

**LIBERTY VERSUS CIVILITY:  
A CRITICAL REVIEW OF EFFICIENT POLICING  
IN HONG KONG**

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## Chapter One: Introduction

### Aim of the Thesis

Policing is a very interesting subject. It is often the focus of news report, television programmes and movie stories. It is commonly recognised that its good or bad directly affects our day to day lives. Almost every person in the society has his own impression and comment about the police officer ranging from positive to negative.

Cohen described police as the most visible agents of government.<sup>1</sup> If the powers of police is too great, there is a threat of the emergence of police state whereas the basic freedoms of an individual are being interfered.<sup>2</sup> Peter Morrow regarded the perfect freedom of action and exemption from interference as the basic privileges and blessings of the society and the execution of police function inevitably conflicts with these freedoms. Therefore a balance must be reached.<sup>3</sup>

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<sup>1</sup> Cohen, Howard, *Power and Restraint: The Moral Dimension of Police Work*, New York: Praeger, 1991, p. 24.

<sup>2</sup> CHAN Man-min, "The Crisis of Hong Kong Becoming a Police State", in *Shun Po Finance Monthly Journal* (Chinese), Vol. 9, No. 12, March 1986, pp. 16 - 22.

<sup>3</sup> Morrow, Peter, "Police Powers and Individual Liberty", in Wacks, Raymond ed., *Civil Liberties in Hong Kong*, Hong Kong: Oxford University Press, 1988, p. 243.



A serving police officer, WONG Doon-ye, found from his research and experience that police indeed spend the majority of their time providing services.<sup>4</sup> In a seminar about police actions in domestic violence, a victim of wife abuse case and the worker of the Harmony House have urged the police to have early intervention into domestic disputes which seem to have the threat of domestic violence.<sup>5</sup> In fact police originally have no power to take any action if there is no offence disclosed in the course of family disputes, however, the victim and the social worker seems to persuade police to take preventive actions such as warning the aggressive party to keep peace, etc.. This indeed can be viewed as an interference into the freedom of individuals in the families.

Lundman regarded police representing a full-time capacity to standardize citizen's conduct in line with legality and morality in the society. This centrally coordinated 'capacity of awareness' contains a fundamental threat to individual liberty.<sup>6</sup> However, crime does also pose threat to the civility in a society.

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<sup>4</sup> Wong, Charles Doon-ye, "Can the Police be Effective in Crime Prevention" in *Studies in Public Administration: The Berkeley-Hong Kong Project 1990-1991*, US: The Regents of the University of California, 1991, p.22.

<sup>5</sup> The opinion was expressed in the seminar held in the joint venture of the Junior Command Course and the Senior Command Course of the Royal Hong Kong Police Force in January 1996. Harmony House is a voluntary organisation in Hong Kong providing assistance and shelter for the female victims of domestic violence.

<sup>6</sup> Lundman, Richard J., *Police and Policing*, New York: Rinehart and Winston, 1980, p.22.

As a result, Lundman thought that the tension between liberty and civility is central to any understanding of the process whereby modern policing system was found.<sup>7</sup>

It is not an easy task to give a clear and comprehensive definition on 'police' as its roles and functions vary among different societies and in fact evolve over periods of time. Robins Cyril D suggested in his anthropological research that 'developmentally the police have a double, contradictory and dynamic origin and function leading to their contemporary schizophrenic image: as the agent of the people they police and, at the same time, as an agent of the dominant class controlling these people in the interest of that class'.<sup>8</sup>

The aim of this thesis is to use Hong Kong as a case study to examine the relations among policing, liberty and civility in the modern society. It is believed that policing helps to define the freedom in a society on the one hand; and to balance the tension between liberty and civility on the other hand.

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<sup>7</sup> *Ibid.* p. 23.

<sup>8</sup> Robinson Cyril D., *Police in Contradiction: the Evolution of the Police Function in Society*, Westport, Conn: Greenwood Press, 1994, p. 7.

## **Outline of the Thesis**

This thesis is divided into five chapters. The first introductory chapter indicates the aim of the thesis, outlines and approach of the study and definitions of keywords such as 'liberty', 'civility' and 'policing'. The second chapter is a discussion on different theoretical interpretations on the origin of modern policing. The third chapter is an analysis on the historical evolution of Hong Kong policing. The fourth chapter examine the controlling mechanisms on policing in Hong Kong while the last chapter is a conclusion.

## **Method of Study**

This study is basically a combined effort of literature review, data analysis and participation observation. The author tries to synthesize her direct observations in her six years of services in Royal Hong Kong Police Force since January 1990. However at least two major constraints are encountered in the course of study. Firstly being a serving police officer, the author is strictly bound by the Official Secret Act 1989. She has to be extremely careful in revealing her observations and knowledge of the Force in order to avoid any contradictions. Secondly the quick and ever-changing situations cause great difficulties in



contemporary studies as one has to be participatory and detached at the same time so as to have a rational overview of the phenomena.

## Definitions

In order to avoid ambiguity on the usage of similar terminology in the following discussion, it is advisable to define several keywords used in this thesis first.

## Liberty

According to *Webster's Third New International Dictionary of the English Language*, liberty can be defined as 'the quality or state of being free'. It is 'freedom from external restraint and compulsion'.<sup>9</sup> In the *Oxford English Dictionary*, liberty means 'exemption or freedom from arbitrary, despotic, or autocratic rule or control'.<sup>10</sup> That is 'the condition of being able to act in any desired way without hindrance or restraint, faculty or power to do as one likes'.

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<sup>9</sup> *Webster's Third New International Dictionary of the English Language*, Springfield: Merriam-Webster, 1993.

<sup>10</sup> *Oxford English Dictionary*, Second Edition, Oxford : Clarendon Press, 1989.

Liberty is frequently used to stand for political freedom. Hobbes regarded each man should have the liberty to use his own power for the preservation of his own nature that is of his own life and consequently of doing anything which in his own judgment and reason. This is the right of nature. However Hobbes further stated that we human beings are indeed too intemperate and short-sighted and we cannot follow the rules (i.e. the laws of nature formulated through reasoning) enhancing us to live together peacefully and harmoniously. Therefore an all-powerful sovereign or so called absolute sovereign authority is required to enforce the laws of nature on us.<sup>11</sup>

Locke further developed the concept of liberty from Hobbes's idea. 'For Locke, as for Hobbes, man's original political condition is a remarkably unprimitive "state of nature"--- the state of perfect individual freedom, in which man has a title to all rights and privileges of the law of nature equally with all others --- where man could not only protect and preserve his property, but he both judge and enforcer of natural law. But this state of nature can generate into a state of war: one man can attempt to get another man into his absolute power.'<sup>12</sup> In a state of nature,

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<sup>11</sup> Johns, W. T., *Masters of Political Thought, Vol. 2.*, London: Harrap, 1977, pp. 101 - 102.

<sup>12</sup> Carnoy, Martin, *The State & Political Theory*, New Jersey: Princeton University Press, 1984, p.17.

human beings have liberty but lack of security. Therefore reasonable men would trade some of their liberty for increased security.<sup>13</sup>

Locke is quite specific about in whom these rights of liberty reside and stated that the natural liberty of man is to be free from any superior power on earth, and not to be under the will or legislative authority of man.<sup>14</sup> They are the basic rights of human beings. Locke regarded the end of law is not to abolish or restrain, but to preserve and enlarge liberty.<sup>15</sup>

However for the critical sociologists, the concepts in the writings of Hobbes and Locke seem to be too idealistic. They regard that liberty or freedom in a society is indeed a norm of civility. 'The public activities of free citizens were to be regulated by codes of civility, reason and orderliness....., the private conduct of free citizens was to be civilized by equipping them with languages and techniques of self-understanding and self-mastery'.<sup>16</sup> Also a whole diversity of inventions such a police patrol units, moral characters, experts, and even social insurance help

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<sup>13</sup> Cohen, Howard, *op. cit.*, p.32.

<sup>14</sup> Johns, W.T., *op. cit.*, p.157, and also see Carnoy, Martin, *op. cit.*, p.18.

<sup>15</sup> Johns, W.T., *op. cit.*, p.158.

<sup>16</sup> Rose, Nicholas, "Towards a Critical Sociology of Freedom", in Joyce, Patrick (ed.), *Class*, United Kingdom: Oxford Readers, 1995, p.215.

to lock each 'free individual' into a play of normative gazes.<sup>17</sup> Therefore the liberty or freedom of individuals in a society has to be defined in reality.

In this thesis, 'liberty' simply refers to freedom from external interference in a society. It is the basic human right that man can enjoy. Such kind of freedom can be further elaborated as the freedom to live, to travel, to think, to speech, to assemble, to preserve privacy, to possess property ..., etc. As human beings live together as a collectivity, one is not free to invade the other's freedom. Liberty in a society is not absolute freedom. In what form one is allowed or at least accepted to exercise one's freedom may be very controversial in the society and may be changed over time. This is because being a member in the society, one not just possesses his rights but also has to perform certain obligations. These obligations are explicitly expressed in laws, rules and regulations; as well as implicitly laden in norms, customs and traditions, etc. which all together form the civility in a society.

