

The Hon. Anson Chan [00:16:37] Professor Oi, Professor Fingar, distinguished speakers, faculty members, ladies and gentlemen. First of all, I thank you very much Professor Fingar for your very kind introduction. I think it was Mark Twain who once remarked that a good compliment can last me several months. So, on the basis of that introduction you've just assured me of immortality. Thank you very much. Can I first of all say that it is an honor to participate in this conference and a particular honor to be invited to give this keynote address at this very pivotal moment of Hong Kong's history. Yesterday should have been a day of national celebration. The 70th anniversary of the founding of the People's Republic of China. Instead on the streets of Hong Kong we saw a massive and horrific violent clashes between the protesters and the police resulting in over 60 people being injured, one critically, after the police fired six live rounds and over 180 people arrested.

[00:17:49] So Hong Kong is indeed a city in turmoil. Can we get out of this turmoil? I hope today's conference and proceedings will shed some light on the way forward. That said if I observe the constitutional dramas now unfolding in some of the world's oldest and most respected democracies, it's hard these days to point to many examples of jurisdictions completely free from social and or political turmoil of some sort. In the midst of the cacophony of dissenting views, one voice recently came through as the clearest of clarion calls. That of climate change activist 16 year old Greta Thunberg as she fearlessly subjected an older and no doubt more worldly-wise and self-important audience to a veritable dressing down. When in her address to the United Nations climate action summit she declared and I quote "You have stolen our dreams and our childhood with your empty words, all you can talk about is money and fairy tales of eternal economic growth. How dare you." End of quote. She was voicing an angst and anger that must resonate with her peers around the world where the younger generations everywhere who feel at the mercy of governments who ignore their concerns and whose actions or inaction place a future in jeopardy. Whilst Hong Kong's young people are at the vanguard of the current protest movement in some cases risking years behind bars and even their lives. The protests now in their 17th week could not possibly be continuing for so long without a sustained groundswell of support in the wider community. Like me I think many of my fellow citizens find themselves at once horrified by the ever increasing violence and vandalism. And yet in all admiration for the determination of those who have made it clear that they will not give up the struggle to protect Hong Kong's core values of rule of law, human rights, freedom and democracy. They want a substantive response to their grievances.

[00:20:36] Knowing that I wouldn't be in Hong Kong at the time of yesterday's profoundly significant anniversary for our nation has prompted me to reflect on my feelings on another milestone occasion. And that was the raising of the Chinese flag on 1st of October 1997, the first Chinese National Day celebrated in Hong Kong. Recalling that year, a year or so that day a year or so later in a speech to the Asia Society in Washington, I described how this ceremony filled me with emotion. And for the first time a sense of the spiritual propriety of Hong Kong's return to Chinese sovereignty. This seemed to me a fulfillment of my identity as a Chinese that in no way expunged the importance of Britain's legacy. After over 156 years of colonial rule. I recognized then

that the transition of sovereignty would inevitably call for Hong Kong people whether Chinese or of other ethnic origins to forge a new identity that reconciled our community both with its past and its future. The harsh truth we now face is that many Hong Kong people particularly the young, have indeed forged a new identity but not as a loyal submissive Chinese patriots Beijing had hoped for. The central government has singularly failed to win hearts and minds. In the early years following the handover we had many reasons to feel very optimistic about our future under one country two systems. Hong Kong people were ruling Hong Kong. We faced and weathered a series of unexpected challenges. The economic fallout from the Asian financial downturn of 1997, 1998 an outbreak of deadly bird flu.

