agency, 1999), remains a legal religious organisation and is free to preach in the HKSAR. The HKSAR branch of the group even set up a limited company to publish its own newspaper *Epoch Times*,[89] a daily distributed for free at various distribution points in the territory; meanwhile, sit-ins, demonstrations, and even public performances are also sanctioned, supposedly subject only to regulations pertaining to public order (Ji X., 2009; *Ming Pao*, 2009).

II. Reasserting *de jure* Sovereignty: Workaround via Basic Law Interpretation

Beijing's intention to maintain "two systems" clearly took the form of two "governances," one in the Mainland and the other in its SAR. After 1997 (and Macao after 1999), Beijing appeared comfortable at the thought of problem solved: China's sovereignty issue vis-à-vis Hong Kong was finally "settled;" by breaking up its "right of governance" into two, Beijing sidestepped the issue of having to directly manage its returned territory while basking in the euphoria of nominally holding on to *de jure* Chinese sovereignty. That could not have been more wrong.

First Law Interpretation: The Right of Abode Issue

The first alarm of crisis came in January 1999, when the controversy over the right of abode (RoA), in particular regarding children of HKSAR permanent

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[89] The Basic Laws also guarantee the freedom of speech and of the press. This freedom stands along others like "… freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike" (*BLHK*, 1997, Art. 27; *BLM*, 1999, Art. 27).

residents, took Beijing off-guarded. In a series of cases, most notably *Ng Ka Ling v. Director of Immigration*, the HKSAR court of final appeal was called upon to judge, among others, three items that are of concern to this dissertation: (1) on the constitutionality of the Provisional Legislative Council (PLC) which was set up on 1 July 1997 to transit between the colonial legislature and the SAR legislature; (2) hence the constitutionality of an immigration amendment ordinance passed by the PLC which retroactively denied the RoA for certain China-born individuals in the HKSAR; and (3) whether or not obtainment of an exit permit from a "relevant Mainland authority" necessarily constitutes a precondition to RoA of such individuals (Hong F. S., 2000).[90]

The eventual judgements passed by the court stirred up a political storm. On the one hand, the court ruled that the PLC was a necessary legislative setup following the breakdown of agreement between London and Beijing on a "through train" arrangement—that is, one single legislature to transit the handover (*Sing Tao Daily*, 1995). The court, on the other hand, ruled the related immigration ordinance unconstitutional. In either way both judgements, passed with regards to interpreting the Basic Law, involves a broad reading of Article 158 of the Basic Law, which states:

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[90] The Basic Law lists five conditions to RoA in the territory: (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region; (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region; (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2); (4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the HKSAR; (5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region (*BLHK*, 1997, Art. 24). The first three conditions are more relevant to the discussion here.

… The courts of the Hong Kong Special Administrative Region may also interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People's Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, *seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress* through the Court of Final Appeal of the Region (*BLHK*, 1997, Art. 158 [emphases added]).

The court apparently saw no need to consult Beijing on this matter. It then went further to claim the right to examine legislative acts by the NPC (or its Standing Committee), and "the duty to declare invalidity if inconsistency is found" (Chan, Fu & Ghai, 2000, p. 437). On this presumption of its power, the court ruled that Article 22(4), which states "people from other parts of China must apply for approval" before entering Hong Kong, does not precede granting the RoA of the individuals concerned (*BLHK*, 1997, Art. 22/4).

According to a Mainland Law Professor Xiao Yongping, "Hong Kong CFA [Court of Final Appeal] has autonomy to decide who has the right of abode in the HKSAR," and he claimed that had the court "only settled" the RoA issue, "there would be no dispute" (Xiao Y., 2000, p. 474). His views are perhaps overly optimistic. The setup of the cases involving RoA in the HKSAR was far intertwined

with legal as much as constitutional judgements that the court can decide without interpreting the Basic Law. But certainly the court's daring ventures to test the limits of its autonomy were unhelpful acts that totally lifted the RoA issue out of the legal realm into the political one, since it is "likened to the high court of an American state pretending to power to overrule federal law" and is thus "breathe-taking in its audacity and presumption" (Maxwell, 2000, p. 1810). Are the common law-trained judges merely acted out of their ignorance to a constitutional setting? The question matters no more since those judgements were "immediately recognised and accordingly welcomed" by the Hong Kong political elites, especially those in the pro-democracy camp, as the judgements were direct challenges to Beijing's sovereignty (Maxwell, 2000, p. 1810).

Beijing reacted promptly and furiously to the court's decisions. On 6 February, Xinhua News Agency published a report containing opinions of four Mainland legal experts, who described the judgements "preposterous" [*huangmiu*] and thus "indignant (to Beijing)" [*fenkai*] and "an attempt to convert Hong Kong into an independent political entity" [*ba xianggang biancheng yige duli zhengzhi shiti*]. One went on to accuse the judgements as "intentional acts" to "prove that it possesses the power to interpret the Basic Law" (*Ming Pao*, 1999). A fierce debate ensued in the subsequent months. On 20 May, the HKSAR "requested" the NPC for an interpretation of the articles and court judgements in question (*Report on Seeking Assistance from the Central People's Government in Solving Problems Encountered in the Implementation of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, 1999); on 26 June, then-Chief Executive Tung Chee-hua met journalists to announce the NPC's interpretation (Transcript of Media Session on NPCSC interpretation of Basic Law, 1999). Careful not to usurp

the "final" decisions of the HKSAR court, the NPC nonetheless announced interpretations amounting to rebuking the court. The NPC interpretation maintained that its decision shall not be applied retroactively, and "does not affect the right of abode in the Hong Kong Special Administrative Region which has been acquired under the judgment of the Court of Final Appeal on the relevant cases dated 29 January 1999 by the parties concerned in the relevant legal proceedings." Key notes include the "exit permit" requirement as prerequisite to RoA of a Chinese national in the territory, and the strong reminder that "the courts of the Hong Kong Special Administrative Region, when referring to the relevant provisions of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, shall adhere to this [1999] Interpretation" (*The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, 1999). The HKSAR Court of Final Appeal was blatantly told of the future limits of its autonomy; the Basic Law was, and will continue to be, the private keep of the NPC (and its Standing Committee) sitting in the Chinese capital. Beijing's supreme authority over the SAR was preserved in a masterstroke.

Second and Third Law Interpretations: On Political Reforms and Universal Suffrage

Public demonstrations are common phenomena in Hong Kong even after the handover: an unofficial estimate in 2000 claimed as many as five demonstrations of various scales took place each day (*The Washington Post*, 2000). The annual street demonstration to "commemorate" Hong Kong's return to China on 1 July even took on a carnival-like atmosphere. However, the demonstration which took place on the anniversary of 2003 shall go down as one of the largest street protest ever recorded

in Hong Kong's modern history. On that day, more than 500,000 people, or one-fourteenth of Hong Kong's total population, took on the streets to remonstrate against the impending anti-subversion bill (an enactment of the infamous Article 23 of the Basic Law).[91] The general fear being the passing of the bill would seriously undermine Hong Kong's autonomy and curtail civil liberties.

But in reality, the discontentment in the HKSAR went beyond the bill itself. Since the handover in 1997, Hong Kong was besieged with crises: beginning with the Asian financial crises in 1997, to repeated avian flu outbreaks in 1997, 1999 and 2003. The economy was facing severe structural problems, with little signs of turnaround in sight. The Severe Acute Respiratory Syndrome (SARS) outbreak in early 2003 appeared to condemn the territory to another bleak year (Zhu W., 2005, pp. 8-9).

General dissatisfaction over the political environment was particularly high (see Graph 5.1). This stemmed from general public indifference towards Tung's administration. Public perception of public service incompetency had discredited the HKSAR government and led to increasing political activism and mobilisation.[92] Furthermore, Tung's reappointment to a second term as the HKSAR Chief Executive (he "won" an uncontested election), despite his unpopularity, has deepened the sense of disaffection of the Hong Kong public towards the HKSAR government (Zheng &

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[91] Article 23 of *BLHK* (1997) states that "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies." However, since no new legislation has ever been passed with reference to this article, the security law practiced in the HKSAR since 1997 was based on the common law passed down from the colonial legacy.

[92] This perception was particularly reinforced during the SARS epidemic. When public health officials dragged their feet at containing the outbreak, the Hong Kong public readily mobilised itself to form self-help groups to deal with the crisis (Thomson & Yow 2004).

Tok, 2004). The unpopular anti-subversion bill proved to be the final straw. Mounting public grievances finally erupted in call for greater political accountability.

Graph 5.1 Dissatisfaction with the Political and Economic Environment in HK (Mar 2003 - Mar 2004)
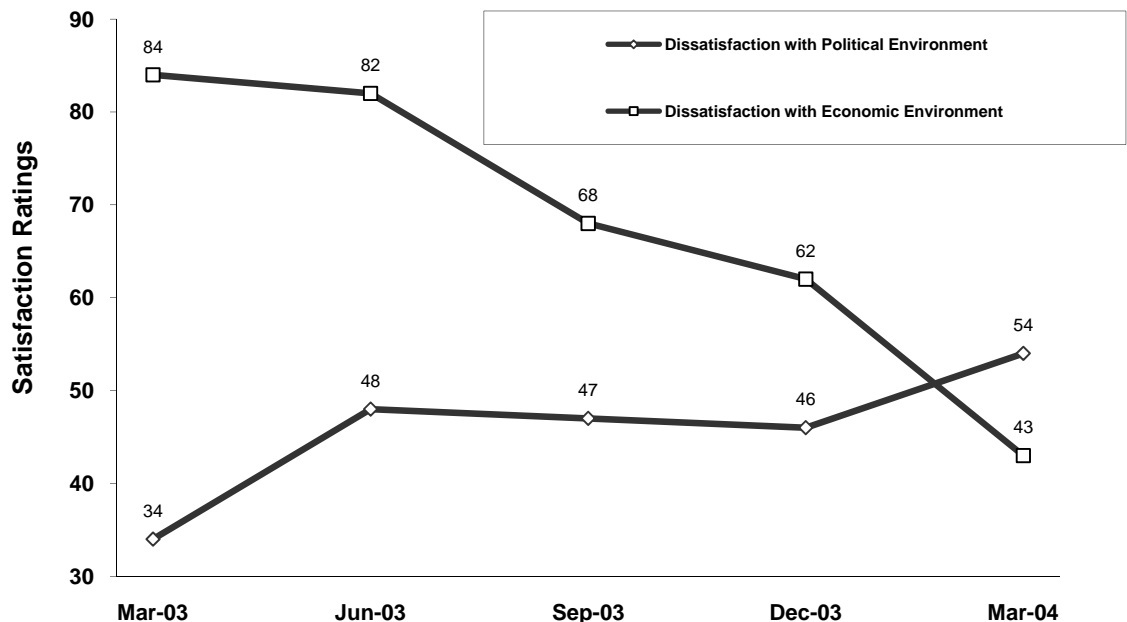
Source: Zheng and Tok (2004), p. 20.

The wind of change was in the air following the mass demonstration on 1 July 2003. The HKSAR pro-democratic parties registered a stunning victory over pro-Beijing parties in the district elections in November 2003 (Cheng J., 2004; *Straits Times*, 2003). Sensing greater political spoils to take, the pro-democrats continue to drive the political discourse, and led another mass demonstration on New Year's Day 2004. This day an estimated 100,000 Hong Kongers participated (*Financial Times*, 2004).

In February 2004, the volatile political atmosphere in the HKSAR turned explosive, when a fierce debate broke out over the issue of "patriotism." Radicalisation of the debate of exactly who constituted the "patriots" in Deng

famous dictum "Hong Kong should be governed by patriots" (Deng, 2008, p. 74), different political forces in the HKSAR lobbed inflammatory remarks at each other. Several political underlings in Beijing were also drawn into the argument, fuelling more anger in the HKSAR. China state media joined in as well by publishing interviews and opinions on the issue (Zheng & Tok, 2004, pp. 7-9). The situation turned for the worse in the following month in early March, when representatives of Hong Kong pro-democrats Martin Lee, James To and Lee Cheuk-yan appeared to testify before the US Senate East Asian and Pacific Affairs subcommittee hearing (*South China Morning Post*, 2004). Beijing's fear for further internationalisation of Hong Kong appeared well-founded for a moment (Ministry of Foreign Affairs of the People's Republic of China, 2004).

Surprisingly, China's top leadership refused to get involved in the debate, and called for calmness instead, as the NPC met in its annual meetings in Beijing in March 2004 (*Ming Pao*, 2004). But the debate raged on. The turnaround came with the Taiwan Presidential elections on 20 March, when Chen Shui-bian was elected to his second term amid controversies. Left to absorb the after-effects of the Taiwan election results, the debate suddenly lost its momentum. Seizing on the opportunity, on 26 March, the NPC Standing Committee announced that its Legislative Affairs Commission would convene in early April to interpret the Basic Law on those articles related to electoral issues and political reforms in the HKSAR. An interpretation was presented to the Standing Committee on 5 April, and was duly passed the following day. While acceding that the Basic Law allows for political reforms in the HKSAR after 1997, the interpretation ruled that assessment of the "actual situation in Hong Kong," and how universal suffrage should be introduced to the HKSAR (supposedly through a "gradual and orderly progress") are entirely the

purview of the NPC (*The Interpretation of the Standing Committee of the National People's Congress of Article 7 of Annex I and Article III of Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, 2004). Then on 26 April, after deliberating on Tung political reform report, the NPC Standing Committee decreed against direct elections for 2007 and changing seat structure of the Legco for 2008 (*Decision of the Standing Committee of the National People's Congress on issues relating to the Methods For Selecting the Chief Executive of the Hong Kong Special Administrative Region in the Year 2007 and For Forming the Legislative Council of The Hong Kong Special Administrative Region in the Year 2008*, 2003).

After orchestrating the replacement of unpopular Tung with then-Chief Secretary of the HKSAR Donald Tsang in March the subsequent year, Beijing then initiated a third interpretation of the Basic Law. This third interpretation was to decide on the term of office for Tsang following Tung's premature departure (*Interpretation of Paragraph 2, Article 53 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress*, 2005). While the previous two interpretations were met with heightened public concern in the territory over Beijing intervening in Hong Kong's "internal" affairs, the last interpretation caused very little public outcry.

Rights of Governance Relinquished but Supremeness Never to be Questioned

There is no hiding from the fact that Beijing has all intentions to remain in control of political developments in the HKSAR, especially when the situation turns critical from Beijing's perspective. Accounts in this chapter's first section has

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showed Beijing's willingness to stick to its "two systems" promise, to the extent of effectively relinquishing its right of governance over the territory, both structurally and in reality; the powers divested to the HKSAR government and Beijing's relative "hands-off" attitude towards the territory's international and domestic spheres are true as promised—so much so that it appears that the territory enjoys more autonomy than one single "sovereignty" can possibly explain. Yet, in the following section, the chapter discussed Beijing's apparent urge to exercise its authority when the situation called for it. Questions pertinent to this dissertation are when Beijing deemed the situations in the HKSAR critical, and how it dealt with them.