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<sup>17</sup> *Ibid.*, p.217.



## Civility

*Webster's Dictionary*, 'civility' is defined as 'deference or allegiance to the social order befitting a citizens.'<sup>18</sup> In *Oxford English Dictionary*, 'civility' can be defined as 'conformity to the principles of social order, behavior befitting a citizen, good citizenship.'<sup>19</sup>

There is not much direct discussion on the definition of civility in the texts. Partly due to the word 'civility' is quite a new terminology which is invented after the formation of civil state and civil society in the modern times. Also it seems to have less controversial interpretations on the term so far. However we can still derive the early meanings of civility from classical political writings though the terminology used may be different. Basically, civility comprises the meanings of conducts and duties of citizens.

Derived from Hobbes's writing, civility may be something similar to the 'laws of nature' in Hobbesian terminology, by following them, human beings can

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<sup>18</sup> *Webster's Third New International Dictionary of the English Language*, Springfield: Merriam-Webster, 1993.

<sup>19</sup> *Oxford English Dictionary*, Second Edition, Oxford : Clarendon Press, 1989.

live together in peace and harmony.<sup>20</sup> For Hobbes, these laws of nature have to be enforced by absolute sovereign onto the human beings. On the other hand, Locke regarded that freedom cannot be enjoyed if there is no law. Within the allowance of laws, one is subject to the arbitrary will of another. As far as one is mature or rational enough, he should be capable to know the law and keep his actions within the bounds of law. The end of law is not to abolish or restrain freedom but to preserve and enlarge freedom, Locke argues.<sup>21</sup> Therefore, law in Locke's view is resemble to civility in our time.

In this thesis, 'civility' refers to conformity to collective order in a society. It is the obligation of citizens so as to maintain security and to avoid chaos in the society. This includes behaviour of obeying laws and regulations, cooperating with other members of the society, compliance to the norms ..., etc.

Liberty and civility are not necessarily mutually exclusive. We do enjoy a certain degree of liberty and civility at the same time. Civility is a basic element as to protect liberty in a society. If no one conforms the collective orders, every person has to work hard to protect oneself. People will become too busy and too anxious, so cannot really enjoy the freedom in a collectivity. Also in some

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<sup>20</sup> Johns, W.T., *op. cit.* pp.101-2.

<sup>21</sup> *Ibid.*, p.158.

situations, both liberty and civility are to be respected at the same time, it is quite difficult to achieve a good balance. Frequent debates and confrontations occur as different individuals and groups may have different interpretations on the appropriate balance between liberty and civility in the society.

However the state of liberty and civility are in a dynamic situation. Under certain circumstances, people are more ready to give up their liberty. On another circumstances, they may fight for more liberty. The changes of policing are in fact very good indicators of the changing balances of liberty and civility in the society.

## **Policing**

The general definitions of police in dictionaries seem to concentrate on the functions of enforcing law and order. For examples: in *Webster's Dictionary* 'police' means 'to maintain law and order in (as in a country)',<sup>22</sup> *Oxford English Dictionary* defines 'policing' as 'the ordering or regulation of a state',<sup>23</sup> and, the *Political Dictionary for Hong Kong* defines 'police' as 'that part of the state system,

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<sup>22</sup> *Webster's Third New International Dictionary*, G & C Merriam Company Publishers, 1961.

<sup>23</sup> *The Oxford English Dictionary*, Second Edition, Oxford: Clarendon Press, 1989.



or government, which is employed to enforce law and maintain social order within the territory of the state'.<sup>24</sup> However, the word 'police' has its origins in Greek and Roman times when it referred to 'good government of a community through civil administration, enforcement of laws and regulations and the maintenance of the health, cleanliness and the public order generally.'<sup>25</sup>

Robinson on on Cyril D. found in his anthropological researches that 'for better or worse, however complex, that is civilized societies, are almost universally characterized by the police function, which supports the whole enormous apparatus of law and order present in such society'.<sup>26</sup> Also, the names or titles of 'police' in history diverse in different countries such as knights in Medieval Europe, Samurai in Japan, Vigilantes in the United States, 'Trained Bands' among the Cheyenne Indians, Potwaris in India, Hans in China, Hundred in England.<sup>27</sup> However the emergence of modern policing is a parallel development, if not a by-product, of the formation of 'state' or 'government' in the modern society. Therefore in order to understand the nature of modern police, we have to know the characteristics of modern state first.

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<sup>24</sup> Stephen, Davis & Elfred ,Roberts, *The Political Dictionary for Hong Kong*, Hong Kong: Macmillan, 1990.

<sup>25</sup> Alderson, J. C. , *A Dictionary of Criminology*, ed. by Walsh, D. and Poole, A., London: Routledge and Kegan Paul, 1983, p. 163.

<sup>26</sup> Robinson Cyril D., *Police in Contradiction: the Evolution of the Police Function in Society*, Westport, Conn: Greenwood Press, 1994, p. 2.

<sup>27</sup> Bayley, David H, *op. cit.*, p.7.

Agreeing with Max Weber's observation that the most prominent feature of modern state is its monopoly on legitimate use of physical force within a given territory,<sup>28</sup> then Bayley identified three essential parts of 'police' as (a) physical force, (b) internal usage, and (c) collective authority. As a result, he defined 'police' as 'people authorized by a group to regulate interpersonal relations within the group through the application of physical force.'<sup>29</sup>

The above definition gives a clear distinction of police from other government departments which often stress more on administrative force. Also police force is different from military force as the former is mainly for internal usage which the latter concerns of external defence. However police like other public bodies have to get their power from the collective authorization which explicitly is the government or the state (these two terms refer to the same thing and are used interchangeably in the following of the thesis.)

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<sup>28</sup> Bayley, David H., *Patterns of Policing: A Comparative International Analysis*, USA: Rutgers University Press, 1985, p. 3., see also Gerth, H.H. and Mills, C. Wright, *From Max Weber: Essays in Sociology*, Oxford University Press, 1958, p. 78., also Robinson Cyril D., *Police in Contradiction: the Evolution of the e Police Function in Society*, Westport, Conn: Greenwood Press, 1994, p. 6.

<sup>29</sup> Bayley, David H., *op. cit.*, p. 7.

In order to avoid ambiguity on the usage of similar terminology in the following discussion, it may be advisable to distinguish 'policing', 'police' and 'police force' respectively. 'Policing' in this thesis refers to the enforcement actions of people who are authorized by the government to maintain law and order so as to regulate the relations in the society through the usage of physical force. The term 'police' refers to the said group of people while 'police force' refers to the organization.

### **Efficient Policing - Why Not a Quantitative Approach?**

As mentioned earlier, policing changes over time and varies from different societies. In a totalitarian society, police may be required by the government to be very autocratic, forceful or sometimes highly secret in dealing with the public. However in a democratic society, police are expected by the government to be more approachable, self-disciplined and open-minded. Therefore it is hardly to have an objective assessment method to review whether certain policing system is efficient or not.

Literally, 'efficiency' implies certain degree of satisfaction and desirability. It is usually assessed in a continuum ranging from very high to very low. John Shu-lam Lau concludes that there are four types of contextual definitions



of the term. They are the administrative model, the management model, the mechanical model and the economic model. In brief, administrative model considers the greatest possible achievement with given opportunity cost. The management model emphasizes the right performance. The mechanical model stresses on the relation between useful output and energy input. Finally the economic model links the utilization of resources to the well being of persons.<sup>30</sup>

Therefore we may have different interpretations on 'efficiency' if we assess it from different perspectives. In this thesis, 'efficient policing' is only defined as our daily language rather than specific academic terminology. Therefore 'efficient policing' here merely refers to a general impression of having capable, effective, desirable and satisfactory performance of people who are authorized by the government to maintain law and order in the society through the usage of physical force.

Concerning performance assessment and evaluation, Hall G. Rainey has suggested four different approaches. They are the systems-resources approach, the goal approach, the human resource and internal process approach, and finally the

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<sup>30</sup> LAU, Shu-lam, John, "Efficiency in Fire Fighting," in *Studies in Public Administration: The Berkeley-Hong Kong Project 1988-1989*, USA: The Regents of the University of California, 1989.



participant satisfaction approach.<sup>31</sup> However one thing we should never neglect. That is the difference between the public and private sectors. The public sector organisations are usually having different operational procedures and goals from those of the private sector organisations. Also the public sector organisations are often subjected to more external intervention and constraint. They, unlike the private sector organisations, are not simply directed to profit-making. Therefore it is more difficult to have a good performance evaluation framework for the public sector.