[00:22:54] But to all intents and purposes the transition had gone much more smoothly than the pre handover doom merchants had predicted. The way seemed clear for Hong Kong to flourish as a unique region of China, a bastion of the rule of law and other personal rights and freedoms denied compatriots in the mainland. So, we were poised to play a continuing role in connecting the mainland to the rest of the world and supporting the economic growth and social development of the nation. Crucially in the early years after the handover, the influence of the central government was barely perceptible. Its Liaison Office, which replaced the New China News Agency as Beijing's representative organ in the Hong Kong Special Administrative Region, kept a very low profile. During my tenure as, chief secretary for administration up to April 2001, I can attest that there was no interference either overt or covert in the day to day administration of the city. This was because central government exercised its powers with great restraint whilst we in the Special Administrative Region Government were vigilant in defending Hong Kong's high degree of autonomy. Over the past 15 years however things have changed drastically. The office has grown in size exponentially although of course the exact number of officials based there and their various roles are a state secret. It now has no scruple about involving itself in and commenting on all aspects of government policy making and implementation. At the same time, far from reassuring Hong Kong people that the core values and rights and freedoms enshrined in our mini constitution, the Basic Law, are inviolable, an increasingly authoritarian Beijing government has tightened its grip on freedom of thought and expression.

[00:25:12] In June 2014 the State Council the central government issued a white paper entitled "The Practice of One Country Two Systems Policy" in the Hong Kong Special Administrative Region. Despite the fact that the 1984 Sino British joint declaration and the Basic Law state that the Hong Kong Special Administrative Region will enjoy a high degree of autonomy except in foreign and defense affairs and will be vested with executive, legislative and independent judicial power including that of final adjudication, the white paper pronounced that in reality the central government exercises and I quote "comprehensive jurisdiction over the Hong Kong Special Administrative Region including not only the powers directly exercised by the central government but also the powers delegated to the Hong Kong Special Administrative Region." Even more alarmingly, it grouped judges along with civil servants as administrators who must be patriotic and safeguard the country's sovereignty, security and development. In short, the white paper published in seven languages basically rode roughshod over

perceptions that the Hong Kong Special Administrative Region's promised autonomy was sacrosanct and that in line with the concept of separation of powers, Hong Kong people could continue to rely on the rule of law and an independent and impartial judiciary. In 2015, Hong Kong based booksellers including one who was forcefully abducted across the Hong Kong boundary, were detained for months without trial on the mainland ostensibly for publishing books about the private lives of members of the Chinese leadership which often made their way illicitly across the boundary. In January 2017 a mainland Chinese billionaire, Xiao Jianhua, was sedated, put into a wheelchair and abducted from a service apartment at the Four Seasons Hotel by mainland security agents before being spirited back across the boundary. No satisfactory explanation for those extraterritorial enforcement action was ever made public. More recently the disqualification of six elected members of the legislature for breaching new rapidly enacted legislation, the political screening of pro-democracy electoral candidates and famously the expulsion of a respected *Financial Times* journalist have further dented Hong Kong's international image. The journalist's offense was to have hosted a lunch at our Foreign Correspondent's Club at which the invited speaker was convener of the now banned Hong Kong National Party that advocates independence from China. These moves have caused deep unease amongst our overseas friends including in the United States not least because as former Hong Kong US Consul General put it in a speech last February and I quote "The mainland central government appears to have been intimately involved in the Hong Kong government's decision making." End of quote. So, within the context of these examples of flagrant disregard for freedoms of expression, publication, political belief, not to mention freedom from arbitrary arrest and detention, it is small wonder that so many Hong Kong people have lost confidence in Beijing. And more especially with our own government which has shown itself impotent to fend off such infringements.

[00:29:21] Since the return of sovereignty to China on 1st of July 1997, successive Chief Executives have signally failed to convince Hong Kong people. That first and foremost they will do their utmost to defend Hong Kong's autonomy and defend the rights of the individual. Instead they have increasingly come across as mouthpieces of the central government much more disposed to toeing the Beijing line. And apple polishing with senior mainland officials than championing one country two systems. So, was this progressive erosion of Hong Kong's autonomy inevitable? I don't think so. Rather some years back, it seems that Beijing began both to lose confidence in the judgment and competence of the Hong Kong administration and to fear that a growing sense of Hong Kong people's identity as Hong Kongers rather than Chinese citizens, could pose a threat to the long term successful integration of Hong Kong with the motherland. The first watershed moment came in 2003 when the government tried to push through legislation to implement Article 23 of the Basic Law which requires the Hong Kong Special Administrative Region to enact legislation to prohibit any act of treason, secession, sedition subversion or theft of state secrets. The implications of the bill for freedoms of expression of the press, lawful assembly, not to mention the potential for ambiguity in or weaponizing of interpretation of the law, sent alarm bells ringing early on particularly amongst the legal community.