The scenarios of Beijing's most blatant acts of "intervening" in the HKSAR, in the form of Basic Law interpretation described above, all send one clear message: that the final say on state matters lies not in hands of the territory, but in Beijing. The first and second interpretations originated from direct challenges to Beijing's position as the supreme authority over all China. On the first—the RoA issue—the real tussle, in political terms, was debating over whether the autonomy of the HKSAR overrides the sovereign wills of Beijing. Questions were asked about how "final" exactly those decisions of the HKSAR's Court of Final Appeal really were, and if those court decisions posed a form of checks and balance in Beijing-HKSAR relations. Beijing came clear, as the first interpretation suggested that while the court's rulings are indeed "final," the NPC reigns supreme on constitutional issues; the court's decisions are final right up till the point (in space and in time) the NPC ruled otherwise as was the case described above. Then the need for the second interpretation arose: so HKSAR's autonomy does not precede Beijing's sovereign will, but what if Beijing has not said anything about its will (as in the absence of specifics about electoral arrangements in the HKSAR after 2007 in the second case)?

Can the HKSAR then exercise its autonomy to decide upon the situation unilaterally? Those were the essences of the second constitutional crisis. Again Beijing drew the line: NO. The third interpretation came about as a pre-emption against a potential constitutional standoff, when Beijing foresaw and forestalled yet another possible challenge to its supremeness on affairs of the state.

It is also important to identify the channel with which Beijing intervene. While the contents of the NPC's interpretations are important in themselves, they are no more important than the *acts* of interpretation. The success of the "two systems" arrangement is pivoted on Beijing's continued distancing from HKSAR affairs, and the Mainland regime has remained very cautious to be seen as doing just that. But the political and social situations in Hong Kong have been far from static. Given Beijing's focused attention on domestic development and issues (Cheng, deLisle & Brown, 2006), as well as the outstanding Taiwan issue, the challenges proffered by HKSAR's volatile conditions have placed the Chinese leadership in a state of constant anxiety. The leadership needs to constantly watch over its shoulders for troubles in its own backyard, at the same time as moving forward with other more urgent matters. While not entirely in the mould of those "insecure leaders" that Susan Shirk (2007, pp. 6-9) describes, self-instilled (and arguably self-fulfilling as well) expectations to hold the nation together and to eradicate China's shames of history weigh heavily upon the shoulders these political elites. Stuck between the wish to maintain "two systems" and the parallel urge to intervene, turning to the application of NPC Basic Law interpretation to satisfy both needs appears to be a simple choice of action. This option is especially handy when Beijing's rights to

exercise such an option are already built-into the Basic Law.[93] Article 158 allows Beijing to circumvent the "two systems" framework and legitimately exert political control without the need to fall back to extreme measures. The mode of "intervention" in the HKSAR took the shape of legal approaches; the ends of these endeavours were to reassert Beijing's *de jure* sovereignty without compromising HKSAR's rights of governance.

III. "One *de jure* Sovereignty, Two Rights of Governances"

While the earlier chapters have provided the overview of the academic and political discourses in Mainland China, this chapter provides an analysis on how those discourses are manifested in the HKSAR in policy terms. To remind the readers, the academic discourse in the Mainland on "sovereignty" versus "rights of governance" appears to differ from what are often discussed outside China. In bid to justify the "one country, two systems" formula, the conceptual segregation of the two, in ideas like "sovereignty, minus rights of governance" or "sovereignty, multiple rights of governances," already discussed in Chapter 3 earlier, clearly displaces different aspects of sovereignty from their confines. "Sovereignty" hence is no longer simply understood as sovereignty *per se*, but in its separate *de jure* and *de facto* components. Furthermore, the *de facto* component in the Chinese conception acquires a dimension beyond a simple structural separation of governments, but one that implies separation of governance as a right in itself.

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[93] Article 158 of the Hong Kong Basic Law stipulates that "[t]he power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress" (*BLHK*, 1997, Art. 158).

Within this view, Beijing is able to flexibly accommodates, and at times voluntarily concedes, different mix of *de facto* rights according to each respective context and issue. Under "one country, two systems," does the HKSAR enjoy a mere separate, autonomous government, or does the arrangement points to one more akin to a right of governance? This chapter suggests the latter case. The unique status of Hong Kong in Mainland China's international and domestic affairs merits such conferment of rights. In the international arena, the HKSAR is practically allowed to roam free to seek its international space, albeit under the banner "Hong Kong, China." With the exception of the United Nations, provisions in the Basic Law allows Hong Kong accesses even to international organisation limited to states, either as member of the Chinese delegation, or under special membership arrangements. [94] Participating in international non-governmental organisations proved to be less controversial. The HKSAR also retains the right to set up economic and trade missions overseas with the mere need to inform the NPC "for the record" (*BLHK*, 1997, Art. 156), and keeps its links with foreign missions to the territory after the handover, even if the foreign states concerned do not have any diplomatic ties with the PRC.

More interestingly, in practical diplomacy, Hong Kong is treated as separate from the PRC; for example, the US consulate in the HKSAR is currently one of the largest in Asia, and despite being lower level than the full embassy in Beijing, enjoys embassy-level privileges and reports direct to Washington rather than its nominal superior in Beijing.[95] Furthermore, Hong Kong's special international status was

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[94] HKSAR is, to date, represented as a member of the Chinese delegation under "Hong Kong, China" in some 24 IGOs, including some UN-affiliated agencies like WHO and United Nations Commission on Narcotics Drugs (UNCND), etc (Constitutional and Mainland Affairs Bureau, 2005).

[95] This is based on an interview conducted by this author with an attaché, who wishes to remain anonymous, with the US consulate in the HKSAR in November 2008.

never argued or debated in the public sphere, be it in Beijing or in the SAR itself. The non-issue of the HKSAR's international space is precisely the point of note here. Domestically, Hong Kong also maintains separate social, legal and political orders from those in the Mainland. This chapter has discussed three relevant examples to make its case. The different orders give rise to different "rights" and "equalities" of the Chinese citizenship that approximate affirmative action that was being practiced elsewhere—only that this is a form of positive discrimination based not on the promise for higher equity, but for continuing segregation between those possessing SAR residency and those who do not. By extrapolation, governance *of* the HKSAR, supposedly *by* people of the HKSAR, hence becomes more a right than a mere physical separation of governing bodies.

However, this view of "sovereignty" cannot be taken for granted, since it lasts only as long as the idea that a single sovereignty resides in Beijing is not fundamentally challenged. Under the "one country, two systems" arrangement, the only means of practical "intervention" left for Beijing is legal (constitutional), in the form of Basic Law interpretation by the NPC. Beijing has shown reluctance to intervene in the HKSAR after 1997, but on occasions when its *de jure* sovereignty were questioned, it moved swiftly and decisively to quell any doubts of its supreme authority; all three occasions of interpretations were carried out during trying times when Beijing faced challenges to its supreme authority over the HKSAR. Beijing's choice to use legal approaches to resolve its tensions with the HKSAR also suggest that Beijing's objectives were modest: it wished mainly to reassert the claims of Chinese *de jure* sovereignty. The HKSAR's right of governance was not compromised in the process. That right is retained in the territory, and should

universal suffrage eventually be actualised in Hong Kong, in the hands of Hong Kongers themselves.

MANAGING TAIWAN'S INTERNATIONAL SPACE: COMPARING TAIWAN'S EXPERIENCES IN WTO AND WHA[96]

> *There is only one China in the world; the People's Republic of China is the sole legitimate government representing the whole of China; Taiwan is an inseparable part of China.*

> Taiwan Affairs Office, on "One China" Principle (2006, p. 192)

The previous chapter provided an account of China's management of affairs in the HKSAR. Beyond what was detailed in its policy papers and official documents, Beijing, since the historic handover in 1997, has displayed extreme caution at distancing itself from directly involving in HKSAR "internal" issues. The chapter went on to show that Beijing has chosen to intervene only when its *de jure* sovereignty came under serious challenged. Even so, its favoured approach was to turn to legal interpretations, rather than direct political or administrative intervention. The sense of "aloofness" is striking, and is enlightening in terms of understanding its view of sovereignty. Consistent with the theme of this dissertation, in Chinese sovereignty, the *de facto* component (right of governance) is detached from the concept; in the eyes of Beijing, it is more important to maintain the façade of a single *de jure* sovereignty under "China" than actual control over the territory concerned.

This view is extended to this chapter, which examines Beijing's management of yet another sovereignty question China faces: Taiwan. As already mentioned in

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[96] Different rules of membership/participation are applied to World Health Organization (WHO) and World Health Assembly (WHA), even though the two entities are constitutionally and structurally related to each other. Their differences are further discussed in section II of this chapter. Taiwan's bid to participate as observer fell squarely into the jurisdiction of WHA, not WHO as commonly misconstrued.

the previous chapter (Fig. 5.1), when we apply the analytical matrix of the domestic and international spaces vis-à-vis Mainland China, Taiwan shows characteristics which are directly the reverse of Hong Kong. As its sovereignty is no longer in question, the HKSAR's international space is not restricted by Beijing. At the same time Hong Kong enjoys the freedom to tackle its domestic issues under the watchful eyes of Beijing. In comparison, Taiwan's domestic sphere stays outside the control of Beijing. Its international space, while openly denied by the PRC and pursued autonomously by the ROC, is in reality a result of active bargaining and negotiation between the Beijing and Taipei. This chapter seeks to show that Beijing's "rigid" position on sovereignty issues, in particular in this chapter regarding Taiwan's sovereignty and international status, resonates primarily with matters concerning *de jure* sovereignty. Meanwhile Mainland China has been flexible when dealing with *de facto* sovereignty. It is the sovereignty as a *de jure* principle that really matters; "right of governance" is of lesser concern to Beijing.

This is underlined by three realities related to Taiwan. First is Taiwan's relative autonomy in its own affairs. Despite forceful rhetoric, Beijing in real terms lacks the means to *directly* intervene in Taiwan's domestic sphere—unless, of course, one considers the instruments of war or making statements about Taiwan issue to influence public and international opinions. This is further enhanced by the second reality: Taiwan's vibrant domestic political sphere. Like Hong Kong, Taiwan's domestic politics have developed on a different trajectory from that in the Mainland. Since the Kuomingtang (KMT, the Nationalist Party) retreated to the island in 1949, political and social contours have been drawn around entirely different dynamics. Rapid liberalisation in the 1990s has since heightened these differences between Taiwan and the Mainland. While Hong Kong's political status has never been

seriously questioned, Taiwan's remains a focal point of contention between the two separate regimes in Beijing and Taipei. For this reason, politics in Taiwan and in the PRC often developed on paths which are defined *relative* to each other. This certainly is more so for Taiwan than for Mainland China. For example, the rise of Green-Blue politics [97] in Taiwan would be difficult to comprehend outside the context of Mainland-Taiwan politics. The third reality involves the internationalisation of the so-called Taiwan issue. Quite obviously the international community-at-large enjoy considerable economic, social and political (so long as not diplomatic) interactions with Taiwan, irrespective of Beijing's displeasure. These relations naturally translate themselves into considerable international interests in the future of cross-Strait relations. This dissertation does not seek to judge on the international status of Taiwan, but recognising the international dimensions of Taiwan issue is critical. The Taiwan issue carries externalities which Beijing simply cannot ignore.

This chapter compares Taiwan's different experiences when joining two international organisations, the World Trade Organisation (WTO, formerly General Agreement on Tariffs and Trade, GATT) and the World Health Assembly (WHA). It consists of three sections. Section I provides an overview of Taiwan's international space, with special attention paid to the different phases of ROC's diplomatic history

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[97] The "Green" and "Blue" camps in Taiwan politics are convenient labels to mark out the political contours in the ROC, and they are more indicative than clear-cut boundaries determining each political stance. The most notable difference between the two camps rises out of their identity, that is, whether they or their ancestors were residing in Taiwan before the KMT took over from the Japanese in 1945, or whether they retreated together with the KMT to the island in 1949. These identities thus spin off different sets of political agenda. In general, the DPP is the key representative party of the "Green" camp, which agenda pays more attention to local interests. With regards to China, their agenda thus stretches from pro-independence (at the extreme) to status quo (moderate). Meanwhile, because of their origins, the "Blue" camp is largely made up of KMT affiliations, and towards China they tend to stand at the sides of pro-unification (the other extreme) to status quo (moderate)—in general more reconciliatory towards Beijing. For more background on the formation of party politics in Taiwan, see the works of Dafydd Fell (2005, p. ch. 2) and Ching-hsin Yu (2005), among others.

and their significance. The section then discusses Taiwan's participation in WTO and WHA over time. It engages a more descriptive approach to lay out important issues behind Taiwan's participating in each respective organisation. Chronologies of Taiwan's involvements in GATT/WTO and WHO/WHA are available in Appendix II.

The second section examines each case in closer details. The section challenges conventional interpretations of Beijing's rigid approach to its sovereignty by raising two questions, one related to each organisation:

1.   Why has Beijing insisted that Taiwan can only be admitted into the WTO after China, but nonetheless agreed to let the HKSAR participate as a *separate* entity in the WTO and its predecessor GATT way before the handover, through a Sino-British agreement in 1986 (Gill, 1995, p. 139)?

2.   Why has Beijing refused to allow Taiwan to join the World Health Assembly, the highest decision-making body of the World Health Organization (WHO) as an observer (that is, until 2009) when international nongovernmental bodies like International Committee of the Red Cross are allowed to sit in alongside state observers like the Vatican City and the Sovereign Military Order of Malta in the meetings?

This chapter argues that Beijing holding an "absolute" or "Victorian" value-like (Ash, 2009; Segal, 1994, p. 34) view of its sovereignty is inadequate at answering these questions. It is necessary to consider Beijing's management of Taiwan issue as one stemming out of political concerns than of sovereignty. By analysing Beijing's actions in each case, and reviewing its official position towards Taiwan's

international space, this section provides important evidences to Beijing's flexibility in sovereignty issues.

The third section offers more assessments of the contents of this "flexibility" that Beijing adopts vis-a-vis Taiwan's international space, and explores its different facets. As has already been discussed in various degrees in Chapters 4 and 5, Beijing's management of Taiwan's international space can be better understood as a way of "righting the name" of its sovereign claims. Politically, as Beijing demands explicit *de jure* recognition of its supreme authority, "sovereignty" operationally becomes less rigid. Calling "One China" a *principle* is a gross overstatement; what Beijing seeks, at the end of the day, is a "One China" *assurance*, and perhaps little more than that.