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<sup>31</sup> Hal G. Rainey, *Understanding and Managing Public Organisations*, San Francisco: Jossey-Bass Publishers, 1991, pp.207-222., The four approaches are as the follows: The **systems-resources approach** focuses on the acquisition of valued resources in sustaining the organisation from its environment. For instance, the fundraising organisation aims at collecting as much donations as possible, its performance can be assessed by the total amount of fund raised in a certain period of time. The **general approach** then assesses the goal attainment. For example, commercial firms may set a goal of having certain percentage increase of their annual profits or a goal of establishing a certain number of new markets each year, their performance are assessed by the extent their goals are attained. **Human resource and internal process approach** concentrates on the smooth internal functioning. The management consultation firms and the public relations firms may assess their achievement or their services to their clients by reviewing the progress internal functioning in the client organisation and their communications with the clients. **Participant satisfaction approach** considers the participant's response to the organisation. For instance, the radio broadcasts company assess their success by their audience responses.

Wilson identifies four types of public organisations in accordance with the observability of their outputs and outcomes. Output here refers to the immediate products, while outcomes mean the more long-term impacts caused by the performance of the public organisations.<sup>32</sup> The first type of Wilson's models is named production organisation which is with observable outputs and outcomes, e.g. the Inland Revenue Department. The second type is procedural organisations which refer to those with the public managers being able to observe what their subordinates are doing but not the outcome, e.g. the Registry of Birth and Death. The third type is craft organisation which relies heavily on the self-control of the operators as their activities are hard to observe though outcomes are relatively easier to evaluate, e.g. Medical and Health Institutions. The fourth type is coping organisation which is with unobservable outputs and outcomes. Diplomacy is the most typical example.

In fact as police usually have to play a wide range of roles in the society. Therefore even within the police force, different units may fall into different types of organisations in Wilson's models. Briefly speaking, the production organisation may refer to the Enforcement section of Traffic Branch. Both the number of traffic tickets issued and the impact on traffic control can be easily observed. The procedural organisation may refer to the Licenses Offices and the Criminal Record Bureau. This is because the senior officers can easily monitor the procedural practices of the front line officers administered. However the impact of their actions is hardly observed. Craft organisation is well represented by the

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<sup>32</sup> Wilson, James Q., *Bureaucracy: What Government Agencies Do and Why They Do It*, New York: Basic Books, 1989. pp.157-175.



Criminal Investigation Departments where their efforts can be evaluated on the basis of crimes solved, but not the procedures followed. Coping organisation is typically indicated by Beat Patrol Units. The course of patrolling cannot be closely observed. Also the major tasks of patrolling are preventive in nature. Therefore both outputs and outcomes of Beat Patrol are unobservable.

Having said that, if we evaluate the performance police force as a whole, the model of coping organisation is the most suitable as compared to the other three. This is particularly true if we accept the saying that police are controlling agents of the ruling power, that is, the government. The interests of government are surely preserving political stability and maintaining her ruling power. The major functions of the police are expected to cope with crisis and to prevent disorders. Both coping and preventive functions can hardly provide quantified results for comparison. Therefore both major outputs and outcomes of police force as a whole are unobservable through some of the subsidiary or minor police functions may be with observable results to a certain extent.

In addition to the disagreement on the definitions of 'efficient policing', there are also unintended consequences of quantitative data of performance indicators which caused difficulties in assessing efficient policing. Peter Smith identifies eight of them<sup>33</sup>. The unintended consequences not just lead to

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<sup>33</sup> Smith, Peter, "On the Unintended Consequences of Publishing Performance Data in the Public Sector", in Ott. J. Steven , Hyde, Albert C.& Shafritz, Jay M.ed. *Public Management: The Essential Reading*, Chicago: Nelson-Hall Publishers, 1990., pp.277-

wrong impressions and interpretations on the situations but also defeat the purpose of performance evaluation. In view of the above, there are rather sufficient evidence to prove the quantitative performance measurement, no matter single, multiple or composite, are seen to have undesirable consequences in evaluating performance.

### **Suggested Framework for Analysis**

Reviewing efficient policing involves various technical, economic, ethical and ideological issues. If we try to assess how well the police functions in

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303., The eight unintended consequences of quantitative approach in performance evaluation are:

- a) **Tunnel Vision:** it means over emphasizes on measurement of performance in quantified aspects at the expense of unquantified ones .
- b) **Suboptimization:** it means the pursuit of narrow local objectives at the expense of overall objectives of the organization.
- c) **Myopia:** it means the concentration on the pursuit of short term targets at the expense of long term objectives.
- d) **Measure Fixation:** it means emphasis on measures of success rather than the underlying objective.
- e) **Representation:** it means the deliberate manipulation of data in forms of 'creative reporting' or 'fraud'.
- f) **Misinterpretation:** it means sending wrong policing signals by misinterpreting the facts in possession..
- g) **Gaming:** it means the deliberate manipulation of behavior to secure strategic advantage.
- h) **Ossification:** it means organizational paralysis caused by an excessive rigid system of performance evaluation set in advance.

balancing the tension between liberty and civility in a society, merely quantitative measurement is surely not sufficient to complete the task. This is because the police force is a coping organisation. Its outputs and outcomes can be hardly observed nor quantified. Also there are many unintended consequences of quantitative data of performance indicators.

Therefore a relational reviewing approach is so suggested, police force was different from many other organisations as its fundamental task concerned the management of human relations in a society.<sup>34</sup> Police force as a government department is inevitably viewed as a political agent of the ruling class. However the British style of civil servants system emphasize greatly on its neutrality and autonomy in politics. Whether it is true in Hong Kong in the past and nowadays? Also police force is a statutory body and its activities should be strictly bound by law and only law. Is policing in Hong Kong impartial and equal to all? Furthermore police are to regulate the relations in the society. Is the policing system in Hong Kong accountable and responsible to the citizens?

In the following chapters, the author attempts to review the relations in policing from three different perspectives. The first is a theoretical discussion on the nature and origin of modern policing in a society. The second is historical analysis on the development of policing in Hong Kong so as to identify the causing factors of such development. Finally the author will examine the police-

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<sup>34</sup> Bordua, David J., ed., *The Police: Six Sociological Essays*, New York: Wiley, 1976.

government, police-judiciary and police-community relations respectively to see how policing are monitored in the society.



## Chapter Two: Origin of Modern Policing

The development of modern policing system parallels to and is dependent upon the development of the modern state system.<sup>1</sup> However different political philosophers have different explanations on the origins of 'modern state' and their inference on the emergence of modern policing. Basically they can be categorized into two schools of thoughts - functionalist and conflict schools.

### Functionalist School

The functionalist school regards the origins of states and modern policing as natural development or evolutionary process. 'Naturally and inevitably states may come into being without being planned by anybody, it is nevertheless the case, objectively considered that their existence is morally justifiable only if, and as far as, they create the kind of environment in which men can realize their end, only if they implement the rights which men own and so permit them to live a good life'.<sup>2</sup>

The functionalists stress heavily on the natural and inevitable need for the individual human beings to gather together as a collectivity which share a common good. Under such a collective situation, individuals are ready and have to give up certain rights to trade for a secure environment for survival. Thomas

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<sup>1</sup> Robinson Cyril D., *Police in Contradiction: the Evolution of the Police Function in Society*, Westport, Conn: Greenwood Press, 1994, p.3.

<sup>2</sup> Johns, W.T., *Masters of Political Thought, Vol. 2.*, London: Harrap, 1977, p.156.



Hobbes and John Locke are two of the most outstanding founders of social contract theory. The theory of social contract treats both government itself and the authority it exercises as the products of a bargain of compact struck between rulers and citizens.<sup>3</sup>

## The Social Contract Theories

Thomas Hobbes broke through the traditional belief of a divine right bestowed by God on a hereditary monarch at his times. Instead he argues that political authority was derived from the presumed consent of the governed. In Hobbes's writing *Leviathan*, he uses the terms 'natural right' and 'natural law'. Natural right for Hobbes is, in fact, simply the state of nature in which one can preserve one's own life and to do anything in his own judgment and reason. However, when he says that man has a natural right to everything which he can obtain, he does not mean the existence of any moral rights at all. Instead Hobbesian world is one in which force is the sole determining principle of conduct. The only criterion by which conduct can be judged is by its success or failure in attaining whatever it has set out to attain.<sup>4</sup>

Also Hobbes does not mean that men have ever actually lived in such a condition of state of nature without any form of government or society. This is

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<sup>3</sup> Cohen, Howard, *Power and Restraint: The Moral Dimension of Police Work*, New York: Praeger, 1991, p.25.

<sup>4</sup> Johns, W.T., *op.cit.*, pp. 111-113.

because a tension between preserving liberty and the fear of violence and war which the individuals have to follow certain rules or Hobbes calls them as laws of nature in order to live together in peace and harmony. Furthermore, with certain self-contradictions, Hobbes thinks that it needs an absolute sovereignty to enforce the laws.<sup>5</sup> Individuals give up their power and liberty to the sovereign as they realize that omnipresent struggle for power would lead to violent death and the breakdown of the collectivity.