[00:31:18] Then Chief Executive Tung Chee-hwa and the senior officials responsible, were urged to publish a draft bill for full public consultation but refused to do so. On 1st of July 2003, the sixth anniversary of the handover, some half a million Hong Kong people took to the streets peacefully in what was to become a landmark show of protest at the government's ignoring the depth of public concern. The bill was shelved. Some heads rolled and life went more or less back to normal. The success of this protest gave Hong Kong its first taste of people power. So much so that since then 1st of July marches have become an annual event enabling participants to let off steam and express displeasure with the government on a variety of issues ranging from education, housing and welfare to gay rights, to the treatment of migrant workers and increasingly to express intense frustration at the snail's pace of progress on the implementation of full universal suffrage for the election of the Chief Executive and all members of our legislature which was promised in the Basic Law. It was the failure of the Special Administrative Region government's much vaunted 2013 consultation exercise on constitutional reform that triggered the 2014 occupation of major boulevards in Hong Kong's business district. And later morphed into the so-called Umbrella Revolution, so named because protesters for the first time used umbrellas to shield themselves from teargas and pepper spray. The consultation had in fact stimulated responses from thousands of individuals and organizations including dozens of carefully considered proposals by academics, political parties and pro-democracy think tanks like my own Hong Kong 2020, suggesting a pathway to full democracy for the election of the Chief Executive and all members of the legislature. In the event, most of these proposals were completely ignored and the process exposed for the sham that it really was. Having considered the Special Administrative Region government's highly disingenuous report on the outcome of the consultation, on 31st of August 2014 the Standing Committee of the National People's Congress pronounced that there would be no reform of the methods for electing members of the legislature. This meant that 50 percent of seats would continue to be elected by functional constituencies. In practice, mostly small groups of vested interests the majority of whom are pro establishment in terms of political leaning but who are able to exercise disproportionate influence over the legislature's proceedings. On the other hand, Hong Kong people would be permitted by China to elect their next Chief Executive by one man one vote in 2017, subject to a maximum of three candidates on the slate each of whom would have to be endorsed by at least 50 percent of a 1,200 member nominating committee dominated by the same groupings of pro establishment vested interests and Beijing sympathizers as the Legislative Council's functional constituencies. Furious at what amounted to fake universal suffrage, because in reality Beijing would be controlling the nomination process for Chief Executive, student protests escalated and on the night of 26 September 2014 spilled onto the streets. Although the occupation lasted for some 79 days and astonished the world with its generally peaceful nature, in the end, it did not achieve its goal of genuine universal suffrage. Ostensibly life went back to normal again but in reality, the failure of the protests left wounds that remained unhealed and have continued to fester quietly ever since. Since the collapse of the Occupy demonstration, the magnitude of support for the annual 1st of July marches have sort of ebbed and flowed in direct relation to the strength of popular grievances.

[00:36:17] In contrast, the massive turnout of between 1 million and 2 million people, roughly a quarter of the city's population, at the anti-extradition bill protests on the 9th and 16th of June broke all records. The fuse that ignited the current protests was the move by our current Chief Executive Mrs. Carrie Lam and her administration to introduce amendments to our extradition laws that amongst other things would have paved the way for the surrender of persons including not just local Hong Kong residents but potentially also nonresidents and visitors to the mainland's judicial system. It is frankly incomprehensible that Mrs. Lam and her advisers failed to appreciate the public alarm that such a wholesale demolition of the firewall between the Hong Kong and mainland China's judicial systems would generate. As well as the legal and other professionals such as teachers, social workers and church officials, representatives of local and overseas businesses were amongst the many sectors of the community who expressed deep concern. In early March, for example the American Chamber of Commerce in Hong Kong issued unusually a forceful statement. Amongst other things cautioning and I quote "Any change in extradition arrangements that substantially expands the possibility of arrest and rendition of international business executives residing in or transiting through Hong Kong as a result of allegations of economic crime made by the mainland government would undermine perceptions of Hong Kong as a safe and secure haven for international business operations." End of quote.