I. Taiwan's International Space: an Overview

From the founding of the Republic in 1911 until the early 1970s, the ROC was the main representation of Chinese interests in the international arena. This was a period of foreign relations honeymoon for the KMT government in Taiwan. Even after the ROC government, under the leadership of Chiang Kai-shek, retreated to Taiwan, only a handful of countries abandoned the ROC to recognise the Mainland regime. Beijing's lack of diplomatic presence was further frustrated by the US, which continued to back the KMT government in international politics. Besides, China's involvement in the Korean War (1950-1954), initiation of two Taiwan Straits Crises in 1954 and 1958, and aggressive ideological warfare against the West had won Beijing few international supporters outside the Eastern bloc (Tsou & Halperin, 1965). As relations between China and the Soviet Union deteriorated in the

late 1950s and throughout the 1960s, China's pariah status grew, even within the Communist camp. Beijing's scepticism towards international regimes had isolated it even further.[98]

The year 1971 was a watershed for Taiwan's participation in international politics. Taipei pre-emptive withdrawal from its seat in the UN initiated a turnaround in its diplomatic fortunes. Not only did Beijing succeed the seat Taipei had vacated in the UN General Assembly and the Security Council, in the following decade, Taiwan lost its representation in all UN-affiliated organisations and major international non-governmental organisations (IGOs), including the World Bank and International Monetary Fund (IMF). Taiwan's diplomatic plight was so dire that by the end of the decade, Taiwan was member of only 8 IGOs and observer in none. In the meantime, Taiwan also lost the support of its most powerful ally, the US. Thanks to Cold War realignment, then-US President Nixon visited China in 1972 to signal warming ties between the two powers, which until then belonged to different ideological camps. During the trip, Nixon met Mao to work out a revised US position towards "China." Within what is to be known as the "Shanghai Communiqué," the US declared that from thereon, it "acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China" (Office of the Historian, n.d.). That statement served to placate the Chinese leadership and put aside the thorny Taiwan issue in Beijing-Washington

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[98] This is evidenced by the PRC's extreme lack of interest in (and high distrust against) multilateral treaty arrangements, the basic building block of international regimes. According to Gerald Chan (2006, pp. 46-47, 70-73), prior to 1971, Beijing acceded only to six treaties and four "Geneva Conventions relating to certain humanitarian conducts during military conflicts. As late as 1966, Beijing was member to only 59 international organisations, including one intergovernmental organisation (IGO) and 58 international nongovernmental organisations (INGOs). This number increased significantly only after 1971.

relations. The visit then culminated in the establishment of formal relations between Washington and Beijing in January 1979.

The US move set off a "chain-reaction" in the international community, as nation-states scuttled to switch their diplomatic recognition from the ROC to the PRC (Hickey, 2007, p. 11). Japan was amongst the first to react, as then-Japan Prime Minister Tanaka Kakuei visited Beijing in September 1972, seven months after Nixon's historic visit. With the signing of the *Joint Communiqué of the Government of Japan and the Government of the People's Republic of China* (1972), Japan signalled abandoning Taipei in favour of Beijing in its diplomatic relationship with "China." Beijing's reconciliation with its former enemy nation of the World War II inspired other nation-states to follow suit. Throughout the 1970s, diplomatic recognition of the ROC regime dropped drastically, from 67 to a meagre 22. This had happened despite an increase of 27 new members in the UN during the same period (Kim, 1994, p. 151). Taiwan's decline in international presence persisted till the late 1980s.

Up till then, the KMT government in Taiwan held on to a dogmatic approach to its foreign policy. The ROC practiced its own version of "One China" policy, which worked in a similar vein as the namesake practiced by the PRC today. Taipei would end diplomatic relations with any nation-state which officially recognised Beijing, and withdraw from any IGO which admitted Beijing into its fold. Chiang's death in 1975 signalled the end of an era of an unbending one-China policy in Taiwan, and had offered more room for Taiwan's foreign policy and decision-makers to manoeuvre. But doggedness to the anti-communist mantra continued to plague Taiwan's international activities in the subsequent years under the leadership

of Chiang Ching-kuo, Chiang Kai-shek's successor and son (Hickey, 2007, pp. 12-13).

This phase of decline was arrested following the death of Chiang Junior in 1988. After taking up the helm, then-President Lee Teng-hui embarked on a new foreign policy approach. Under the new approach of "pragmatic diplomacy," Taiwan abandoned its rigid "One China" principle. In the view of Murray Rubinstein (1999, p. 462),

> At the heart of this foreign policy [pragmatic diplomacy] was the realization of a simple truth that money "talked." Thus, an important aspect of the informal foreign policy that Lee and his foreign minister developed involved investment, membership in UN-related nongovernmental organizations (NGOs) and regional economic and trade groups, all areas where Taiwan's large capital reserve could be put to good use. The ROC was able to maneuver around the traps and barriers that the regime on the mainland continued to set for them in its ongoing attempt to continue Taiwan's isolation (also see Yahuda, 1996b; Chien, 1995; Government Information Office, 1996).

Even though the instrument of this new approach was economics, the most profound changes actually took place in Taiwan's diplomatic mindset. The new strategy called for the abandonment of Taiwan's erstwhile "singlar recognition" policy to focus on developing "substantive" relations (or quasi-official) with various nation-states and international organisations (Hickey, 2007, p. 13). The policy saw an expansion in Taiwan's participation in international activities throughout the 1990s, and into the new millennia. Moreover, the policy has gained considerable grounds for the ROC,

both in terms of its involvement in IGOs as well as in international non-governmental organisations (INGOs).

Table 6.1 Republic of China's Participation in IGOs and INGOs, 1980-2008

Years	IGO		INGO
	Full Member	Observer/Associate Member	Membership
1980[*]	8	-	-
1991[*]	10	3	752
1995[*]	16	6	811
2000[#]	16	10	983
2004[#]	26	16	1075[^]
2008[#]	27	21	-

Sources: [*] Figures acquired from website of ROC Ministry of Foreign Affairs (2009) and *Republic of China Yearbook* (Government Information Office, Republic of China, 1991, 1995).
[#] Figures acquired from The Foreign Relations Yearbooks (Ministry of Foreign Affairs, Republic of China, 2000, 2004, 2008).
[^] Figure on Taiwan's participation in INGO was last available for the year 2003.

Table 6.1 shows that at the early stage of "pragmatic diplomacy" in 1991, the ROC enjoyed full-membership in 10 IGOs; this figure jumped to 27 by 2008. Taipei became observer or associate member in 21 other IGOs by the same year, up from a miserly 3 in 1991. Even considering that Taipei's participation in IGOs had begun from relatively low-base figures, the returns of the new policy approach have been remarkable. These achievements were made in spite of cross-Strait tensions throughout the whole period. From the Taiwan Strait Missile Crisis in 1995-6, to Lee Teng-hui's visit to Cornell in 1998 and "Special State-to-State" rhetoric in 1999, then to the presidential term of Democratic People's Party's (DPP) Chen Shui-bian's in 2000-2008, turbulent cross-Strait relations had not dampened the rapid expansion

of Taiwan's international space. At the same time, Taiwan's membership in INGOs increased by 43%, from 752 in 1991, to 1075 by the end of 2003.

Taiwan Joining the WTO: Queuing Respectfully behind the Mainland China

"Start-stop" best describes the ROC's relationship with GATT/WTO. The ROC was an original contracting party when GATT came into force in 1948. In 1949, the KMT government retreated to Taiwan, and in 1950, Taipei withdrew the ROC from the trade regime. Taipei then rejoined GATT as an observer in 1965, though that again was a short-lived affair. The ROC's observer status was later withdrawn following its departure from the UN. In 1990, under the new "pragmatic diplomacy" approach, the ROC submitted to join GATT under the name "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu." The application was initially withheld by GATT council, ostensibly due to China's pressure. As a letter from Beijing to GATT proclaimed, Taiwan had "no right to apply on their own for accession to the GATT," and the act was equivalent to "posing as the government of a sovereign state" and was thus "utterly illegal" (Reuters, 1990). But what was considered "utterly illegal" in 1990 became one of silent consent within a short span of two years. Growing international support for ROC's entry into the GATT system, as well as the success "model" offered in Taiwan's participation in Asia-Pacific Economic Cooperation (APEC) in November 1991 generated new impetus for Taiwan's bid; warming Beijing-Taipei ties in the lead-up to 1993 Wang-Koo Meeting[99] provided a cordial atmosphere across the Strait. In January 1992, Taipei submitted a "Revised Memorandum of Foreign Trade Regime" to inject new momentum to its bid, while Beijing's position towards the bid changed to one of

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[99] See Chapter 4: III. Shifting the Goalposts of Sovereignty through "One China."

which Beijing has "no objection" (Reuters, 1992). The memorandum was subsequently accepted by GATT Council in September 1992, with the assurance that Taiwan's bid would be treated "on the same lines as Hong Kong and Macao, but it won't have any implication on issues of sovereignty" (*Agence France-Presse*, 1992). The Working Party for Taiwan's accession was formed, and negotiations with other GATT contracting parties began in earnest by mid-1993.

However, Taiwan's entry to GATT was repeatedly frustrated by China's parallel and problematic GATT application. The PRC first submitted its application to become a contracting party to GATT as early as 1982. Beijing was granted special observer status in 1986 to allow it to attend GATT representative council meetings, and the Working Group to handle China's application was formed in 1987. But the PRC's application stalled repeatedly as the country's economic reform and transition brought complications to the whole application process. The events in Tiananmen in 1989 added a further political dimension to the whole affair. China drew back from its open door policy, at the same time as the outside world isolated Beijing. That short hiatus lasted into the early 1990s, and China's GATT bid began to take greater urgency after the signing of Marrakesh Agreement Establishing the World Trade Organization (1994). However, that effort was yet again frustrated primarily by the differences between China and the US, and between China and the European Union (EU) in their bilateral negotiations. Besieged by these obstacles, China failed to enter GATT as a contracting party before the Marrakesh Agreement came into force. Hence, even when Taiwan claimed to have completed all preparatory work, its entry to GATT was put on hold while Beijing struggled to sort out bilateral trade talks with other contracting parties (*South China Morning Post*, 1994; Reuters, 1995).

After the opportunity to join the WTO through GATT accession process lapsed in December 1995, the ROC submitted a new application to the WTO—the successor of GATT—under Article 12 "Accession" of the Marrakesh Agreement (1994). It took the ROC 3 years to conclude all bilateral negotiations with relevant WTO members. By July 1998, when Taiwan reached bilateral market access agreement with the EU, the ROC was all set to join the WTO (Reuters, 1998)—except that China stood in its way yet again. Continuing impasse in the talks between Beijing and major powers like the EU and the US blocked all channels for Taiwan to join the WTO, even when all technicalities regarding Taipei's entry were fulfilled (*The Australian*, 1998).

The break came in 1999 when Beijing accelerated its bid to enter the WTO. Bilateral agreement with the US, considered "a major step" for China's WTO bid (Tien & Nathan, 2001, p. 129), was reached in November that year. The PRC gained Permanent Normal Trading Relations (PNTR) status from the US, with President Clinton signing the bill in October 2000 (Pregelj, 2001, pp. 12-14). The Working Party on the Accession of China held its final meeting on 17 September 2001 (World Trade Organization, 2001a). In a symbolical manner to showcase "respect" to Beijing, the Working Party for the Accession of "Chinese Taipei" (Taiwan) held its final meeting a day later, on 18 September (World Trade Organization, 2001b). China signed the WTO accession agreement in November. In an equally orchestrated move, "China's signing ceremony… immediately followed ministers' formal approval of the membership of Chinese Taipei," according to a press release by WTO (2001). The PRC became the 143rd member of the trade body on 11 December 2001. Taiwan's rectification was wired to the WTO Secretariat on 2 December 2001, and finally, the marathon process of admitting "the Separate

Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" into the WTO as its 144th member finally became a reality on 1 January 2002.

Setbacks and Surprise in Taiwan's WHO/WHA Application

Taiwan's success with its WTO application, however, was not repeated in its bid to join the WHA as observer. Like in the case of GATT/WTO, the ROC was a founding member of WHO in 1948, when the organisation was formed as a specialised agency of the UN. Following Taiwan's withdrawal of its UN seat in October 1971, the PRC replaced Taiwan as the sole and official representation of "China" in the WHO, which constitution stated that membership "shall be open to all States" (*Constitution of the World Health Organization*, 1946).

In April 1997, as part of the "pragmatic diplomacy" initiative, the ROC submitted its application to join the WHA as an observer under the name "Republic of China" (*Agence France-Presse*, 1997a). The bid was rejected by the General Committee of the WHA on 5 May (*Agence France-Presse*, 1997b). From thereon, the ROC has made 11 further attempts to join the organisation, one application for each year until 2009. All attempts were strongly opposed by Beijing and were foiled even before the applications were presented to the WHA for deliberation.

Some events during this period are worth mentioning here. Taipei's bids were injected with new moral and political elements as time progressed. In 1999 after the Jiji earthquake Nantou county, Taiwan, then in 2002-3 during the Severe Acute Respiratory Syndrome (SARS) epidemic, international relief actions to the island were serious hampered by political bickering across the Strait over the correct process of administering relief measures and supplies. The high human costs and slow recovery process as results of these delays made China's stubbornness

increasingly untenable on moral grounds. Taiwan's bid then took an even further twist in 2002 when Taipei decided to applying to the WHA as a "health entity," in an attempt to replicate its success in its WTO bid as a "customs territory" (*Agence France-Presse*, 2002). This attempt failed, again owing to Beijing's pressure (Associated Press, 2002). Undeterred, Taipei persisted, and in 2007, further tested the patience of Beijing by changing its submission name to "Taiwan," and applied for full membership in the WHO as a sovereignty entity. The move was, of course, rejected outright (Xinhua News Agency, 2007).

See-sawing between Beijing and Taipei over Taiwan's WHA bid lasted throughout pan-Green Chen's presidential terms, between 2000 and 2008. Only after Chen stood down as President, and pan-Blue Ma Ying-jeou took over the helm in May 2008, did Cross-Strait ties began to warm. Then the real surprise came in early 2009. On 24 March, the ROC's Ministry of Foreign Affairs was reported still preparing for a thirteenth bid (*The China Post*, 2009). In the following month, on 26 April, the Ministry issued a position paper to canvass for international support on Taiwan's WHA bid (BBC, 2009b). The eventual bid, however, did not materialised, as just three days after the issue of the position paper, on 29 April, news broke that WHO Secretary-General Margaret Chan has extended an invitation to Taipei to attend the 62nd WHA as observer (*United Evening News*, 2009). This time round, the silence in Beijing was deafening. Taiwan's health minister Yeh Chin-chuan travelled to Geneva, and on 19 May, sat in the WHA summit as observer in the name "Chinese Taipei," alongside PRC representative Chen Zhu. This was the first time in history that the PRC and the ROC took part together in an event organised by an UN-affiliated agency (*Central News Agency*, 2009).

II. Taiwan's International Space: More than a "Sovereignty" Issue

The above accounts go to show that Beijing has maintained a degree of flexibility when managing Taiwan's international space. More than that, they raise some interesting questions about this "space." Herein two questions are highly relevant to this dissertation:

1.   Why has Beijing insisted that Taiwan can only be admitted into the WTO after China, but nonetheless agreed to let the HKSAR participate as a *separate* entity before the handover?

2.   Why has Beijing steadfastly refused to allow Taiwan to join the WHA as observer but changed its mind in 2009?

Answers to these questions have the potential to create better understanding on how the Chinese view of sovereignty really works. This section tackles these questions in three subsections: by examining the difference between Taiwan and Hong Kong issues, the political undercurrents in Taiwan politics and its effect on cross-strait relations, and revisiting the issue of "right name" from Beijing's perspective.