However Hobbes ideas are often criticized as he did not impose any substantial limits on the behaviour and power of the ruler. 'So long as he (the ruler) provided security for the lives and property of citizens, he could choose virtually any of the means by which he governed.'<sup>6</sup> Also Hobbes cannot explain in full the reasons for individuals who love their liberty give all their power to sovereignty, just hope that the sovereignty would be just and fair or at least represent their best interests.<sup>7</sup>

John Locke appears to have a step forward from Thomas Hobbes. Locke emphasizes greatly that 'the naturally liberty of man is to be free from any superior power on earth, and not to be under the will of legislative authority of man'.<sup>8</sup> In Locke's view, individual human beings would give their consent to the

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<sup>5</sup> *Ibid.*, pp.99, 101-102.

<sup>6</sup> Cohen, Howard., *op. cit.*, p.26.

<sup>7</sup> Carnoy, Martin, *The State & Political Theory*, New Jersey: Princeton University Press, 1984, p.15.

<sup>8</sup> Johns, W.T. *op. cit.*, p.157.

state to govern them only if the state maintains and preserves their lives, liberties and property.<sup>9</sup> Locke, unlike Hobbes, excludes absolute monarchy from any acceptable form of government. In his writing *First Treatise on Civil Government* (1688), he systematically attacked the idea of divine rights. In his another famous writing *Second Treatise*, he elaborated his theory of political legitimacy based on the notion of consent of the governed.<sup>10</sup> Locke in fact does not define any form of state but just the underlying principle of individual rights ---all men are created equal and rights are inalienable. Therefore individual powers are given to the state only as long as the state fulfill the protective function, equitably governing the individual members in the society.<sup>11</sup>

In Locke's view, the individuals who have political rights are all property owners, women and children are excluded from entitlement of political rights. . Also, he argued that men are all morally equal if just as soon as, reason in them is sufficiently developed for them to recognize those natural laws which define their rights and duties. Therefore children are regarded as not possessing fully developed reason yet.<sup>12</sup> Also Locke's state of nature, again differs from Hobbes's,, is an ideal moral order and whether this moral order does in fact exist, or ever has existed is still questionable.

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<sup>9</sup> *Ibid.*, p.187.

<sup>10</sup> Cohen, Howard, *op. cit.*, P.26.

<sup>11</sup> Carnoy, Martin, *op. cit.*, p.18.

<sup>12</sup> *Ibid.*, p.19 and also see Jones, W.T., *op. cit.* pp.157-158.



Both Hobbes and Locke view that the members of the society are generally very homogeneous in terms of individual interests and share the common good. They both do not have much realization and then explanation on existence of inequality in the society. Jean-Jacques Rousseau, the third founder of the contract theory, however views this state of his time as the creation of the rich to secure their positions as the dominant class. The state presented as benefiting all but indeed designed to preserve inequality. He regards the emergence of property ownership is the source of evil and inequality.<sup>13</sup> As Rousseau develops his contract theory from the awareness of human greed, he ultimately counts on education and the fundamental rationality and good will of men to achieve balance and social order in a society.

Also Rousseau agrees with Locke that the power of the state resides in the men who surrender their freedom to the state and the state represents the general will or the common interests for all. He believes that man is good and so he can afford to exchange his natural for his civic freedom, to translate his original goodness into social action. Also man can surrender his natural freedom because while he becomes subject, he remains a master. In the good society, he essentially obeys himself.<sup>14</sup> The state, in Rousseau's view, is merely the organ through which the sovereign people expresses its will and brings about changes in the external world.<sup>15</sup> He advocates a government by law and accountable to the sovereign

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<sup>13</sup> Carnoy, Martin, *op. cit.*, p.20.

<sup>14</sup> Rousseau, Jean-Jacques, *The Basic Political Writings*, USA: Hackett Publishing Company, 1987, p.xvi.

<sup>15</sup> Johns, W.T. *op. cit.*, P.294.

people who ratify the actions of its government, to appraise its performance and if necessary to replace it with another one.<sup>16</sup>

The social contract as interpreted by Thomas Hobbes, John Locke and Jean-Jacques Rousseau is in fact a hypothetical bargain in which each individual transfers to an authority the liberty to enforce his own rights in exchange for greater security. As the liberty and security are seen as trade-off, it is not surprising that each generation wishes to re-examine the terms under which the social contract is made, and to assess whether all members of society benefit equally from the bargain.<sup>17</sup> Therefore the contractual relations between the state and the people change over time.

### **Theory of Policing by Consent**

Inferring from the social contract theory, police or the general authority as agents of the state are given consent by the citizens to perform their prescribed duties. The consent refers to policing policy rather than particular decisions. It is frequently suggested that we get the policing we deserve, the implication being that policing methods mirror public attitudes and behaviour.<sup>18</sup> Frequent police-citizens confrontations especially those of large scale may be viewed

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<sup>16</sup> *Ibid.*, p.308.

<sup>17</sup> Cohen, Howard, *op. cit.*, p.34.

<sup>18</sup> Morgan, Rod & Smith, David J. ed., *Coming to Terms with Policing: Perspectives on Policing*. London: Routledge. 1989. pp. 80-82.

as indications of dissent. On the other hand police-citizens joint venture and cooperations can be signs of consent.

However both the theory of social contract and its inferred concept of policing by consent are rather limited in applying situations in Hong Kong. Being a British colony since 1842, Hong Kong is not an independent nor democratic polity. Hong Kong citizens have not been consulted whether to give consent or not to British rule. The colonization process is not a natural nor inevitable developmental process. In other words, the British colonial government is never legitimized by the Hong Kong citizens.

Peter Morrows comments that ‘the emergence of the powers of a member of the police force in England was a lengthy and gradual process. In Hong Kong, on the other hand, circumstances dictated that a police force be formed immediately the colony was founded, and there was no opportunity for debates about the intrusions of a police force into the liberties of a Hong Kong person.’<sup>19</sup> The emergence of policing in Hong Kong is not natural at all but the concept and styles of policing are totally imposed by the British colonial government.

Therefore there were various strikes, protests and riots occurred from the early years of British colonial rule to challenge the authority of the government as well as the police. For instances in August 1844 Governor Davis

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<sup>19</sup> Morrow, Peter, “Police Powers and Individual Liberty”, in Wacks, Raymond, ed. *Civil Liberties in Hong Kong*, Hong Kong: Oxford University Press, 1988, p.243.



introduced a registration scheme which requested all residents to register. This provoked protests both from the Chinese and the European communities, and subsequently the registration scheme was forced to be modified.<sup>20</sup> Also in 1845, the extortion activities conducted by the Chinese police constables on shore duty was so widespread and frequent that provoked a riot by coolies in West Point.<sup>21</sup> One year later, a constable who had just arrested a suspect was stoned by some Chinese. Police rushed to the area and arrested all those without registration tickets. Fifty-four who were unable to pay the fine received twenty strokes with a rattan and had their queues cut. The leaders of the Chinese Community protested and as a consequence of these protest, public floggings were suspended.<sup>22</sup> In March 1860 a prison riot occurred.<sup>23</sup>

All the above showed that there was lack of consent from the people in Hong Kong upon the British colonial rule in the early years. Police-citizens confrontations occurred every now and then and the authority of colonial government was challenged. Briefly, large scale strikes and riots occurred almost once in every decade in 1922, 1925-6, 1956, 1966 and 1967 and the more details of the incidents will be discussed in the next chapter. In between these internal threats of ruling legitimacy, there were also external challenges. For instances, since

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<sup>20</sup> Crisswell, C. & Watson, M., *The Royal Hong Kong Police (1841-1945)*, .Hong Kong: Macmillan., 1982, p.15.

<sup>21</sup> *Ibid.*, p.26.

<sup>22</sup> *Ibid.*, p.27.

<sup>23</sup> *Ibid.*, p.88.



Guomindang established itself the government of China at Nanjing in 1927, negotiations had been made with the British government upon handing back Hong Kong to China in the years between two world wars.<sup>24</sup> Also, Hong Kong had been occupied by Japan during the period between December 1941 and August 1945 when the British colonial rule was once interrupted.

Not until the lesson learnt from 1967 riots, Hong Kong government might still pay little attention on the essence of public support. Even nowadays there appears to have more consultative and participatory channels in the government, the energy of those political potentials is largely absorbed rather than empowered in the decision making process. For example, approaching to 1997, British government inevitably has to commence dialogue with the Chinese government upon the future of Hong Kong. During the two years talks and negotiations, a Draft Agreement was jointly made by Britain and China. However the Hong Kong citizens have no right to choose their own fate nor have any genuine chance to be fully consulted. The agreement was not put to the people of Hong Kong for approval in a referendum.<sup>25</sup> Therefore, Hong Kong people and the colonial government are in no contractual relations. Instead the Hong Kong people by themselves are incapable to reject the British rule only. Therefore, it is inappropriate to apply the theory of social contract and then the inferred theory of policing by consent to Hong Kong.