[00:38:17] The government's refusal to withdraw the bill despite the huge show of public opposition proved the straw that broke the camel's back. Following the storming and forcible entry to the Legislative Council building by black clad protesters on 1st of July, the bill was finally suspended sending the worst possible message to the young radical protesters. And that message was, playing nice does not work, only violence succeeds. The government had sown the wind and the whole community is now reaping the whirlwind.

[00:38:57] So as I speak, where do things stand. The protesters have laid down five demands. Only one of which, complete withdrawal of the extradition bill, has been acceded to, but not until 4th of September. So, too much too little too late, too late and too little. Second, the demand for establishment of an independent commission of inquiry into the background to and handling of the current social unrest is widely supported by 80 percent of the community but opposed by the police who fear erroneously that it will primarily target their actions. Establishment of such a commission with carefully crafted terms of reference could in my view, and that of many other social leaders, go a long way to breaking the current impasse and providing the black clad protesters with a ladder to climb down and stop the violence at least for the time being. A third demand to reopen consultation on political reform which has lain dormant since the collapse of the Umbrella Movement, is essential to restoring longer term stability. I and other pro-democracy advocates intend to move forward rapidly to revive some of the many constructive proposals which were formulated in 2013. Two other demands that the protests, however violent, not be characterized as riots because persons convicted of rioting face a maximum sentence of 10 years in prison. And charges dropped against those arrested are today much more problematic. But, we are in an unprecedented crisis and if society is to be healed, unprecedented measures such as

an amnesty, applies to certain actions by protesters and the police force may well prove to be necessary. Unfortunately, our Chief Executive has openly admitted that her hands are tied. The rules are being set by Beijing, whose officials recently pronounced that there would be no more concessions. So, so much for Hong Kong's autonomy under One Country Two Systems.

[00:41:30] I am an unrepentant optimist, so despite the fact that it is currently very difficult to discern much light at the end of the tunnel, I'm going to try to end on a positive note. Hong Kong has come through many challenges before and after the change of sovereignty. Hong Kong people have come through because they are resilient, pragmatic, fundamentally tolerant and full of good sense. The majority are not anti-China and accept that Hong Kong is a part of China. But they are also proud of their Hong Kong identity and fiercely protective of the rights and freedoms they enjoy and which are guaranteed by the Joint Declaration and the Basic Law. They will not stand by and allow them to be progressively stripped away without a fight. I hope that the central government in Beijing will come to realize that any attempt to force a slavish patriotism on Hong Kong people is wholly counterproductive. Whether by means of national education, punishing those who show disrespect for the national anthem or clamping down heavily on freedom of expression including absurd ideas about independence for the city. The fact is only a tiny fraction of the population now advocate independence. Previously there was none at all until the undermining of One Country Two Systems and Hong Kong's autonomy became more and more glaringly obvious. Now into its fourth month the protest movement shows no sign of abating. But the increasing violence on the part of both the police and protesters is a cause for serious concern and must stop. I abhor the risks to so many young lives whether clad in black and wearing helmets and gas masks or wearing riot police uniforms. At the same time, I'm also mindful of the words of Albert Einstein who said quite simply, "Peace cannot be kept by force. It can only be achieved by understanding."

[00:44:00] So on this 70th anniversary of the founding of the People's Republic of China, we in Hong Kong recognize the huge progress that our country has made in a breathtakingly short time. Lifting hundreds of millions out of poverty, improving living standards and achieving economic growth and social advancement that are the envy of the world. We are proud of the unique contribution that Hong Kong has made to our nation's spectacular achievements and modernization. But we are distressed that central government feels it necessary to be increasingly repressive towards its Hong Kong subjects. I urge the Beijing leadership to act with greater confidence and to trust us more completely with stewardship of our own future by allowing us to elect our own leaders. In these troubled times, we ask Beijing respectfully to listen with greater understanding to the voices of Hong Kong's upcoming generations to recognize and respond to their fears and their aspirations. And above all to harness their talents, their energy and commitment for the benefit of the city we all love and for the benefit of our nation as a whole. Thank you very much ladies and gentlemen.