Fundamental Differences between Taiwan and Hong Kong as China's Sovereignty Issues

As China's sovereignty issues, Taiwan and Hong Kong share some common traits. Until Hong Kong's return to the Mainland in 1997, Beijing had practically no control over the affairs of both entities; and indeed, as the previous chapter (5) has argued, Beijing is wary even about being perceived as actively involving in the daily running of the HKSAR after the handover. Also, the CCP leadership since Deng Xiaoping has consistently and painfully tried to link Hong Kong and Taiwan issues

together into one single "sovereignty" issue, and suggested solving both through the same solution "one country, two systems." Their separations from the Mainland had been more than just physical; both territories have developed separate political, social and economic life from "Communist" China. Both enjoy international stature, and carry with them certain international externalities unlike other provinces of Mainland China.

Yet on closer scrutiny, Hong Kong and Taiwan issues have developed on two very different planes with vastly different dynamics. Most importantly, the "sovereignty statuses" of the two cases are different. Hong Kong was a product of colonisation and the "century of humiliation" which went all the way back to the Opium Wars between the Qing Court and the British Empire. While the Hong Kong island and Kowloon Peninsula south of Boundary Road today were ceded "in perpetuity" to the British Empire in the Treaty of Nanjing (1842) and Treaty of Peking (1860) respectively, the rest of the territories adding up to what is known as the HKSAR today were technically leased. The lease was due to expire on 30 June 1997 (*The Treaty of Nanking*, 1842; Wang & Zhang, n.d., pp. 4-7 [vol. 8]). As Beijing refused to recognise the legality of the Treaty of Nanjing, the standpoint was that the whole of Hong Kong should be returned to China in 1997. This demand was conveyed to then-British Prime Minister Margaret Thatcher during her visit to China in 1982 (Thatcher, 1993, pp. 259-261). Beijing's refusal to budge from that position had placed initial negotiations between Beijing and London on the balance. Nonetheless, the two sides eventually came to an agreement. The Sino-British Joint Declaration in 1984 sealed the deal: the sovereignty of the whole of the colony would revert to China on 1 July 1997. From thereon, Hong Kong ceased to be a "sovereignty issue," as far as Beijing was concerned.

However, were Hong Kong be seen as drawing closer to China's sovereignty over time, Taiwan, on the contrary, has been slowly drifting away. After the initial euphoria over the success of Wang-Koo Meetings in 1993, cross-Strait relations took a turn for the worse from the mid-1990s. And despite political callings, the sovereignty status of Taiwan exists only at the level of rhetoric and academic discussions. The question was never officially resolved by both sides of the Strait, and international legal interpretations and opinions remain varied (Cooper, 2003; Henckaerts, 1996; Yahuda, 1996b, pp. 1324-1333).

For the case of Taiwan, Beijing is alert to the prospects of totally losing control of a drift-away "renegade," thus explaining its cautious and rigid stance. Until the matter is resolved, Beijing does not wish to contribute to Taiwan's pro-independence cause by allowing it the international space it seeks. Meanwhile, Hong Kong as a "resolved" issue held no such risks. This certainly is *one* explanation as to why Beijing is more amicable to Hong Kong joining the GATT as early as 1986, and as a separate entity.

Nevertheless, this explanation still has its weaknesses. For one, it cannot account for Beijing's insistence that the PRC *must* be admitted into the WTO before the ROC. Also, if Taiwan was indeed not eligible to join the WHA as observer, to the extent that Beijing signed a memorandum of understanding with WHO to limit Taiwan's participation in the organisation as late as 2005 (*Taipei Times*, 2009b), something fundamental must have occurred for Beijing to change its heart a mere 4 years later. Furthermore, does this explanation not mean that Beijing indeed practices a shifting standard of sovereignty contrary? Apparently what seems like a

sovereignty issue in the case of Taiwan does not quite equate to another in the case of Hong Kong!

Other explanations are equally problematic. As was already raised in the introduction of this dissertation, academics like Allen Carlson (2005) and Wenhua Shan (2008) suggest disaggregating sovereignty into different policy components: the former into territorial sovereignty, jurisdictional sovereignty, sovereign authority and economic sovereignty, and the latter, into "concrete" and "abstract" sovereignty, such that in the economic realm and "concrete" sovereignty issues, Beijing is more willing to negotiate, and perhaps even give in when necessary. But these theories cannot explain Beijing's earlier intransigence and subsequent change of heart about Taiwan joining GATT/WTO. Would the readers then not expect Beijing to be more amicable to Taiwan joining the GATT/WTO in the first place since it constituted an "economic" and thus "concrete" sovereignty issue? Also, if WHA is indeed a "concrete" sovereignty issue, as Shan would probably have argued, why has Beijing been so resistant to the idea of Taiwan joining as observer? Did Taiwan's WHA bid belong to the realm of China's territorial sovereignty, jurisdictional sovereignty, sovereign authority or economic sovereignty, or really, none of these? The list of questions go on.

The bottom line is that these explanations based on conventional (Western) understandings of "sovereignty" are missing the point altogether. Further exploration of Beijing's puzzling behaviour is required. To this end, considering the politics related to Taiwan's international space, and reviewing Beijing's attitude helps to throw light to the puzzle.

Political Undercurrents regarding Taiwan's International Space

It is an interesting exercise to compare the contents of the two PRC White Papers on the Taiwan issue. This chapter focuses on the statements on one specific issue: Taiwan and IGOs. The first White Paper, published in 1993 and titled *The Taiwan Question and Reunification of China* (Taiwan Affairs Office & Information Office of the State Council, 1993), stated that:

> In principle, Taiwan is also ineligible for membership in other categories of inter-governmental organizations. As to regional economic organizations such as the Asian Development Bank (ADB) and the Asia-Pacific Economic Cooperation (APEC), Taiwan's participation is *subject to the terms of agreement or understanding reached between the Chinese Government and the parties concerned* which explicitly prescribe that the People's Republic of China is a full member as a sovereign state whereas Taiwan may participate in the activities of those organizations only as a region of China under the designation of Taipei, China (in ADB) or Chinese Taipei (in APEC). *This is only an ad hoc arrangement and cannot constitute a "model" applicable to other inter-governmental organizations or international gatherings* [emphasis added].

The second White Paper, published in 2000 and titled *The One China Issue and the Taiwan Issue* (Taiwan Affairs Office & Information Office of the State Council, 2000), declared:

> On the basis of the principle of one China, the Chinese government has made arrangements for Taiwan's participation in some inter-

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governmental international organizations which accept region [*sic*] membership *in an agreeable and acceptable way according to the nature, regulations and actual conditions of these international organizations*... In September 1992, the chairman of the council of the predecessor of the World Trade Organization (WTO), the General Agreement on Tariffs and Trade (GATT), stated that Taiwan may participate in this organization as "a separate Taiwan-Penghu-Jinmen-Mazu tariff zone" (abbreviated as Chinese Taipei) after the PRC's entry to GATT. The WTO should persist in the principle defined in the afore-said statement when examining the acceptance of Taiwan's entry to the organization. *This is only an ad hoc arrangement and cannot constitute a model applicable to other inter-governmental international organizations or international gatherings* [emphasis added].

At face-value, the 1993 White Paper displayed a strong inclination by Beijing to engage "parties concerned"—presumably including Taipei—about Taiwan's international space. Putting this White Paper in the context of warming Beijing-Taipei ties in the early 1990s, this was not at all a surprise. On the other hand, the 2000 White Paper shifted Beijing's position slightly to one highly reliant on "the nature, regulations and actual conditions of these international organizations." Considering that the second White Paper was published on the eve of Chen's inauguration ceremony, Beijing's supposed apprehension about its original position was equally understandable.

Beneath that subtle shift, however, there is a striking similarity between the two passages: the room available for negotiation. While Beijing appeared to be putting more constraints on Taiwan's international space in the time between the first White Paper and the second, both contain a similar "escape" clause: "(t)his is only an ad hoc arrangement and cannot constitute a model applicable to other inter-governmental international organizations or international gatherings." The beauty of that clause is that it can be interpreted either way: any "agreements and understandings reached" through the working of the first White Paper are *as ad hoc as* any practices to turn to "the nature, regulations and actual conditions" of those international organisations concerned, set out in the second. It does not matter if Beijing's stance on Taiwan's international activities, at any one time, is hard-lined or relaxed. Openings were built into Beijing's rhetoric to be cleverly exploited by both sides of the Strait. The door for negotiation and reinterpretation remains open irrespective of the actual situation. So in reality, nothing is really cast in stone, and all decisions related to Taiwan's international space are made on a case-by-case basis. It is as one ROC Foreign Ministry official astutely commented, Taiwan's "participation in international organizations always requires special arrangements" (*Taipei Times*, 2009a).

This phenomenon is further manifested in Beijing's handling of Taiwan's observer bid to the WHA. Right from the very start, in 1997, Beijing argument was that Taiwan, as a non-sovereignty entity and province of China, was not qualified to join the WHA (BBC, 1997).

At this stage it is necessary to clarify some confusion regarding memberships of the world health body. The WHO is a specialised agency under the UN system. It

offers 2 categories of participation: full member and associate member. The first category consists *only* of States which hold parallel membership in the UN; the second is made up of "(t)erritories or groups of territories which are not responsible for the conduct of their international relations" (*Constitution of the World Health Organization*, 1946, Art. 8), ostensibly for the trusteeship countries which do not enjoy sovereignty status. As of 31 May 2009, there were only two associate members in the WHO: Puerto Rico and Tokelau (World Health Organization, 2009, Appendix I).

It is crucial to note that there is *no* provision for observer status in the WHO.

Meanwhile, WHA is set up as the highest decision-making body of the WHO. It meets annually to discuss and decide (by voting) on various issues regarding the WHO, and enjoys a fair margin of operational flexibility and space in determining its procedures and operational setup (*Constitution of the World Health Organization*, 1946, Art. 17). Compared to the WHO, WHA has a more open setting in terms of participation. Full and associate members of the WHO are guaranteed participants in the WHA, but the assembly also enjoys the right:

> ... to invite any organization, international or national, governmental or non-governmental, which has responsibilities related to those of the Organization, to appoint representatives to participate, without right of vote, in its meetings or in those of the committees and conferences convened under its authority, on conditions prescribed by the Health Assembly; but in the case of national organizations, invitations shall be issued only with the consent of the Government

concerned (*Constitution of the World Health Organization*, 1946, Art. 18h).

This form of participation is to be known as "observer" to the WHA process. Until 2009, WHA observers included The Holy See, Malta, Palestinian Liberation Organization, International Committee of the Red Cross, etc.

The big question is, of course, whether the health authorities of Taiwan constitutes a "national organization" and the PRC is regarded as the "Government concerned." Technically even if one were to perform a narrow interpretation of this "observer" clause, Taiwan's attempts are perfectly valid bids to join the WHA. These bids cannot be rejected outright based on Taiwan's non-sovereign status, as the Mainland persistently claimed to be. Of course, Beijing, as the "Government concerned," needs to give its approval for Taipei's bid. Indeed, it turned out that Beijing's objection was the primary, if not the *only*, cause for all Taiwan's failed attempts to participate in the WHA. Yet Beijing continued to hide behind its standard response to Taiwan's WHA entry in all formal settings. In 2003 during the height of SARS, then-PRC Health Minister Wu Yi cannot make this position any clearer. Responding to international appeals to allow Taiwan to join the WHA as observer, she proclaimed [*yanzheng shengming*] that the ROC was "absolutely not allowed" [*juedui bukeyi*] to participate (*Ming Pao*, 2003). Her tone and use of words gave *zero* room for negotiation.

Since its "sovereign state only" argument did not stand, Beijing's "absolutely not allowed" position thus deserves closer examinations. When Taiwan's WHA bids were placed in context, it became obvious that they had been, from the very beginning, highly politicised moves to achieve a decisive "breakout" from Taiwan's

diplomatic isolation. The WHA was specifically targeted by Taipei as the assembly represents the sovereign state system governing the membership of the UN and its specialised agencies (even if it does not in reality, based on the clause mentioned above) (Baum, 1997). The highly politicised nature of Taiwan's WHA bids was further underlined by the fact that despite all the years of bidding, Taiwan had not attempted to participate in the activities organised by the WHO Western Pacific Regional Office (WPRO). According to Article 47 of the WHO Constitution (1946), "… (t)erritories or groups of territories within the region, which are not responsible for the conduct of their international relations and which are not Associate Members, shall have the right to be represented and to participate in regional committees." Hong Kong and Macao are thus eligible to sit in the meetings of WPRO as individual entities with their own nameplate, even before they were returned to China in 1997 and 1999 respectively (Xinhua News Agency, 1989; World Health Organization Regional Office for the Western Pacific, 2010). In accordance to the WHO Constitution, therefore, Beijing has no grounds to forbid Taipei from participating in WPRO activities had a stronger case been made. Beijing's "approval" was not even necessary, like in the WHA mentioned earlier. Taipei's intentions to passing up the opportunity to fight for greater representation in WHO regional setup, and instead choosing to focus on making highly-publicised bids to the WHA, became highly questionable. Uncritical media reports have not helped either, as the workings of WHO and WHA were not differentiated in the news and reports: Taiwan's bid for observer status in the WHA became synonymous to one of joining the WHO.

Furthermore, rapid democratisation in Taiwan in the 1990s had heightened the mutual distrust between Beijing and Taipei. This was manifested not only in

widening ideological differences, but also in the ensuing diversification of Taiwan's domestic politics. Liberalisation of politics in Taiwan has resulted in polarisation of public opinions over important issues like cross-Strait relations. As Taiwan's political scene became more crowded, so has the political agenda, as politicians readily sought firmer grounds to win political support and votes. Furthermore, the rise of local political forces fuelled further demands for clarifying Taiwan's international status in the face of Mainland threat. As time progresses, Taiwan's domestic politics became *the* key variable in cross-Strait relations. When Presidential elections were first introduced in Taiwan in 1996, Lee Teng-hui, running under the banner of pan-Blue KMT, won the first election. But Lee became more controversial in the later years of his presidential term when his pan-Green agenda began to unveil. In particular, Lee set the discourse for Taiwan's politics for the subsequent decade by suggesting a "two state theory," referring to China-Taiwan relationship as that of "special state-to-state relations" (*Lianhe Zaobao*, 1999; see again Chapter 4: III. Shifting the Goalposts of Sovereignty through "One China"). Taiwan's politics took a greater shade of green in the second and third Presidential elections in 2000 and 2004 respectively, both of which were won by Chen Shui-bian of the DPP. Chen soured the cross-Strait relations relations further by declaring in 2002 that "Taiwan and China on the opposite side of the Strait are one country [*guo*] on each side" while making a case for his referendum bill to decide on "Taiwan's future" (*Lianhe Zaobao*, 2002). Then in 2003, after Taiwan's seventh failed attempt to join the WHA, Chen antagonised Beijing further by suggesting that the WHA issue be listed as a potential referendum agenda. The political hue over Taiwan's WHA bid thus became stronger as Chen attempted to mobilise the strong sense of moral injustice within Taiwan to achieve his political goal. A watered-down version of the referendum bill

was eventually passed in November 2003 (Bradsher, 2003), and even though the WHA issue was eventually dropped as an item in Taiwan's first referendum in February 2004, the damage to the cause was already done.