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<sup>24</sup> Miners, Norman, *The Government and Politics of Hong Kong*, Hong Kong: Oxford University Press, 5th ed., 1991, p.4.

<sup>25</sup> *Ibid.*, p.9.

## Conflict School

The conflict theorists regard state as an arena in which compete for power. Such a school of thoughts mainly inherits presumptions of Marxism. 'Since Marx did not develop a single coherent theory of politics and/or the state, Marxist conceptions of the state must be derived from Marx's critiques of Hegel, the development of Marx's theory of society (including his political economic theory), and his analyses of particular historical conjuncture, such as the 1848 Revolution in France and Louis Napoleon's dictatorship, or the 1871 Paris Commune'.<sup>26</sup> However there are some fundamentals shared among all Marxist writers.

Firstly, Marx suggests that it is the material conditions in a society determines the social structure and human consciousness.<sup>27</sup> Therefore the emergence of state is related to the changing modes of production in the society. Thus he disagrees with Hegel who views state as eternal, not historical. On the contrary, Marx regards state as historical and it is shaped by the changing society over time. When the society transforms from agrarian mode of production to industrialized one, a new class of people namely the capitalists arises. Capitalists are the owners of the means of production. They exploit the working class that in the labour force so as benefit the most in the production process.

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<sup>26</sup> Carnoy, Martin. *op. cit.* p.45.

<sup>27</sup> *Ibid.* p.46-7

Secondly, Marx argues that the state does not represent the common good but merely the political expression of the class structure inherent in production.<sup>28</sup> Hegel as similar to Hobbes, Lockes, Rousseau and Smith, views that state represents and works for the common good of the social collectivity. According to the conflict theorists, the capitalists conspire with the elites in the society from the state or government so as to monopolize power and to protect their own interests. State is in fact a means of class domination.

Thirdly, Marx regards state as the repressive arm of bourgeoisie.<sup>29</sup> The conflict theorists view that the power to change the society is not uniformly distributed across all social classes. Instead such power is concentrated in the hands of a relatively small group of people who are the rulers, the capitalists and the elites. In fact most of the 'common good' theorists accept that repression is part of the state. This is because the separation of power or the monopoly of force from the members of the society would enable one group in society to use that power or force against the other groups. However, it is the feature that state as repressive apparatus of the bourgeoisie forms the distinction of the Marxist theories.<sup>30</sup>

Carnoy, Martin observed the growing power of the modern state which appears to hold the key to economic development, to social security, to individual liberty, and through increasing weapons 'sophistication', to life and death

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<sup>28</sup> *Ibid.*, p.47-8.

<sup>29</sup> *Ibid.*, p.50.

<sup>30</sup> *Ibid.* p.50



itself.<sup>31</sup> In Gramscian view, the state is an ideological apparatus that legitimates the hegemony i.e. the dominance of norms and values of the capitalist class.<sup>32</sup>

### Theory of Policing in Contradiction

‘A society dominated by a ruling class needs a coercive instrument to maintain its control over basic resources and over a labour force necessary to produce the surplus product to support and sustain the ruling class.’<sup>33</sup> Robinson Cyril D. observed that ‘by a series of almost imperceptible changes, the police function existing within a kinship society, is transformed into a police function that predominantly represents the interests of the dominant class in a class-dominated society, while at the same time purporting to and appearing to represent the entire society’.<sup>34</sup>

In fact, modern police can protect the interests of the capitalists and elites in several ways. Firstly modern police usually target at certain ‘criminal class’ such as the drug addicts, the burglars, the robbers, etc. especially at the street level. They protect the capitalists from being endangered by the drop-outs of normal labour force. Secondly modern police can be easily mobilized and usually less threatening as compared to the military force in prevention and suppression of public

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<sup>31</sup> *Ibid.*, p.3

<sup>32</sup> *Ibid.*, P.5.

<sup>33</sup> Haas, Jonathan, *The Evolution of the Prehistoric State*, New York: Columbia University Press. 1982. pp.173-4.

<sup>34</sup> Robinson Cyril D., *op. cit.*, p.3.

riots. This helps maintain stability for economic activities. Thirdly modern police can relieve ordinary citizens from the apprehension of safeguarding their lives and property. As a result they can concentrate their energy on production which ultimately benefits the capitalists.<sup>35</sup>

The conflict theory also views society as an arena in which groups compete for power to maximize their own interests. Conflicts can be expressed through a lot of different forms. For instances, a nascent proletariat begins to attack capitalist exploitation by industrial disputes and strikes<sup>36</sup>; there are sometimes groups conflicts which are structurally defined but extends beyond class division, e.g. racial disputes<sup>37</sup>; and sometimes there are merely conflicts between groups with competing interests such as the disagreement upon the rights of inheritance of land in the New Territories.<sup>38</sup> Apart from the economic and social conflicts of interests in the society, there are some conflicts upon different political orientations. Being the control agents of the government, police have to preserve the political stability for the ruling power. In a society, there are different political agitators who would like to advocate their own political ideology and to attack their opponents. When the political contradictions developed into a large scale or beyond control, there

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<sup>35</sup> Lundman, Richard J., *Police and Policing*, New York: Rinehart and Winston, 1980, p.32.

<sup>36</sup> Fielding, Nigel, *The Police and Social Conflict: Rhetoric and Reality*, London: Routledge & K. Paul, 1991, p.23.

<sup>37</sup> *Ibid.*, p.23.

<sup>38</sup> According to the traditions in the New Territories in Hong Kong, female members of the family have no right to inherit land as the estate from their ancestors. In 1995, a female legislator LU Gong-wai had proposed the amendment on such tradition so as to ensure equal rights among sexes in the society legally. The issue has aroused great concerns and conflicts among the inhabitants in the New Territories.



may have riots or chaos that affect political stability. Therefore police have to take actions to restore peace. Otherwise the ruling power may be at risk.

The police force as an organization should have its own organizational interests and survival instinct<sup>39</sup>. So there surely have organizational conflicts of interests with other organizations and the society as a whole. For example, police in a certain extent relies on the public fear of crime and disorder in the society to upkeep or even to acquire more power and resources. Also in order to maximize their own organizational interests, police and other enforcement agencies and social change institutions all develop into a certain mutual-sanctioning relationship. The court personnel and police officers are very often mutually suspicious in court proceedings; the Customs and Excise Officers often compete with the police on productivity (i.e. the detection rate on crimes under shared responsibility); the anti-corruption officers often target at police activities, etc. Their mutual sanctioning are in fact helping to maximize their own organisational interests rather than for the public good.

The only threat to the modern police is the collective consciousness of the working class on the conspiracy of the police with the capitalists. Or certain groups in society question whether all members of society benefit equally from the

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<sup>39</sup> NG, Quinn, Michael, *Bureaucratic Response to Political Change: Theoretical Use of the Aotypical Case of the Hong Kong Police*, Hong Kong Institute of Asia-Pacific Studies: the Chinese University of Hong Kong, Occasional Paper No.2, 1991, p.2.



state and the policing. However, 'in practice, police efforts are unlikely to be equal, either between statutes, demographic groups or jurisdictions. The exercise of discretion is inevitable in a society where resources are limited. Even with a police force equal in size to the population policed it would be impossible to prosecute every law.'<sup>40</sup>

In order to make police look good and arouse less suspicious from the public, police not just adopt hard approach but also soft approach in duty execution. . For example, the mass public are educated to work hard for their employers so as to increase their own wealth instead of choosing the other way to climb up the social ladder. They should not spend their money, energy and time at the 'vice' activities but concentrate on their work. Police would also cooperate with other government departments to organize various educational campaigns such as fight crime campaign, anti-narcotic campaign, etc. to facilitate social change according to the norms and morality of the dominant class.

The conflict theory and the inferred concept of policing in contradictions all imply that modern state and police force are posing as to serve the common interests of the society as a whole but actually tend to protect the interests of the capitalists and to maximize its organizational power. The society is full of conflicting interests with unequal distribution of power.

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<sup>40</sup> Fielding, Nigel G., *op. cit.*, p.11.

These concepts are very useful in explaining emergence of policing in Hong Kong during the early colonial era. This is particularly true when we realize the initial intention for Britain to occupy Hong Kong in 1800s is mainly for diplomatic and commercial purposes. According to Marxism, 'capital accumulation and the liberation of labour power in the European homeland of capitalism resulted in overproduction and the tendency for the rate of profit to fall.'<sup>41</sup> Therefore colonizing indigenous economy in the Third World is required to sustain the continuous surplus of production in the colonist countries. Also Hong Kong was seized by Britain for two purposes: firstly it was to act as an economic centre to facilitate trading activities between Britain and Asian countries, China in particular; and secondly it provided a military base for Britain to protect its commercial activities and property in Asia.

It is the theme of the following chapters to examine how theory of policing in contradiction be used to explain the historical evolution and contemporary relations of policing in Hong Kong.

### **Major Tension : Liberty versus Civility**

Both the concepts of policing by consent and policing in contradiction show the existence of a very essential and inevitable tension in policing. That is the tension between liberty and civility. In the concept of policing

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<sup>41</sup> CHAN, W.K., *The Making of Hong Kong Society*, Oxford: Oxford University Press, 1991, p.4.

by consent, citizens have to trade off certain degree of liberty for security on voluntary bases. However, policing in contradictions concerns the exploitation of liberty of the working class so as to protect the interests of the rulers, the capitalists and the elites. Policing helps to define the civility which in turns restraints liberty in the society through enforcement of law and order; and by providing services and education so as to plant the norms and values of the dominant class into the mass public. In cases there are conflicts or disagreement upon the balance of civility and liberty , policing as an coercive apparatus of the state will combat the confrontations by force.



## **Chapter THREE: Historical Evolution of Hong Kong Policing**

### **Roots of Colonial Policing System**

Hong Kong is a British colony and its policing style is also coloured with colonial characteristics. The early colonial policing systems are in fact having their roots in Roman and Greek culture. It was natural for colonists to transplant mechanisms of control proven in their home environments to the new colonies, but need for flexibility in approach.<sup>1</sup> On examining the policing arrangement in the former empires of Western powers especially those under British colonial rule, the existence of dual systems can be found. As the early population in Australia were convicted people, the civilian policing system was not started from the beginning. Instead policing there developed from a military style of law enforcement to the civilian model over time. In colonies in Indian subcontinent, Africa, the Middle East, the Caribbean, resistance of British colonial rule was greater. A more coercive power of police was required to suppress oppositions. Therefore the para-military policing style were preferred to the domestic British policing style.

It often requires lots of wit and tactics for British colonial governments to alter their ruling styles as well as their policing strategies to adjust to the situational needs evolved in the colonies from time to time. According to

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<sup>1</sup> Stead, Philip John, *Pioneers in Policing*, New York: McGraw Hill, 1977, pp.12-16.

Charles Jefferies, three phases were identified in the development of the British colonial policing; they were namely the improvised, semi-military and civilian respectively<sup>2</sup>. He viewed that at the improvised phase, the colony was just at its preparation stage and arrangements were made to secure the basic essentials of law and order, and so police perform mainly guard and patrol duties. During the semi-military phase, the colony might face the threats of unrest or war, so the police were organised as semi-military force and capable of being mobilized as defence units in a short time. The civilian phase was introduced when the colony had been more modernized, westernized and ready to be decolonized.

Jefferies's developmental model of British colonial policing may be applicable to describe most British colonies but it needs careful consideration in analysing the evolution of Hong Kong policing. Hong Kong has been observed as a striking exception among the colonies of Britain. For instance, throughout the last twenty years, the great majority of British colonies attained independence and few colonies remain under British sovereignty do possess self-government mechanisms; however there is complete absence of any moves towards elections and internal self-government in Hong Kong.<sup>3</sup> LAU Siu-kai has commented that those ideal-typical conceptualizations of colonial societies advocated by the social scientists,

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<sup>2</sup> Jefferies, C.J., *The Colonial Police*, London: Max Parrish, 1952, pp.35, 37, 93, 142-3.

<sup>3</sup> Miners, Norman, *The Government and Politics of Hong Kong*, 5th ed., Hong Kong: Oxford University Press, 1991, p.22.

when applied to Hong Kong, produce either partial truths or outright distortions.<sup>4</sup> Putting the uniqueness of Hong Kong as a colony into consideration, two major factors determining the evolution of policing in Hong Kong can be found. They are the exogenous factor, namely the Sino-British relations; and the endogenous factor, namely the government-community relations.

CHAN W. K., a Chinese scholar, has stated in the introduction of his research writing that 'it is undoubtedly true that throughout Hong Kong's history, both China and Britain have had much influence over the colony, this does not preclude a study of Hong Kong as a distinct entity in its own'.<sup>5</sup> Therefore it is essential to look into the changing Sino-British relations when analysing the historical evolution of Hong Kong policing. As previous chapter suggests, police are the coercive apparatus of the government to define civility and restraint liberty in the society. So the changing government-community relations is surely the basic factor to explain the changing policing strategy in the society. Due to the changing relations over time, the strategy of policing has to evolve to cope with the situational needs and demands. However according to the theory of policing in contradiction, even though the strategy of policing may be changed but the hidden role, function and purpose of policing remain.

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<sup>4</sup> LAU, Siu-kai, *Society and Politics in Hong Kong*, Hong Kong:the Chinese University Press, 1984, p.7.

<sup>5</sup> CHAN, W.T., *The Making of Hong Kong Society*, Oxford: Clarendon Press Oxford, 1991, p.6.



Similar to Jefferies's categorization, the evolution process of Hong Kong policing can be divided into three stages. They are the early colonial era (1841-1910), the intermediate colonial era (1911-1969) and the late colonial era (1970-1997). This division mainly reflects the significant changes of those two determining factors --- Sino-British relations and government-community relations --- which cause evolution of different policing strategies over times.

## **Early Colonial Era (1841-1910)**

### **The Sino-British Relation**

On 20th January 1841 China first ceded Hong Kong Island to Britain after signing the Convention of Chuepi at during the of First Anglo-Chinese War. Later such an unequal treaty was not recognized. However, in 1842, China was defeated and the war ended with the signing of Treaty of Nanking on 20th August of the same year. Once again, the treaty included the cessation of Hong Kong to Britain. The treaty was finally ratified by both parties in June 1843 and Hong Kong formally became a British colony since then.<sup>6</sup>

Due to the military powers of the corrupted Qing Dynasty of China was much inferior to that of the British Empire, the Sino-British relations was very

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<sup>6</sup> Crisswell, C. & Watson, M., *The Royal Hong Kong Police Force (1841-1945)*, Hong Kong: Macmillan, 1982, p.3.

unequal. China was not just unable to fight back the Hong Kong island in the following years, weakened by continuous foreign invasions and internal upheavals, China lost the Second Anglo-Chinese War which broke out in 1856. As a result, the tip of Kowloon peninsula was further ceded to Britain by China. Also, in 1898, the New Territories was leased to Britain by China for a period of 99 years.

The Sino-British relations was unequal as well as unstable. Both parties treat Hong Kong as a strategic base for their political and economic rivals only. They were not in a good position to have any long term plan to develop Hong Kong by them.

### **The Government-Community Relations**

The initial intent of Britain was to use Hong Kong as a base for developing diplomatic and commercial relations with south east Asian countries, China in particular. The British Colonial government in Hong Kong at that time was a typical example of the minimum state.<sup>7</sup> The home government was not willing to involve too much in the ruling of the Territories especially in terms of costs. For instance, in 1843, the Governor appreciated the need to establish an efficient police force and recommended the Colonial Office to recruit and to train fifty men and four inspector in England. However such recommendation was dropped as the plan was

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<sup>7</sup> Scott, I., *Political Change and the Crisis of Legitimacy in Hong Kong*, Hong Kong: Oxford University Press, 1989, pp.40-60.

regarded to be too expensive.<sup>8</sup> Also in around 1845, the Whitehall officials wanted Hong Kong administration to be self-sufficient and there was a suggestion to give the principle European inhabitants in Hong Kong the power to control the police.<sup>9</sup> Though the suggestion was not adopted, it again showed the orientations of minimum government intervention and minimum government expenditure in the colony during the early colonial era. The colonial government appeared to have no long term commitment to rule Hong Kong nor to work for the betterments of the Hong Kong inhabitants.

In 1841, the population of Hong Kong Island was about 6,000 and most of them were fishermen and poor village people. The landing of British led to the pouring in of large number of merchants and their associated trading activities. Due to the unstable political situations in China, large amount of Chinese immigrants influxed into Hong Kong and the population was increased twenty times in 1862. However large portion of the population was transitional in nature. They had little sense of belonging to Hong Kong but treated the territory as a place to earn a living. They were ready to move back to China whenever circumstances allowed. Therefore, when the bubonic plague was developed into an epidemic in 1893, thousands of people were killed while another thousands fled from Hong Kong and reduced the population by half.

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<sup>8</sup> Crisswell, C, & Watson, M., *op. cit.*, p.14.

<sup>9</sup> *Ibid.*, p.26.



The philosophy of minimum state is well in line with the economic philosophy of free trade. The greatest concern of government was to maintain a favourable environment for commercial activities to prosper in the colony but not the well beings of the population. Therefore both the colonial government and the population seemed to concentrate their efforts on economic activities.

### **The Development of Policing**

In March 1841, the first thirty two policemen were appointed to regulate law and order in Hong Kong under British occupation. Quantitatively speaking, the ratio of citizens per police officer by then was 187.5. It was a relatively large police force as compared to that of nowadays. In 1992-93, the ratio of citizens per police officer was 216.5. Also the policemen at that time had to assume a great variety of duties apart from maintaining law and order. For examples, they had to take care of the prison, combat fire, maintaining public hygiene, etc.. Therefore their powers were great. However qualitatively speaking, the first group of policemen in Hong Kong were recruited from the military force. They were soldiers regarding to be unfit for regular duties in the army. They were either Europeans or Indians who were non-Cantonese speakers and non-conversant with Chinese as a whole. Therefore it was an alien police force.