It became unimportant whether Chen was aware of the consequences when he linked Taiwan's WHA bid to his referendum bill, because his move had seriously undermined the chances of Beijing agreeing to Taiwan's participation. The pro-independence agenda of DPP, which Chen was a core member, is unambiguous. The basic platform of the party is to "create an independent nation based on the reality of Taiwan's sovereignty; create a new constitution, such that the corresponding legal and political systems reflect the realities of Taiwan society;" the referendum machinery is the declared means to achieve these goals (*Party Platform of the DPP*, 2007, author's translation). Hence, by using the WHA issue to mobilise support for the referendum bill, Chen was in effect rolling DPP's pro-independence agenda into the ROC's WHA bid. Unless Beijing was willing to risk jeopardising its sovereign claims on Taiwan and undercutting its own legitimacy, the Mainland was unlikely going to agree to Taiwan's inclusion in the WHA process at that stage.

It was only after Chen stepped down as president, in 2008, that Cross-Strait ties began to warm (BBC, 2008a). The succeeding President, Ma Ying-jeou from the pan-Blue KMT camp, has been non-committal towards the issue of Taiwan's independence and unification with China. This opened the door for greater goodwill gestures from Beijing. Within a year of Ma's inauguration, Beijing dismantled its erstwhile "absolutely not allowed" position. Through informal channels, soundings of Taiwan's WHA ambition were made to the highest level of the PRC leadership. With these "correct" gestures, Beijing became more receptive to the idea, and

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communicated willingness to further explore the idea and negotiate (BBC, 2008b).[100] Discussions were held in undisclosed sites in the following months (BBC, 2009a), culminating to the invitation from WHO Secretary-General. After a 12-year wait, Taiwan was finally became an observer at the 62nd WHA Summit in Geneva in May 2009. The absence of Beijing's objection this time was far too conspicuous, even to the most casual observer.

Beijing's Taiwan Policy: All's in the Name

In the conclusion of Chapter 4, this dissertation raised the issue of "righting the name" of China's sovereign claims. To reiterate the essence of this thinking, "when then name is not right, then justification cannot be achieved; when justification cannot be achieved, then the objective cannot be achieved…" (Confucius, 2007, p. 117, author's translation). The name (*mingfen*) under which Taiwan's international activities are conducted is the overriding concern of Beijing.

Samuel S. Kim (1994, pp. 146-166; also Kim, 1992) explains this occurrence in terms of the process of "legitimation"—the act of constant affirmation and reaffirmation of the legitimacy of a political regime. However, there is no one method to attain this feat; all regimes, or "systems of domination," have their own unique way of stamping authority and extracting obedience from the individuals within. As Max Weber (1978, p. 213) argued, "Every such systems attempts to

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[100] The importance about communicating through "correct gestures" between the highest levels of leadership in Cross-Strait relations was also discussed in author's interview with Professor Yongnian Zheng in Singapore, 16 February 2011. According to Zheng, in China's elitist political culture where politics lead the bureaucracy, Taiwan needs to first convince the PRC leadership about its intentions through contacts at the highest level before moving ahead with its international activities. This would ensure the least resistance from the bureaucracy in the Mainland as clear instructions would have been passed from top-down. Failure to do so may result in the Chinese bureaucracy falling back to its policy inertia (that is, "no" to any Taiwanese initiatives) and impasse on the issue concerned. The author would like to thank Professor Zheng for sharing his insights.

establish and to cultivate the belief in its legitimacy... But according to the kind of legitimacy which is claimed, the type of obedience, the kind of administrative staff developed to guarantee it, and the mode of exercising authority, will all differ fundamentally." For the Chinese—which Lucian Pye (1990, p. 58) famously described "a civilization pretending to be a state," or as this dissertation stands, a civilization *learning* to become a state—the persistence of an all-encompassing and universal cosmos differentiates little between what are considered "internal" from the "external." In this system, the maintenance of its domestic orthodoxy naturally extends to the "external" diplomatic realm. The contestation between Beijing and Taipei falls into the traps of this thinking. Kim (1994, p. 148) hence writes,

> Indeed, there was no distinction between "legitimacy" and "orthodoxy" as the Confucian literati used the term *zhengtong* to mean both... In our time the festering problem of national unification has forces [*sic*] the two Chinas into the zero-sum game of competitive legitimation and delegitimation. When Foreign Minister Qian Qichen touts that "foreign policy is the extension of China's domestic policies," he is restating, wittingly or not, the longstanding tradition of acting out China's self-image in international relations... The dynamics of legitimation challenge and response can be accepted as one crucial determinant to explain otherwise inexplicable diplomatic gyrations of both Chinas in the international system.

Beijing's focus is to make sure that political forces in Taiwan do not gain legal or political grounds over the island's sovereign status at the expense of delegitimising Beijing's monopoly over the name "China." In doing so, it allows Beijing to

preserve claims, as much as to retain political and moral high grounds, of its political orthodoxy.

It was under this mode of thinking that Beijing has allowed Hong Kong to join GATT in1986 before transiting into the WTO system as an original member in 1995. This has occurred despite that Beijing had attached a great deal of prestige to becoming an original member of WTO and devoted huge diplomatic resources to that end (Breslin, 2003; Eglin, 1997, pp. 489-495; Feinerman, 1996). When the "name" of Hong Kong was "righted" in the Sino-British Joint Declaration in 1994, the extent of the territory's international space ceased to be urgent question in Beijing. Even though Beijing was neither a contractual party of GATT nor gained the status of original member of WTO, nothing stood in the way of Hong Kong to gain entry in the name of "separate customs territory." Likewise, Hong Kong was allowed its own nameplate in the meetings of WHO regional events without a slightest hint of opposition from Beijing. Of course, through its aloof attitude towards these issues, Beijing has not done itself any disfavour either by offering greater assurances that it would keep its fingers out of the HKSAR after 1997.

In comparison, Taiwan's bid for greater international space has to clear more challenging hurdles. Contestation over the orthodoxy of each political leadership over what is known as "China" had prompted Taipei's rigid "One China" policy in the past; similar concerns has resulted in Beijing's similar "One China" policy today. Under this mindset, even when Beijing offered no strong objection to Taipei's participation in GATT/WTO, the former *had to* join before the latter did. In order to gain participation in the WHA, the only way forward for Taipei was to promote warmer cross-Strait ties, and at the same time downplay its membership bid as a

political ploy with ulterior motives. While accepting "One China" is not necessarily a prerequisite for greater international space, renouncing "One China" is definitely a no-go zone. In Beijing's eyes, the "name" (including the type of membership) under which Taiwan participates in international organisations and events remains its utmost concern. Taiwan's actual participation, on the other hand, is negotiable.[101]

III. Significance of Taiwan's Experiences to Understanding Chinese View of Sovereignty

The analyses so far added to this dissertation's objective: to show that Beijing defies common assumption that it holds on to a rigid or absolute view of sovereignty. By the discussions above, Beijing's management of Taiwan's international space displays the following traits:

1. *Issue of operational/political needs supersede that of sovereignty; sovereignty is not a "hard principle."*

Contrary to common myths, Beijing has not been totally uncompromising on "sovereignty;" at the least, the PRC has exhibited willingness to negotiate the issue based on operational and political needs, on a case-by-case basis. Carlson (2005) and Shan (2008) have gotten this correct in a way: being an "economic sovereignty" and "concrete" sovereignty issue, Beijing had chosen not to come down hard on Taipei's bid to participate in GATT/WTO. Unfortunately the merits of these explanations end

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[101] This was a conclusion reached in an interview in Singapore between the author and Dr Katherine Tseng on 25 February 2011. Dr Tseng was former legal advisor to Chinese Taipei's negotiating team on WTO issues and has provided useful insights to the negotiations—in particular relating to the names under which Taiwan involved in WTO processes since its entry—between Taipei and other relevant parties during her tenure.

here. They are unable to account for why Beijing insisted on joining the organisation before Taipei did, and why Beijing allowed Taipei to participate in the WHA as observer after so many years of "unwavering" determination to prevent such an outcome (Xinhua News Agency, 2005).

From the perspective offered by this dissertation, "sovereignty" has been a mere façade to mask Beijing's quest to establish political orthodoxy. "Sovereignty" would only seem like insurmountable obstacle when this need is not satisfied; Beijing would then come out strong against *any* attempts to expand Taiwan's international space. However, when political conditions are amicable, and should operational needs arise, "sovereignty" becomes less an issue barring Taiwan from seeking greater representation. Even "One China" can be a highly flexible concept, according to the report about a secret cable originated from the US embassy in Beijing published in *The China Post* (2010). The cable, leaked to internet whistleblower Wikileaks, claimed that China's Vice-Foreign Minister He Yafei has made comments to the effect: "Taiwan's participation as an observer at the upcoming May [2009] World Health Assembly (WHA) meetings demonstrated what could be achieved based on "*one China, very broadly interpreted*" [emphases added]. Although Beijing is always keen to impress on its audience that Chinese sovereignty is "not open to discussion" (Deng, 2008, p. 12), the "principle" is in effect subject to constant reinterpretation from the political and operational angles, and which magnitude is ever changing according to current conditions. Ultimately, whatever definition "sovereignty" would take, its main function is to serve the operational and political needs of the PRC leadership.

2.   The "right name" is most important; real gain (including sovereignty) is a lesser issue.

What are these political needs? By the discussion thus far, Taiwan adopting the "right name" in its international activities appears to have a determining effect on Beijing's attitude. In a commentary, Loh I-cheng (2000, pp. 38-39) describes this as the "Battle of Commas." His descriptions insinuate the fierce contestations over the nametag Taiwan should carry in the international arena. Be it "Chinese Taipei," "Taiwan (China)," "China (Taipei)," "China (Taiwan)," "Taipei China," or "the separate customs area of Taiwan, Penghu, Kinmen, and Matsu," for that matter, one thing is clear: any name that suggests even the remotest idea of a divided sovereignty, for example like "Republic of Taiwan," is definitely out of the question. In reality, both Taipei and Beijing (though more Taipei than Beijing) merely need to exercise their creativity in making up new names for the ROC for anything that comes in between. As has already been discussed, this is a slider which Beijing adjusts according to the situation on hand. As Beijing itself is also exploring and understanding the international space it occupies, the actual space between the two extremes of the sliding continuum is as big as—or one can argue from another perspective, as small as—Beijing and Taipei agree it to be.[102]

"Gains" or "losses," from Beijing's perspective, are thus definable more in the outcome of the battles over the title Taiwan carries in international activities, and less in real, absolute or even material terms. It is not really about whether Taiwan should gain entry to any international organisations, but under which nametag

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[102] This is another comment made by Dr Katherine Tseng during our interview.

Taiwan becomes involved—this is the single most important issue related to China's management of Taiwan's international space.

3.   *While "sovereignty" is notionally non-negotiable, "right of governance" is negotiable.*

Similar to the case of Hong Kong, there is an unsaid separation of "sovereignty" from "right of governance" in the Taiwan case. Whenever Taiwan becomes a participant of an international institution, China inevitably faces the very real prospects of having to co-exist with a separate and autonomous entity—in whatever names given—with its own international agenda. A "runaway" Taiwan, in terms of independent decision-making and interest-seeking activities in international organisations, is not at all impossible. But Beijing has so far shown willingness to accept such likelihood. Within this framework of operation, "right of governance" to Taiwan's international activities becomes a consequence of bilateral negotiation between Beijing and Taipei. Hence, non-negotiability of "sovereignty" is confined to name, and name only; operationally, "sovereignty" is indeed negotiable.

4.   *From the perspective of "Chinese sovereignty," Taiwan is situated further away than Hong Kong.*

Combining the discussions in this chapter with the last, a "map" outlining Beijing's relations with the HKSAR and with Taiwan can be perceptively drawn with reference to the framework outlined in Fig. 1.1 in this dissertation's introduction. Beijing's policies towards the HKSAR and towards Taiwan are entirely different, even though both belong to the same confines of "Chinese sovereignty" matters. What essentially unites the two cases is the separation of *de jure* and *de facto* components of sovereignty, where "one *de jure* sovereignty, many rights of

governance" appears to be the accepted structure. And if names are indicative of their status, HKSAR's singular, monotonous banner of "Hong Kong, China" is sharply contrasted against Taiwan's varied (and creative) names in each search for international space. Wittingly or not, and whether the move was made out of practical concerns, Beijing has effectively placed Taiwan *outside* the policy sphere in which the former has placed the HKSAR, inasmuch as "one country, two systems" becomes a total misnomer. There is no singular "one country, two systems" policy, since the "two systems" idea Beijing is selling to Taipei is essentially a different one already practiced in Hong Kong. The "two systems" offered to Taiwan, as discussions about its international space have shown, has involved even greater devolution of Beijing's "right of governance," hence putting the ROC within a further, outer rim of "sovereignty" from the Chinese core.

IV. "One China" as a Baseline for Negotiation

This chapter has examined Beijing's management of Taipei's international space to further the argument that Beijing lacks a consistent interpretation of its "sovereignty," and that this interpretation, more often than not, involves a conceptual, as well as practical, separation *de jure* from *de facto* components of sovereignty. The legacy of an unresolved Civil War, which began with real battles fought over the ground to end up being fought over diplomatic battlefields, added a historical baggage to the whole Taiwan affair. No doubt, Taiwan's international activities have everything to do with the issue of Chinese sovereignty; but they too, if not more so, have everything to do with the struggle for legitimation between rival regimes in Beijing and Taipei.

Beijing's concerns are thus political. They manifested themselves in the ways Beijing has handled Taiwan's GATT/WTO and WHA affairs. In GATT/WTO, Beijing has allowed Hong Kong to participate as a separate customs territory as early as 1986. In contrast, Beijing's shadow was all over Taiwan's application. Between 1990 when Taipei first submitted its application, and 1992 when it submitted "Revised Memorandum of Foreign Trade Regime," Beijing's initial opposition to Taipei's entry prevented all possibilities of progression; after 1992, Beijing dropped its opposition but then mobilised international support to demand joining before Taiwan did. Hence, despite advancements of Taiwan's negotiation with GATT/WTO, the ROC was left queuing in the line, waiting for breakthroughs in Beijing's protracted GATT/WTO negotiations.

The PRC's management of ROC application to WHA has displayed even more perplexing behaviours. For 12 years since Taiwan's first bid in 1997, China's attitude towards the bid was consistently hostile. Beijing's fierce opposition rested upon the line of argument that Taiwan, as a non-sovereign entity, was not entitled to join the WHA as observer. There were serious doubts over the validity of Beijing's argument, as this dissertation has pointed out when reviewing the Constitution of the WHO, but Beijing remained adamant about its opposition as to sign a Memorandum of Understanding with the WHO secretariat to block any future Taiwan bids. However, the winds of change started blowing in 2009, and seemingly out of the blue, Beijing's resistance to the idea of Taipei participating in WHA process suddenly dissipated within the course of a few months. Taiwan became an observer of WHA in the absence of the Mainland's opposition in May 2009.