Though on 1st May 1844 the Colonial Police Force was officially established, and in 1845 the first group of Chinese officers were recruited so as to increase the size of establishment 168, the police force was still known to be

ineffective. For instance the Triad Societies which were initially formed to overthrow the Qing Dynasty, the Monarchy in China, later developed to organise criminal activities spreading over the Territory. The Triad Ordinance was passed in 1845, however the police could not stop the triad activities. The triad controlled brothels and divans were widespread. C. Crisswell had estimated that about three quarters of the Hong Kong population were members of triad society and Hong Kong was the triad headquarters in South China in 1847.<sup>10</sup> Also the capitalists also hired private security guards to protect their own lives and property due to the commonly known ineffectiveness of policing at that time.

In about 1855, the prosperity of the Chinese businessmen in Hong Kong was increasing and they were shouldering the main burden of Hong Kong's administrative costs through tax payment.<sup>11</sup> They gradually formulated as a distinct Chinese capitalist class and the Chinese opinion started to be heard and respected in the colonial government. Also several police stations were built and the conditions of service were gradually improved. In October 1869, a police language school was set up to improve the bilingual ability of police officers so as to improve the internal and external communication of the police.

The emergence of the Chinese capitalist class is very significant. As LAU Siu-kai suggested that 'from the very beginning, the development of Hong

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<sup>10</sup> Crisswell, C. & Watson, M. *op. cit.*, p.16.

<sup>11</sup> *Ibid.*, p.29.

Kong was based on a kind of partnership between the British and the Chinese with a common goal of economic gain'.<sup>12</sup> In 1898 the colonial government extended its rule to the New Territories as a lease for 99 years was signed in June. However police encountered some confrontations with the village people as the latter were very displeased with the transfer of authority. Also the village people with close kinship relations were easier mobilised than the urban inhabitants. Police therefore had to be very prudent and more tolerant in dealing with the indigenous inhabitants in the New Territories.

Policing during the early colonial era was mainly enforcing the dominant values of the British government and the capitalists --- minimum intervention and free trade. As the norms and values among the Europeans and the Chinese were very different, there were cultural gaps and segmentations in the society. In 1841, there was no code of law yet. 'Europeans were to be subject to English law while the Chinese were to be dealt with according to the laws, customs and usages of China as nearly as may be'.<sup>13</sup> Also the colonial government insisted to follow English practice of property law which reflected how significance of securing property rights in the colony. The interests of the capitalists were of greater concern. Therefore, policing defined the civility in line with the capitalists' values and the right of liberty was not of much concern at that time.

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<sup>12</sup> LAU, Siu-kai, *Society and Politics in Hong Kong*, Hong Kong: the Chinese University Press, 1984, p.7.

<sup>13</sup> Crisswell, C & Watson, M, *op. cit.*, p.12.



## **Intermediate Colonial Era (1911-1969)**

### **The Sino-British Relations**

When China was still under the rule of Qing Dynasty, 'national humiliation of the unequal treaties were keenly felt by all Chinese but they were impotent to do anything about it so long as the western powers retained their military superiority and were willing to use it'.<sup>14</sup> Therefore Chinese inhabitants were not politically mobilised even though they resented the British colonial rule in the early colonial era. 'Their (Chinese) presence was indispensable to the colony but they were tolerated with ill-grace when they were submissive and treated almost as a sub-human species if they transgressed against the law. The majority of Chinese, for their part, hated and despised the Europeans. The only thing the two races had in common was a desire to make money and get out of Hong Kong.'<sup>15</sup>

In 1911 the nationalists overthrew the Qing Dynasty and established the Republic of China. However, the political turmoil was not stopped. Instead the warlord armies roamed over the land and pushed lots of immigrant into Hong Kong. The stormy new settlers were relatively easier provoked to participate in strikes and boycotts that caused great civil unrest in the territory.

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<sup>14</sup> Miners, Norman, *op. cit.* p.3.

<sup>15</sup> Crisseall, C & Watson M., *op. cit.*, p.64.

In 1927 Guomindang established itself as the government of the whole of China in Nanjing and resumed China's sovereign rights on the colonies seized by the foreign powers under various unequal treaties. For instance, in 1930 China took back the northern port of Weihaiweil, which had been leased to Britain in 1898 on similar terms as the Nanking Treaty.<sup>16</sup> In 1943, the issue of recovering Hong Kong was postponed by Britain who promised to discuss the matter after the world war.<sup>17</sup> Immediately after the world war, civil war between the Guomindang and the Communist Party recommenced.

In 1949 the Communists took control of China and established the People Republic of China. As the first priority of the People Republic of China government was the reduction of Taiwan, the Hong Kong issue was not closely followed by then. In 1950, China entered into the Korean war and aroused sanctioning by the United Nations. As a result, embargo was imposed onto China which also adopted the close door policy until 1978. Hong Kong then became the middle man between China and the outside world both economically and politically.

Miners, Norman opined that 'sometime in the 1950s, an informal understanding was reached between Britain and China about Hong Kong's status: that China would make no moves to interfere with British administration of the colony so long as British refrained from any action which might prejudice China's

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<sup>16</sup> Miners, Norman, *op. cit.*, p.4.

<sup>17</sup> *Ibid.*, p.4.

interests'.<sup>18</sup> Therefore both the British and Chinese government tended to maintain the status quo of Hong Kong as significant political change might involve too great cost.

The Sino-British relations in the intermediate colonial era can be regarded as quite informal but co-operative in maintaining status quo of Hong Kong.

### **The Government-Community Relations**

During the intermediate colonial era, Hong Kong experienced a lot of political, economic and social storms, the government philosophy of minimum state and non-intervention seemed to be inadequate to cope with the crisis. For instances, in 1922 the seamen with supports from the nationalists in Guangzhou organised large scale of strikes in Hong Kong and the port was paralysed. In order to prevent a mass return of the strikers to their villages in China, the government launched a policy to prohibit departure of any Chinese without a permit. The strikers were annoyed and intended to march towards the border. Subsequently police opened fire with three strikers killed.<sup>19</sup> In 1925-6, there was the general strike which lasted for fifteen months and threatened many of the leading firms in Hong Kong with

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<sup>18</sup> *Ibid.*, p.6.

<sup>19</sup> For the detail account on the seamen's strikes in 1922, please see CHAN, W.K., *op. cit.*, pp.145-191., and also Crisswell, C. & Watson, M., *op. cit.*, pp.116-7., and Miners, Norman, *op. cit.*, p.4.



bankruptcy.<sup>20</sup> With the experience of the strikes, the government had to be more prudent in detecting and preventing crisis. The non-intervention policy of minimum state then needed certain adjustment.

Throughout the 1930s anti-Japanese sentiments was very high and in 1937 Sino-Japanese War broke out after the Marco-Polo Bridge Incident. In December 1941 Japan occupied Hong Kong after 17 days fighting with the British army and chaos prevailed over the Territory . In August 1945, Britain took over Hong Kong from Japan. The period of Japanese occupation was indeed a break of the British colonial rule in Hong Kong. In comparison, Hong Kong population surely preferred the non-intervention of the British rule to the imperialism of Japanese command.

In 1949 the Communists took control of China from the Nationalists. The political rivals between the Communists and the Nationalists spread to Hong Kong. On 10th October 1956 the Double Tenth Riots broke out. The cause was due to the resentment of the Guomindang sympathisers upon the actions of removing the Nationalist flags and emblems from the Li Cheng Uk Resettlement Estate. The local disturbances in Shamshuipo later developed into a full scale riots spread over the territory up to Tsuen Wan. The situation became worse as the triad members made use of the disorder for their criminal gains. As a result the military force was

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<sup>20</sup> The 1925-6 general strike was again regarded as supported by the Guomindang in Guangzhou, see Crisswell, C. & Watson, M., *op. cit.*, p.119. and Miners, Norman, *op. cit.*, p.3.

summoned to help the police force to control the situation. As a result of the riots, 443 casualties recorded and 59 of which were fatal. The people involved in the riots were later found mainly belonging to the left wing trade unions.<sup>21</sup>

On 4 - 9th April 1966, demonstrations against the proposed increase of Star Ferry fares developed into riots. Police were fully mobilised for four nights in Kowloon and some 1,465 persons were arrested. In the following months, the political situation in Hong Kong became more unstable. In May 1967 a labour dispute at the Hong Kong Artificial Flower Works developed into a full scale of disturbances again. Parallel to the widespread of Cultural Revolution in China, the Hong Kong government and police force were subject to hostile confrontations from the left wing organisations, agitators and even terrorists. The mass demonstrations and protests were later replaced by a campaign of terror and bombing. Policemen were targeted in the killing. Bomb disposal officers were also killed and injured when they tried to defuse booby-traps in the streets. Again with the joint efforts of the military and the police, the riots were subsequently put under control.<sup>22</sup> Surely, the colonial government and the inhabitants in Hong Kong felt the threat of civil unrests caused by political agitators every now and then.