These behaviours, when placed in context of the crests and troughs of cross-Strait relations, cannot be explained simply by Beijing holding on to "rigid" view of sovereignty. Political considerations, in particular the quest for the "right name" or legitimation, matter. In this mode of thinking, "rigidity," if any, is confined to the domain of "naming rights," that is, Beijing's strong inclination to control over the name of which Taipei operates in the international realm. This is the *de jure* face of sovereignty. Operational-wise, Beijing has displayed far more flexibility than casual observers have given it credit. Taiwan's WHA experience is an excellent showcase of that flexibility. "Sovereignty" was but a veil to oppose Taiwan's WHA bid; when the political conditions were amicable, the whole idea of "One China" was not challenged, and when the name (Taiwan carries in the international fora) is "right," Beijing, as the legitimate reigning regime over "China," was more than willing to show its "magnanimousness" by relenting to Taiwan's "pleas" for greater international space.

The findings of this chapter are important to the dissertation. To begin with, this discussion further dispels the myth that simply, Beijing holds an "absolute" view of its sovereignty. The real story is far more complex than that. It is necessary to differentiate between what Beijing sees as being "absolute" in its sovereignty. Beyond the *de jure* aspects, "sovereignty" operationally is flexible and negotiable—and as this dissertation has repeatedly argued, the "name" being most crucial. And when comparing the cases of the HKSAR (in Chapter 5) and Taiwan (this chapter), Beijing's policy approach approximates one grounded on "graded rings of sovereignty," where the HKSAR occupies the inner ring, and Taiwan the further, outer ring of sovereignty. Within this framework of Chinese-specific view of

"sovereignty," the idea of "One China" and a single sovereignty residing in Beijing, illusionary or otherwise, is preserved.

CONCLUSION: REVISITING THE ASSUMPTION ON CHINA'S BEHAVIOUR TOWARDS SOVEREIGNTY ISSUES

... sovereignty is not a question open to discussion.

Deng Xiaoping (2008, p. 12)

China clearly is "constrained" by a particularly extensive and absolutist version of the sovereignty norm... China's version of sovereignty comes closer than most to the Westphalian ideal.

Alastair Iain Johnston (1998, p. 73)

This dissertation began with discontent over the common (mis)assumption about China's stand on sovereignty affairs: that Beijing holds on to a rigid, "absolute," and somewhat "Victorian" or even "Westphalian" view of the concept of sovereignty (Ash T. G., 2009; Johnston, 2003, pp. 13-14; Segal, 1994, p. 34), such that its policy actions and behaviours are motivated by that view. This assumption, however, does not reconcile with the compromises that China has made on its sovereignty affairs, in particular where the issues are closer to home, in Hong Kong and Taiwan. These observations raise doubts over the validity of this primary assumption about China.

In its move to moderate our assumption about China and its behavior towards sovereignty issues, the introduction of this dissertation asked three sets of research questions: (1) How has China learned about the concept "sovereignty" and how does the new concept relate to Chinese perceptions of the world and its own history? (2) What are the political and academic discourses on "sovereignty" in Mainland China today? Is there a dominant discourse? If so, how is "sovereignty" conceived in the

discourse? And (3) supposing a dominant discourse does exist, how does that discourse reflect upon China's policy towards issues related to sovereignty, as in the cases of Hong Kong and Taiwan? How does Beijing manage those domestic and international spaces of Hong Kong and Taiwan to reflect "sovereignty" as seen through its lens?

These questions were dealt with in the chapters prior to this conclusion. "Sovereignty" is a concept originated from the European-Christendom experiences, and was "imported" into the Chinese thinking in the nineteenth century as a response to the crises faced by the Qing court. But as theories of conceptual change and residual cultures argue, more often than not, paradigms and cultures *evolve*, rather than experiencing wholescale shifts. As new paradigms and cultures emerge, previous paradigms and cultures remain important signposts in the new thinking, rather than being uprooted and supplanted altogether. There are reasons to believe that China's previous view of world order, *tianxia* (all-under-heaven), remains a resonating factor in Chinese thinking today. This dissertation has argued that "sovereignty" can be understood as no more than an ideal type of supreme authority with European origins. When the concept was learned and put to practice as a new organizing principle for Chinese relations with the world, elements of "supremeness" within *tianxia* were inherited and more importantly, reproduced in the new scheme of affairs. The idea of *tianxia* still commands certain attention when the view—or components of it—is evoked.

Discourse vs. Practice

The continuing influence of *tianxia* is evidenced in the manner of which "sovereignty" is discussed in China today. In the dominant discourses about the

concept, this dissertation has identified strong inclinations within the Chinese academic and policy circles to define "sovereignty" in a peculiar way: by "sovereignty," the emphasis is more on its *de jure* aspects; "right of governance," or the *de facto* face of sovereignty, is analytically separated from "sovereignty," and this analytical separation is in practice translated into policies on the ground.

Academic writings on "sovereignty" are increasingly popular in Chinese academia today. In its review of Chinese academic publications, this dissertation came across an incremental growth over the past two decades, of articles, theses and dissertations, as well as books covering the topic. Amongst these writings, several recurring themes can be identified. These include China's sovereignty and territorial disputes, the relationship between sovereignty and the globalization, exploration of sovereignty as a concept itself, the relationship between sovereignty and human rights, and last but not least, "alternative visions" of sovereignty. Despite varying themes, writings on "sovereignty" appear to be unified by a common tendency to link "sovereignty" to "security." While the concept of "sovereignty" certainly carries with it a dimension of "security" from the day it was conceived, sovereignty does not simply equate to security. It is thus curious to see how the Chinese talk about "sovereignty" as synonymous with "security," in particular in the form of adjective + "sovereignty"—as in "economic sovereignty," "media sovereignty," "education sovereignty," "food sovereignty," to name but a few. This approach of "sovereigntising" issues, as this dissertation has suggested in its chapters, was in the same vein as what the Copenhagen School would call the "securitization" of issues (Buzan, Wæver, & de Wilde, 1998; Wæver, 1995, pp. 46-86). Too often, sovereignty is treated as a security issue that China needs to address, and less an organising principle of the present international structure.

This observation goes to show that Chinese discourses on sovereignty are instinctively "defensive" responses. These responses are further underlined by the affiliation towards classical and modernist understandings of sovereignty within the Chinese academic circles. To an outside reader, "sovereignty" as a concept in Chinese academic writings appears to have moved very little since the World Wars. Indeed, at face value, it is easy to conclude that "sovereignty" was a "Victorian" value to the Chinese—if not for a small, but extremely important discourse which exists parallel to the mix of sovereignty discourses in Chinese academia.

Proponents of this discourse included one of China's most prominent academics in Wang Huning, a man who in some ways exemplifies the links between academia and policy-making in China. Wang has successfully made the transition from academic at Fudan University to becoming a key political advisor to Jiang Zemin then Hu Jintao, Director of the CCP's Policy Research Office, and member of the CCP Central Committee and Secretariat (Jakobson & Knox, 2010, pp. 4-7). The main proposition of this group is the conceptual and analytical separation of "right of governance" [*zhiquan*] from "sovereignty" [*zhuquan*]. Their starting position is that "sovereignty" is no more than "an abstract form of highest authority above rights of governance" (Wang & Wang, 1985, p. 14). On this premise, "sovereignty" comes under no threat when sovereigns voluntarily bequeath their "right of governance." For this reason, what is otherwise known as the "pooling of sovereignty" (Keohane & Hoffmann, 1991, pp. 7-8) in the case of European Union, for example, becomes one of "transferring of right of governance" (Li L., 2000) in the arguments of this camp. The "indivisibility" of sovereignty is thus preserved. Although writings related to this particular discourse are few, the political significance of its proponents added up to form a powerful discourse which exerts enormous influence in the

Chinese academia. The assumption of "sovereignty, less right of governance" is found in a large number of writings related the topic of "sovereignty."

The main reason for the dominance of this discourse is that, as a whole, it serves the political ends of the CCP. The CCP's policy on China's sovereignty requires creative inputs from Chinese academia. Wang & Wang's (1985) piece, for instance, was one of the first to provide explanations from the "academic" perspective of Deng's idea of "One Country, Two Systems," first conceived for unification with Taiwan, but later applied as a basic principle for the 1984 Sino-British Joint Declaration. Deng's solution for Taiwan, Hong Kong and Macao posed a conceptual challenge to the Mainland's staunch and unyielding rhetoric towards sovereignty issues, and also, constant emphasis within China of the "indivisibility" of the concept. By tackling the question from the concept of "sovereignty" itself, and providing an alternative (against conventional, Western literatures) interpretation of the concept, Wang & Wang added an academic flavor to the already large pro-government literature supporting Beijing's policy of setting up a "highly autonomous" SAR in Hong Kong. Subsequently, further demands to explain this "sovereignty-governance gap" in other sovereignty issues like Macao and Taiwan provided more followers to this line of argument: *de jure* sovereignty is more important than *de facto* sovereignty in the Chinese state of affairs.

The same view of "sovereignty" is also reflected in Beijing's political discourse, which this dissertation identified by its detailed analyses of key policy documents and speeches by the Chinese leadership. Not only did the idea "sovereignty, less right of governance" feature prominently and frequently in these discourses, a few other observations also raised interesting questions about Chinese

conception of citizenry and borders. As consequences of the principle of "sovereignty"—which rests on clearly defined and enforced borders within which a population resides (James, 1986, pp. 13-14)—"citizenry" and "borders" are integral to our understanding of international politics today. However, this dissertation has pointed out the inconsistencies that Beijing over the course of time has displayed in the management of these issues. For example, if "sovereignty" is indeed such a basic and so highly internalised principle to China as Samuel Kim (1998, p. 21) argues, the lack of explicit reference to this "principle," does not do justice to its importance in the Chinese mentality. This is particular striking in a reading of the different versions of China's State Constitution. There are two ways to explain this: first, the principle is so basic and internalised that mentioning it becomes totally unnecessarily to convey that importance; or second, China holds a complex view of sovereignty that cannot be explained by the constructed Chinese phrase "*zhuquan*" alone—to better understand "sovereignty" in the Chinese context, a more nuanced approach is required. This dissertation has shown that the latter is a more convincing explanation.

The latter explanation accounts for why China defines "citizenry" so differently from its conventional understanding under Westphalian sovereignty. This occurs both in terms of the scope of "citizenry" as well as its contents. In terms of scope, Beijing's declared objective (in its Constitutions) is to protect all "Chinese," including those residing overseas. This objective clearly contravenes the limited (territorial) nature of "sovereignty." At least until the *Law of the Peoples Republic of China on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese* was passed in 1990, "Chinese

nationals" technically included all ethnic Chinese[103] residing in Mainland China and overseas. Content-wise, "citizenry" in China is not a uniform concept. Through different systems of laws in the land, China applies the principles of "citizenry" differently in the Mainland, the HKSAR, and the Macao SAR, such that citizens of "China," depending on where they hold residency, enjoy different "rights," "justices" and "equalities."

As a result, "borders" become a symbolic construct to suggest different zones of "right of governance" but insignificant at defining the limits of the "supreme authority." Contrary to the principles of sovereignty, borders are not delimiting to Beijing's supreme authority. To Beijing, "border" is not a clean line drawn across the land showing where its authority begins or ends; rather it is a perforated marking which allows its authority to seep through, even if that border is enforced by another notionally-separated "authority." Only in this view—that is, the overwhelming emphasis on *de jure* sovereignty—is Beijing allowed, through its Constitutions, to champion for the "lawful rights and interests" of overseas Chinese at the same time as claiming the sanctity of "sovereignty," whether its own or others (*Constitution of the PRC*, 1982, Art. 50). Only in this view is Beijing capable of granting "high degree of autonomy" to its SARs, including but not limiting to, the rights to enforce their borders, issuing of identity cards and currencies, practicing different systems of law, participating in separate capacities in intergovernmental organisations and regimes, etc (*BLHK*, 1997, Art. 2; *BLM*, 1999, Art. 2). Only in this view can the monopoly to the legitimate means of violence be decentralised and segregated, as has been applied successfully in the continuance of separate and autonomous

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[103] Curiously by "Chinese," the PRC obviously included ethnic Han Chinese, but remained ambivalent about whether its jurisdiction was applicable to non-Han Chinese residing outside the Mainland.

policing forces in the HKSAR and Macao SAR, and repeatedly suggested by Beijing to Taipei on the latter's right to maintain its own armed forces in the event of unification.

This form of "supreme authority" is not, strictly speaking, "sovereign" by Westphalian standards. "Territoriality" and its borders—a defining feature of "sovereignty" in its modern form—become largely symbolic: *de facto* control was not the overriding concern in Chinese view of sovereignty, while *de jure* sovereignty is. "Sovereignty" in the Chinese context is less one underpinned by material and (internal) legal control over a territory, but one united through other mediums: moral, cultural and ideational and historicity, to name a few, propped up with external legal recognition. Consistencies (or a skeptic may say *collusions*) in the understanding of "sovereignty" in this manner between and within the discourses of Chinese sovereignty and its practice are evident in the various chapters of this dissertation.

Principle vs. Pragmatism

There is another façade of sovereignty in the Chinese context. Sovereignty is by far a more flexible concept than when the Chinese spoke about it as a "principle." In effect, it is pragmatism, not principle, which drives Beijing's policy towards the HKSAR (and Macao SAR) and Taiwan.

The political model of "one country, two systems" is a counter against the image of Beijing's rigid interpretation of the sovereignty principle. Although designed specifically for Taiwan's eventual unification with the Mainland, the model first saw implementation in the HKSAR and Macao SAR when the territories were returned to Beijing in 1997 and 1999 respective. In any case, when comparing the "two systems" arrangements already in place in the returned territories and the

proposed "two systems" arrangement being touted to Taiwan, this dissertation has discovered that "one *de jure* sovereignty, multiple rights of governance" is a better description of Beijing's solution to its sovereignty issues. In this view, Beijing reigns supreme over those territories and provides *the* point of reference to gravitate China's *de jure* sovereignty. When this *de jure* sovereignty is secured, Beijing is more than willing to take a hands-off approach and forego its direct "right of governance"—interpreted from the widest angle—with authority instead devolved to the appropriate "local authorities" in Hong Kong, Macao and Taipei. Each territory is allowed its own "system," so to say, and governs it in accordance to local needs and demands. These arrangements emerge out of pragmatic considerations to bridge the economic, social and political gaps between the different territories and the Mainland. However, there is no doubt that Beijing certainly will act swiftly and decisively should its "supremeness" comes under challenge, as the discussions of the HKSAR in this thesis have demonstrated.

Also instructive to understanding Beijing's attitude is through this dissertation's analyses of its "One China" principle and Taiwan's international space. When tracked against the developments of Beijing-Taipei relations, the so-called "One China" principle is in fact a moving target which changes with time and context. China's sovereignty discourse on Taiwan today is very different from the sovereignty discourse in the 1980s, in the sense that Beijing has adjusted its interpretation of "sovereignty" to fit the new conditions in Taiwan as well as those across the Strait. What "sovereignty" was meant to be in "One China" in the past is not the same as that in "One China" today. In particular, with Taiwan drifting further from the goal of unification, China's tone towards the island is now unmistakably anti-separatism, nationalised, de-politicised, and ever increasingly "desovereigntised."

With a wider interpretation of the concept, Beijing's sovereignty discourses and corresponding policies are now more capable of accommodating different scenarios which could take place in Taiwan and across the Strait.

Beijing's management of Taiwan's international space also makes readers ponder Beijing's real intentions. The international space which Beijing allows Taiwan has expanded since the 1980s. Examinations of Beijing's attitude towards Taiwan's bids for WTO and WHA membership show that Beijing has only *one* singular concern in Taiwan joining IGOs: whether or not the participation will give Taiwan "separatists" the excuse they sought to actualise Taiwan's sovereign status. Beijing's attitude to any Taiwan initiatives would therefore rest primarily on (1) Taiwan's capacity of involvement, (2) membership criteria of the IGO in question, (3) whether "foreign forces" are perceived to have their hands in the process, (4) the political currents in Taiwan, and (5) whether Taipei is deemed to have first sought (at least informally) the "approval" from Beijing's top leadership regarding the issue; "proper" gestures must be observed—this is to a name but a few important conditions. Meanwhile, Beijing would continue to haggle at great lengths over the name Taiwan should carry in the international fora. This is, as the chapters of this dissertation have argued, a process of "righting the name." Fearing the delegitimisation of its claim for the monopoly of the name "China," Beijing moves slowly and cautiously to make sure its *de jure* sovereignty is not diluted or challenged. Taiwan's form of participation in IGOs, on the other hand, is flexible and negotiable.

Is this "organised hypocrisy" where "… the logics of consequences dominate the logics of appropriateness" (Krasner, 1999, p. 6)? Yes and no. In this study,

Beijing has shown on several occasions that its "logics of consequences" provided the primary motivation behind its discursive and policy moves with regards to the issues of sovereignty of Hong Kong and Taiwan. But do all states seek the same "logics of appropriateness?" In his study, Stephen Krasner (1999, pp. 20-25) clearly favours an assumption based on the same "logics of appropriateness" propounded in Westphalian sovereignty. This is where this dissertation deviates from Krasner's thesis. Given the constraints Beijing faces in its sovereignty issues, the "logics of appropriateness" Beijing strives to achieve has shifted over time, and at this point of writing, it clearly does not approximate a Westphalian model of the concept. Elements of residual culture in *tianxia* have stayed on, and these elements have since re-emerged to play a greater part when forming this Chinese view of "sovereignty" and justifying Beijing's policy behaviours towards sovereignty.

Chinese Views of Sovereignty

The Chinese traditional view of supreme authority, a hierarchical order of interstate relations, is a familiar reminder of the current order between the Mainland, Hong Kong and Taiwan. Authority, cascading out from the centre to the peripheries, stems from an acceptance of the *de jure* supremacy of the core; under this umbrella, various other forms of authorities, primarily of *de facto* types, are allowed to exist alongside each other with maximum autonomy and minimal intervention. "Sovereignty"—or whatever term is appropriate—then, can be negotiated under the nominal acceptance of the "supremeness" of the centre: Beijing.

This study has provided evidence to support this argument by examining Beijing's discourses and policies towards Hong Kong (and Macao) and Taiwan. It has shown that Beijing has not applied the same principle of "sovereignty," let alone

the same set of policies, in its management of these territories. The Mainland's approach towards its "sovereignty" has been eclectic. This eclecticism can only make sense when "sovereignty" is "divided" into its *de jure* and *de facto* components. Beijing's focus has always been to preserve and retain the *de jure* face of China's sovereignty, while it has been seen, from time to time, shifting its position—willingly or otherwise—on *de facto* sovereignty. The latter is veiled in the Chinese discourses as "not sovereignty" *per se*, but a "right of governance" which can be disaggregated as the supreme authority deems fit. This is the true essence of Chinese sovereignty.

Furthermore, when the cases of Hong Kong and Taiwan are placed alongside each other, a "view" emerges. Chinese discourses and policies have posited Hong Kong and Taiwan on different levels of "sovereignty" by virtue of their different (or promised) *de facto* autonomy. Hong Kong (and Macao), while enjoying high level of autonomy, are considered "closer" to the sovereign core where less "right of governance" is surrendered to local authorities. The HKSAR possesses both formal and informal international legal personality despite being a non-sovereign entity. It possesses the right to legitimate means of violence (Hong Kong Police Force), even though that right does not constitute a monopoly (the PLA has a presence via its Hong Kong Garrison). It also maintains its own economic, fiscal, legal, social and political system separate from the Mainland; and this separation is guaranteed by China's State Constitution and the Basic Law. Comparatively, Taiwan occupies a position even further than Hong Kong from the sovereign core. Notwithstanding the current state of affairs where two regimes and two separate political entities stand in opposition to each other across the Strait, Beijing's promise to Taipei involves an even greater disaggregation of that "right of governance" in the event of unification.

Not only would Taiwan get to enjoy all privileges already in practice in the HKSAR, it would also get, in effect, *almost complete autonomy* in terms of political affairs. Whereas the political structure in the HKSAR remains tied to the Mainland through its Basic Law, nothing has been explicitly said of the need for Taipei, after unification, to relay its (domestic) political decisions back to Beijing, according to the words of Chinese leaders like Ye Jianying, Deng Xiaoping,[104] Jiang Zemin, and Hu Jintao. In addition, and has already mentioned earlier, Taipei will be given *full monopoly* to the legitimate means of violence. In other words, in the event of "unification," how Taiwan would be "absorbed" into "China" is subject to discussions and negotiations between Beijing and Taipei. Beijing has unilaterally announced some of those concessions which it is willing to make for such an eventuality, and by the discussions in this thesis, even "baselines" can be reinterpreted if conditions call for it. A lot room and possibilities exist.

When taken together, this view coincides with the image provided in Figure 1.1 of this dissertation. "Chinese sovereignty" is hence graded rings of authorities forming round a nominal, "sovereign" core. This is embedded in a single, *de jure* sovereignty, but the *de facto* component—or "right of governance"—is disaggregated and distributed across the different levels according to each relative position in this construct. Authority is no long contiguous and uniform; multiple sources of authority co-exist with each other, and are notionally linked back to the most "supreme" of all authorities via an obscure, *de jure* thread by the name of "sovereignty."

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[104] Deng specifically mentioned that he did not agree to "complete autonomy" in Taiwan, but he too did not clarify what he had meant by "complete autonomy" in the first place. This goes to show that Beijing purposefully created a buffering "grey" zone in its negotiation on unification with Taipei. On one end is "complete unification," on the other is "complete autonomy." Anything that comes in between, even if it is just one small step away from "complete autonomy," is negotiable.

The findings of this study provide new inputs to the way China can be understood and calls into question prevalent assumption about China. In place of erstwhile assumption about China, this dissertation provides another "lens" through which China's behaviours, in particular with regards to the issues of Hong Kong and Taiwan, are analysed. Under this lens, analytical approaches which pivot around an uncritical acceptance of China's absolute approach towards sovereignty come under greater scrutiny. Meanwhile, "noises," like in Deng's non-negotiable statement quoted at the fore of this conclusion, are filtered to present new perspectives for alternative interpretations of events. Most importantly, the findings help to raise new questions about China's behaviour and thinking.

In the policy realm, the findings help to reposition Beijing's attitude to open up new possibilities. They help policymakers consider alternative policy paths by questioning existing arrangements. For the case of those within the HKSAR, questions may include: what types of political reforms can take place in the HKSAR without strong resistance from Beijing? Under what conditions can these reforms be carried out? What are the roles of political parties in the territory, and what further roles can they undertake? What exactly are the objectives of CEPA (Closer Economic Partnership Arrangement),[105] and how can the arrangement be further expanded to benefit the HKSAR and at the same time fulfil the goals set out by Beijing? Similar questions can be asked about education reforms, health reforms,

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[105] CEPA is essentially a free trade "arrangement"—it cannot be called an "agreement" or a "treaty" to avoid insinuations that it constitutes a cooperative relationship between two sovereign bodies—supposedly designed to strengthen trade and investment cooperation between the Mainland and the HKSAR. The arrangement was signed on the eve of the massive 1 July 2003 demonstration in the HKSAR, and became operational on 1 January 2004. It is worth noting that under its present terms, the HKSAR economy stands to gain more through CEPA than the Mainland economy even though it is meant to be a bilateral trade agreement (Wong & Chan, 2003a; *Mainland and Hong Kong Closer Economic Partnership Arrangement*, 2003).

administrative reforms, economic zoning, relationships between the HKSAR legal system and that of the Mainland… The list goes on.

For Taiwan, deeper thoughts can then be given to how Taiwan can occupy an even greater international space than at present. Rather than fighting head-to-head over representations in international fora, Beijing's and, in particular, Taipei's policymakers can rethink their respective approaches to usher in more cooperative elements into their relationship. Knowing Beijing's concerns and framework for sovereignty, it is thus easier for Taipei to chart out a path whereby it can maximise its interest without coming into conflict with the Mainland; win-win arrangements are not impossible.

These findings are also applicable to policymakers outside the "Chinese sphere." A better grasp of Beijing's view adds to existing diplomatic initiatives vis-à-vis Hong Kong and Taiwan matters. More specific roles can be defined and shared between other nation-states, international organisations, and other international actors, in their relations with the HKSAR and Taiwan. The continued viability of HKSAR- or Taiwan-related policies like the US-Hong Kong Policy Act and the Taiwan Relations Act (TRA), etc, can then be considered in context. These are also key areas which should interest students of politics in general, and form new research agenda for related disciplines.

Specifically for students of international relations, this dissertation has offered material (including a vast array of Chinese language material) and case studies to highlight the importance of considering concepts and theories in context of the subject in question. Agency is all too often overlooked in analyses, and concepts are assumed to be universal in their application to case studies: "interest" is "interest"

is "interest," to take but one example. Classical realists (Carr, 2001; Morgenthau, 1985) liken this concept ("interest") to be definable in "power," and so do the general liberal camp (Keohane & Nye 1977); neorealists like Kenneth Waltz (1979) prefer to see it in terms of "survival;" but despite their differences, all see "interest" as a universal concept where one's interest is no different from another's (Kratochwil, 1982). The same can be said of the concepts of "territories" and "boundaries" (Kratochwil, 1986), or values like "human rights" (Zhang Y., 1998, pp. 185; Kent, 1999), as well as in the case of this dissertation: "sovereignty." Universality of concepts is all too often taken for granted. This study takes a "light" constructivist perspective and traces Beijing's view of sovereignty to its cultural, historical and discursive roots. It sees "organised hypocrisy" from a different analytical perspective that treats agency (i.e. "hypocrisy") as inherently endogenous to the agent. The understanding of "sovereignty" is thus localised and, more importantly, contextualised.

Hence, the most significant contribution of this dissertation is to add on to the theoretical foundation of understanding China as an international player. By challenging erstwhile assumptions in the study of China and its sovereignty policy, this thesis, through its discussions, forward a different reading on China. To students of international relations, this work raises important questions about the universality of concepts, ideas, values and norms. In terms of the concept of "sovereignty," this dissertation has exhibited how China, even when accepting "sovereignty" as a core principle in international relations, could interpret the very same concept in vastly different manners from its counterparts. In its examination, this dissertation has turned to a large sample size of original Chinese materials, mainly in the forms of Chinese academic writings, which have not previously been given due attention in

the Western academia, and connect the significance of these materials to the larger political picture in China. This is not to argue that China is "exceptional;" rather this dissertation seeks to dissociate from "grand theories" of international relations to highlight the importance of understanding key concepts *in context*. In this case, regarding China's sovereignty issues, it is most important to first examine China's behaviours under a tinted lens, that is, Beijing's view of sovereignty, before one can reasonably understand Beijing's interests and possibly, explain its further actions.

The arguments presented in this dissertation stands in sharp contrast with a large body of literature (primarily originated from policy analysts in the US) on China and its policy towards Taiwan and its SARs. Is the Taiwan Strait necessarily a zone of potential conflict or is it more a zone of cooperation? Are the political futures and administrative autonomy of Hong Kong and Macao destined to be covered under the sands of time as the 50-year promise run its course[106] or are there really room to manoeuvre between Beijing and its SARs? This dissertation certainly sees these issues in a more positive light. With a different take of Beijing's view of sovereignty, analyses can take on vastly different trajectories of their investigations, and the outlooks are not always bleak.

Limits of the Arguments of this Dissertation

This dissertation has constructed a Chinese view of sovereignty based on the evidence uncovered in Chinese history, in official documents and speeches, in a wide variety of academic studies, and through the study of Beijing's discourses and policies towards Hong Kong and Taiwan. Its limits are thus obvious. Corresponding findings and conclusions are bounded to the case studies and the case studies only.

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[106] The BLHK (1997, Art. 5) and BLM (1999, Art. 5) effectively guarantee that the "two systems" arrangement between Beijing and the SARs would "remain unchanged for 50 years."

The discussions in the various chapters of this dissertation contend that Beijing's position on sovereignty vis-à-vis Hong Kong and Taiwan are often misunderstood based on a misinformed assumption, and offer an alternative view to see Beijing's approach. There is no reason to see that this view of sovereignty, at least at the present stage, is similarly applicable to other sovereignty issues China faces.

Nonetheless, the view offered here in this dissertation provides a starting point where future research on China's sovereignty issues may begin. There are two levels to consider:

At the "sub-national" level, issues relating to "internal" sovereignty tensions like Tibet, Xinjiang, and others, can be considered in a different light. While this dissertation's original intent was to include an "internal" case study—Tibet was initially identified—in its analyses, the endeavour did not materialise owing to the breadth of cases already involved and the restrictions created by an 80,000 word limit. Practical considerations, at the end, triumphed over academic ambitions. Tibet's setting as not being as far out in the concentric circles as Hong Kong makes China's view and application of sovereignty tighter within the concentric circles. However, the rich research potential of such internal case studies, in particular as comparative complements to the arguments forwarded in this dissertation, would be fruitful. Another interesting case study which has been largely overlooked by researchers so far is the sovereignty issue related to (Outer) Mongolia. In this case, it is worth noting that Beijing has renounced its sovereign claims over the whole of Mongolia (by recognizing the People's Republic of Mongolia in 1950) (Rahul, 1978, p. 660), while constitutionally, Taipei still regards Mongolia as an integral part of China (*Constitution of the Republic of China*, 1947, Art. 26, 64, 91 & 119). Even

though the formation of an "independent" Mongolia can be attributed to pre-war realpolitik (Elleman, 1995), and perhaps a stepping stone towards post-war ideological reconfiguration (Smith, 1970), far too much has been assumed about the PRC's attitude based on far too little research. Despite its intrigues, the Mongolian issue has been condemned to the backwaters of the Asia steppes with very few questions asked.[107] Finally, the South China Sea, a potential "core interest," involves complex overlapping sovereignty claims between China (the PRC *and* Taiwan) and other Southeast Asian littoral states; in which sovereignty flexibility on "right of governance" is not too applicable. Sovereignty clarification is almost better to avoid. The assumption of China's "absolute" attitude towards sovereignty deserves greater academic scrutiny.

At the international level, a lot of new questions about China's sovereignty disputes with other states can also be asked. The regional implications for this thesis are that the question of "sovereignty" can sometimes be taken out of those seemingly related issues when policymakers attempt to address them, or when international relations students formulate analyses about them. Regional policymakers perhaps can take to heart the experiences of North Korea at achieving a workable solution with China on the maritime management along Yalu River, a border which has been contested by both countries. This was achieved with a view to "jointly… protect state sovereignties" [*gongtong… weihu guojia zhuquan*] (Xinhua News Agency, 2011). An important lesson learned in corollary to this dissertation? Beijing's move to soften its differences on "sovereignty" with Pyongyang to focus more on concrete cooperative matters should not be lost in petty diplomatic chatters, or in academic endeavours to prove or justify a certain grand theory of international relations. The

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[107] See for example, Fravel (2005). The issue of Mongolia was almost entirely missing in Fravel's discussion of China's historical territorial concessions.

significance of dictums like "shelving sovereignty to pursue joint development" [*gezhi zhuquan gongtong kaifa*] can be reviewed through a new perspective to explore alternative explanations. While this is not to say that the "realpolitik view" or "absolutist view" should be discarded outright, the "sovereignty view" offered here can be used to weigh against China's behaviours in its interactions with other interested parties in territorial and sovereignty disputes in issues ranging from the South China Sea in the southeast to Zhenbao Island in the northwest.

International efforts have a part to play in China's "internal" sovereignty issues too. Returning to the Tibet issue, for example, to better manage relations with Beijing with respect to Lharsa, the question becomes one of keeping the issue of "sovereignty"—as well as related matters like human rights and self-determination—off the negotiation table while focusing more on the solutions deemed more acceptable by Beijing. Can "one country, two systems" be applied to the Tibetan case, for instance? Within certain parameters, this appears a highly plausible scenario to which the international community can work towards.

This is also not a forward-looking study, in the sense that its findings are not intended to be used as a "model" to predict China's future behaviour, and certainly should not be used for such exercises. No one state can possibly act in a linear fashion all the time as different variables inevitably come into play whenever a political decision needs to be made. A good example is the East China Sea dispute between China and Japan. Comparatively, and arguably, management of the South China Sea are easier to deal with than the East China Sea, because of the emotive images surrounding the Sino-Japanese relations, in which history and contructivism feed off each other. Nonetheless, if Beijing's previous behaviours towards

sovereignty were unpacked, analysed, and understood, as has been the case in this dissertation, the results can serve as references to future analyses of China's sovereignty issues. This call in earlier chapters to study how residual cultures inform China's present behaviour is particularly important here. China's thinking in the past has cast a shadow over its present form; likewise, the present thinking of China will have a bearing—however minimal—on the future. This dissertation sees itself as an interim between China's past and future views on "supreme authority."

To round up from where this thesis has started off, two objectives were identified: one, to dispel the "myth" and assumption that China, in this case the People's Republic of China in Beijing, holds on to an "absolute" view of sovereignty, and has arguably acted in accordance to this view; and two, to forward an alternative view of sovereignty as seen through Beijing's eyes by reviewing Chinese discourses and policies towards the HKSAR and Taiwan. Through its discussions, this dissertation has argued that China has adopted a flexible *modus operandi* in its treatment of sovereignty issues vis-à-vis Hong Kong and Taiwan, contrary to the "static view" commonly assumed. This approach can be attributed to China's historical experiences with the concept of "sovereignty," as well as its discourses. The resulting "view" of sovereignty juxtaposes Chinese previous understanding of "supreme authority" with an interpretation of the Western concept of sovereignty, and this approximates one grounded on graded rings of sovereignty. "Sovereignty," in this view, is a *de jure* construct as its *de facto* component (or "right of governance") is purposely and effectively detached from the concept to serve the political needs of the regime. It is within this view that "one country, two systems" and the shifting interpretations of "One China" are possible. Beijing is, for now, apparently trying harder to secure its *de jure* sovereignty than exerting its *de facto*

authority. As long as no overt challenge is posed to the idea that a single, *de jure* sovereignty—more specifically understood as a nominal "supreme authority"—resides in Beijing, this Chinese view of sovereignty is upheld.

NOTES ON APPENDICES

The following appendices are prepared in support of the content analyses in this dissertation:

Appendix I contains Hu Jintao's "Four Points" on Taiwan issue, and is a faithful reproduction of the original and official English version commissioned by Xinhua News Agency. All inaccuracies in translation, spelling and grammar are reproduced from the original sources. Typographical errors, if any, are this author's.

Appendix II contains two chronologies detailing Taiwan's (ROC) participation in GATT/WTO and WHO/WHA since the inception of the international regimes/organisations.

APPENDIX I

HU JINTAO'S "FOUR POINTS" ON TAIWAN ISSUE

Put forward during a panel discussion of the Chinese People's Political Consultative Conference (CPPCC) National Committee's annual session on 4 March 2005

First, never sway in adhering to the one-China principle.

Adherence to the one-China principle serves as the cornerstone for developing cross-Straits relations and realizing peaceful reunification of the motherland. Although the mainland and Taiwan are not yet reunified, the fact that the two sides belong to one and the same China has remained unchanged since 1949. This is the status quo of cross-Straits relations. This is not only our stand, but also what can be found in the existing regulations and documents in Taiwan. Since Taiwan and the mainland belong to one and the same China, there shall be no such question as who annexes whom between the mainland and Taiwan.

The sticking point in the current development of cross-Straits relations lies in the fact that the Taiwan authorities have refused to recognize the one-China principle and the "1992 Consensus" which embodies this principle. Whoever started the trouble should end it. Dialogues and talks between the two sides of the Taiwan Straits can be resumed immediately, and can be carried out on whatever topics and issues, as long as the Taiwan authorities acknowledge the "1992 Consensus". The two sides can not only talk [*sic*] about the official conclusion of the state of hostility,

the establishment of military mutual trust, the Taiwan region's room of international operation [*sic*] compatible with its status, the political status of the Taiwan authorities and the framework for peaceful and stable development of cross-Straits relations, which we have proposed, but also talk about all the issues that need to be resolved in the process of realizing peaceful reunification.

We welcome the efforts made by any individuals or any political parties in Taiwan toward the direction of recognizing the one-China principle. No matter who [*sic*] he is and which political party it is, and no matter what they said and did in the past, we're willing to talk with them on issues of developing cross-Straits relations and promoting peaceful reunification as long as they recognize the one-China principle and the "1992 Consensus."

We hope the Taiwan authorities could stop all activities for "Taiwan independence" and return to the path of recognizing the "1992 Consensus" at an early date.

Once the one-China principle is followed, we are willing to make positive responses to any proposals and suggestions which are conducive to maintaining peace in the Taiwan Straits, developing cross-Straits relations and promoting peaceful reunification, and also willing to seek, on the basis of the joint efforts by both sides, new ways for contacts and communications.

Second, never give up efforts to seek peaceful reunification.

The 1.3 billion Chinese people, including the Taiwan compatriots, all love peace and sincerely hope to maintain peace and live in peace. They share an even

greater hope that the flesh- and-blood brothers in one family can resolve their own problems peacefully.

A peaceful resolution of the Taiwan issue and peaceful reunification of the motherland conforms to the fundamental interests of compatriots across the Taiwan Straits and the Chinese nation, as well as the currents of peace and development in the world today. This is the fundamental reason why we have always been making unremitting efforts for the realization of peaceful reunification.

Peaceful reunification does not mean that one side "swallows" the other, but that the two sides confer on reunification through consultation on an equal footing. The realization of peaceful reunification between the two sides across the Straits is a bliss for the compatriots on both sides, as well as a bliss for the region and the whole world. When the two sides of the Straits are reunited, the estrangement across the Straits caused by a long time of separation can be removed, and affinity between the compatriots on both sides enhanced. The military confrontation across the Straits will be brought to an end, making it possible for the compatriots on both sides to jointly engage themselves in peaceful construction. The economies of both sides can better complement and mutually benefit each other, bringing the compatriots on both sides together to seek common development. Both sides can work together to push forward the lofty cause of world peace and development, allowing the compatriots on both sides to share the dignity and glory of the great motherland. State sovereignty and territorial integrity can be genuinely guaranteed, enabling the compatriots on both sides to jointly promote the great rejuvenation of the Chinese nation.

The people long for peace and the country needs stability. As long as there is still a ray of hope for peaceful reunification, we'll do our utmost to achieve it. We hope at the bottom of our hearts that relevant personages and political parties in Taiwan would seriously consider this important issue, and proceeding from the righteous cause of the nation and the well-being of the compatriots on both sides of the Straits, make the correct historic choice to maintain peace across the Taiwan Straits, promote cross-Straits relations and realize peaceful reunification.

Third, never change the principle of placing hope on the Taiwan people.

The Taiwan compatriots are our flesh-and-blood brothers, as well as an importance force in developing cross-Straits relations and checking the "Taiwan independence" secessionist activities. The more the "Taiwan independence" secessionist forces want to isolate the Taiwan compatriots from us, the more closely we have to unite with them. Under whatever circumstances, we shall always respect, trust and rely on the Taiwan compatriots, land ourselves in their position to think of their difficulties, and do everything we can to look after and safeguard their legitimate rights and interests.

The marketing of Taiwan's farm produce in the mainland is an issue that involves the fundamental interests of the broad masses of the Taiwan farmers, and therefore must be addressed in a down- to-earth manner. If the cross-Straits direct passenger charter flights can be conducted on all festivals and holidays, they can also gradually develop into a regular practice. On the issue of cross-Straits direct cargo charter flights, non-governmental trade organizations of both sides could also exchange views.

We will further adopt, step by step, policies and measures to resolve problems which the Taiwan compatriots are concerned about, and to safeguard the legitimate rights and interests of the Taiwan compatriots. Anything beneficial to the Taiwan compatriots and conducive to the promotion of cross-Straits exchanges, to the maintenance of peace in the Taiwan Straits region and to the motherland's peaceful reunification, we will do it with our utmost efforts and will do it well. This is our solemn commitment to the broad masses of the Taiwan compatriots.

Fourth, never compromise in opposing the "Taiwan independence" secessionist activities.

Safeguarding state sovereignty and territorial integrity is where a country's core interest lies. On no account shall the 1.3 billion Chinese people allow anyone to undermine China's sovereignty and territorial integrity. We will not have the slightest hesitation, falter or concession on the major principle issue of opposing secession. The "Taiwan independence" secessionist forces must abandon their secessionist stand and stop all "Taiwan independence" activities.

We hope the leader of the Taiwan authorities could earnestly fulfill the "five no's" commitment he reaffirmed on Feb. 24, as well as his commitment of not seeking "legalization of Taiwan independence" through the "Constitutional reform," and show to the world, through his own concrete action, that this was not an empty word or mere lip service which can be forsaken at will.

China belongs to the 1.3 billion Chinese people including the 23 million Taiwan compatriots, so do the mainland and Taiwan Island. Any issue involving China's sovereignty and territorial integrity must be decided collectively by the entire 1.3 billion Chinese people.

We believe that the broad masses of the Taiwan compatriots will definitely join us to resolutely safeguard state sovereignty and territorial integrity and resolutely safeguard the fundamental interests of the Chinese nation.

APPENDIX II

CHRONOLOGY OF TAIWAN'S (REPUBLIC OF CHINA) PARTICIPATION IN GATT/WTO

1946	Joined as a member of the Preparatory Committee for International Trade Organisation (ITO).
1947	Signed the "Protocol of Provisional Application of the General Agreement on Tariffs and Trade."
1948	GATT 1947 came into force Became one of the original 23 contracting parties.
1949	ROC Government retreated to the island of Taiwan.
May 1950	Withdrew from GATT.
Mar 1965	Gained observer status in GATT.
Oct 1971	Vacated seat in the United Nations; Taiwan's GATT observer status was withdrawn
Jan 1990	Applied to join GATT under the name "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu." Application was withheld by GATT Secretariat.
Jan 1992	Submitted "Revised Memorandum of Foreign Trade Regime" to inject new momentum into application process.
Sep 1992	Working Party for the Accession of Taiwan ("Chinese Taipei") to GATT was formed. Granted observer status.
Nov 1992	Working Party held 1st meeting
Mid-1993	"Revised Memorandum of Foreign Trade Regime" was accepted. Began negotiations with other GATT contracting parties.
Apr 1994	Marrakesh Agreement to form the WTO.
Jan 1995	Establishment of the WTO
Dec 1995	Application to GATT lapsed; submitted application to WTO Secretariat under WTO Agreement Article 12 "Accession."
Jul 1998	Concluded all bilateral talks related to Taiwan's WTO accession.
Sep 2001	Final Working Party Meeting.
11 Nov 2001	Signed WTO Accession Agreement.
20 Nov 2001	Agreement rectified by all relevant Taiwan authorities.
2 Dec 2001	Rectification wired to WTO Secretariat.

1 Jan 2002	Joined WTO as 144th member.

Source: Taiwan WTO Center (2009) [edited and translated by author]

CHRONOLOGY OF TAIWAN'S PARTICIPATION IN WHA/WHO

1948	Founding member of WHO.
Oct 1971	Withdrawal from UN; WHO membership replaced by PRC in 1972.
1997	Applied for observer status under the name "Republic of China."
Sep 1999	7.3 magnitude earthquake in Jiji (Chichi in Nantou county, Taiwan, resulted in over 2,400 deaths; international relief actions hampered by political differences between the Mainland and Taiwan.
May 2002	Applied to join WHA(World Health Assembly) as a "health entity" but was rejected.
2002-2003	SARS epidemic added new impetus to Taiwan's bid to join the WHA.
May 2003	Applied to join WHA for a seventh time but was again rejected. Taiwan's then President Chen Shui-bian used the failed bid as a vehicle to push for a referendum bill.
Nov 2003	Chen Shui-bian claimed that US President George W. Bush wrote to him a personal letter to support Taiwan's WHA bid. Referendum bill passed in Taiwan's legislature.
Dec 2003	Chen Shui-bian sought to hold first referendum together with Taiwan's Presidential election in March 2004; WHA issue dropped as a referendum agenda.
2005	PRC and WHO Secretariat allegedly signed a Memorandum of Understanding to restrict Taiwan's WHA bid.
April/May 2007	Applied to join WHO as a full member under the name "Taiwan" but was rejected.
Mar 2008	KMT candidate Ma Ying-jeou won Taiwan's Presidential elections, paving the way for warmer Beijing-Taipei ties.
Jan 2009	WHO included Taiwan in International Health Regulations (IHR) and established direct contact points with the island's health authorities instead of going through China.
May 2009	Invited to attend WHA summit in Geneva as observer under the name "Chinese Taipei."

Source: Compiled by author.

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