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<sup>21</sup> LEUNG, K.P., Benjamin, *Social Issues in Hong Kong*, Hong Kong: Oxford University Press, 1990, p.149. , and *Police Museum*, published by Royal Hong Hong Police, 1994, p.36., also see Sinclair, Kevin, *Royal Hong kong Police 150th Anniversry 1844 - 1994*, Police Public Relations Branch (RHKPF), 1995, p.13.

<sup>22</sup> *Ibid.*, pp.150-1., and *Police Museum*, *op. cit.*, pp.37-9., also see Sinclair, Kevin, *op. cit.*, pp.13-4.

Apart from suppressing riots, the government had to shoulder certain responsibilities to cope with the increasing demand on social welfare. For example, there was urgent need for a large scale resettlement scheme when a fire broke out and caused 58,000 people homeless in Shek Kip Mei squatter area on the Christmas Day in 1953.<sup>23</sup> As a result, three resettlement estates in Shek Kip Mei, Tai Hang Tung and Li Cheng Uk were built to accommodate 125,000 people. By providing social welfare to the Hong Kong inhabitants, the social order could be better maintained and social grievances could be eliminated. More important of all, with 'planned' resettlement scheme, the clustering of political agitators could then be strategically dispersed to different residential areas. As a result, the political mobility of those groups could be weakened to a certain extent.

The government-community relations during the intermediate colonial era seemed to be more confrontative and more interdependent.

### **The Development of Policing**

During the intermediate colonial era, ruling power of Hong Kong government was being challenged from time to time. In order to secure power and to continue economic prosperity, a more forceful style of policing had to be adopted to suppress the oppositions. Shooting and arrest actions would be taken to stop the

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<sup>23</sup> Police Museum, *op. cit.* p.33.



protests. Also police gained the working experience with the military in combating various civil unrests in years of 1922, 1925-6, 1956, 1966 and 1967. As a result, the police were trained with military components such as emphasising on high conformity, tolerance, autocratic, hierarchical, forceful, impersonal, disciplined and strict, etc..

Structurally the police force was enlarged by recruiting special constables (later renamed and reorganised as Auxiliary Police Force) as a supplement and reserve for the regular police force since the First World War. Also in order to improve the discipline and training of police officers, the Police Training School was established in 1920. Strengthening the police capability in combating riots, quite a number of specialised units were established. For examples, in 1923 the new Criminal Investigation Department (C.I.D.) was established to cope with general strikes. In 1927 the Emergency Unit was formed to combat minor disturbances. In 1932 the Anti-Communist Squad which was originally formed within the C.I.D. became the Political Bureau (the forerunner of Special Branch) and was increased in size. After the Second World War women police officers were first recruited to supplement the inadequate strength. In 1956 the police force re-examined its internal security system critically. Then the Police Training Contingent (forerunner of Police Tactical Unit) was established in 1958. It provided a permanent reserve of manpower for maintaining internal security in times of emergency. It was later renamed as the Police Tactical Unit.

In 1969 on appreciating the good performance of the police force, H.M. the Queen bestowed the honour of the title 'Royal' to both the regular and auxiliary police forces. Also, H.R.H. Princess Alexandra became the Commandant-General of both forces. In other words these are the recognition of the police effort in securing the ruling power of the British colonial government in the stormy days. Obviously the colonial government and the Hong Kong residents all expected stronger police force when there were riots and chaos. However the hard approach of policing could not really stop riots fundamentally. Learning from lessons of years of confrontations, the British Colonial government subsequently realised the essence of public support in legitimating her authority. After the riots the Commission of Inquiry recommended a more responsible and responsive government approach. Such a approach stressed heavily on canvassing public support. The government had to provide channels for the public to air out their grievances before they turned to the final resort - violence.

Also in 1960s the whole world was rethinking and recovering from the massive destruction of world wars. Humanism became more and more popular while concepts of human rights established more maturely. A more civilised that is emphasising on procedural and non-violent approach to resolve conflicts was preferred. As a result, both the government and the police force have to improve their public images to a more civilian look. The police force information bureau was so established. Efforts were made to improve the police image.



In short, during the intermediate colonial era, the Hong Kong policing had developed quite fully on its counter riots establishments. Police, through arrests action, arms and ammunitions and other forces, did set the concept of civility in the society. That was to avoid violent violence. Police usually stopped the protest actions coercively through physical forces. Political confrontations were not much tolerated and regarded as highly dangerous in the society at that time. Liberty in participating in public gatherings was not encouraged and being well monitored. In order to cover up the growing in police powers which did impose threat to individual freedom in the society; the police force also developed the public relations and information works in order to lessen public grievances.

### **Late Colonial Era (1970-1997)**

#### **The Sino-British Relations**

In 1972, China was admitted to the United Nations and in 1978, opened door policy was commenced. These changed China's foreign policy as well as economic policy. China became active again in the international political stage. In early 1980s, British government was more and more concerned about the future of Hong Kong as 1997 drew nearer. Uncertain political prospects would greatly affect the investment and property transaction which all were very prosperous by then. In 1982, various significant political leaders of the British government had visited Beijing to press for the commencement of substantive negotiations. As a result, DENG Xiaoping announced a comprehensive outline of China's plans for the future



of Hong Kong in April 1982. Hong Kong would become ‘ a special economic zone under Chinese sovereignty, governed by its own inhabitants, and retaining its existing capitalist way of life and its own system of laws and justice, but without any continuing British presence in the administration’.<sup>24</sup>

Later the British Prime Minister, Mrs. Margaret Thatcher visited Beijing and Hong Kong. He asserted at a press conference the continued validity of the treaties of 1842, 1860 and 1898.<sup>25</sup> This assertion annoyed the Beijing government and the Sino-British relations turned sour. Then the bilateral talks and negotiations lasted for two years with a Joint Declaration initiated in September 1984. In order to effect the implementation of the Joint Declaration, a Sino-British Joint Liaison Group was established with five members each from both parties.

In June 1985, a committee comprising totally 59 members with 36 from China and 23 from Hong Kong was formed to draft the Basic Law for Hong Kong as the Special Administration Region after 1st July 1997. At the meantime, the colonial government was developing a political reform which caused the objection from China. On 21st November 1985, the Director of the New China News Agency in Hong Kong, XU Jiatun, held a press conference to express the official view of objection. The influence of China upon Hong Kong was becoming

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<sup>24</sup> Miners, Norman, *op. cit.*, p.8.

<sup>25</sup> *Ibid.*, p.8.

more and more significant and explicit. The development of China also aroused much attention from Hong Kong people.

A great incident occurred in April - June 1989 when the student movement in China developed rapidly and attracted international concerns. Tens thousands of university students petitioned for combatment on corruptions and improvement on citizens' living which became deteriorated since the economic reform. The students stayed over night at the Tiananmen Square in Beijing for days and days. Students, workers and lots of people inside and outside Beijing joined the petitions. Hong Kong people were greatly moved by the students and supported them with resources. On 4th June 1989, the People Liberation Army was sent to clear the Tiananmen Square by force. The incident was widely reported as a mass massacre. British government broke off all contact with China for several months and meeting of the Joint Liaison Group were cancelled. The Sino-British relations became very tense.

The colonial government later announced a series of policies that again worsened the Sino-British relations. These policies included granting 50,000 full British passports to Hong Kong residents and building a huge new international airport.<sup>26</sup> The Sino-British relations has not been improved much especially when Christopher Patter, the last colonial Governor in Hong Kong launched the political reforms in 1995 which was viewed as a great derivation from the Basic Laws by the

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<sup>26</sup> *Ibid.*, p.11.

Chinese authority. As a result, China unilaterally established the Provisional Committee to plan for the administrative arrangement including the appointment of the Special Administrative Region Chief Executive for the smooth transition of Hong Kong. All Legislative members elected in 1995 have to stop their office on 1st July, 1997. Instead a Provisional Legislative Council would be set up by then. This again aroused heat debates throughout the territories. China is in fact replacing Britain in determining lots of policies in Hong Kong even before 1997 through implicit influences.

### **The Government-Community Relations**

Hong Kong the government and the police were basically colonial and alien with little concerns with public acceptance before the late 1960s. The watershed laid in the major disturbances which later developed as riots in the mid 1960s. After that, Hong Kong government recognised the essence of gaining public supports in governing. In order to be more responsive to the needs of the community, the communication channels between the government and the citizens have to be improved. The government then launched the City District Officers Scheme which enhanced the cultivation mutual help neighbourhood relations and to facilitate the government-community relations.

Entering the late colonial era, both the government and public tend to realise the significance of citizen participation in maintaining stability and prosperity. In fact by that time, Hong Kong does possess the quality to develop representative



government. This is because the education level and the economic conditions of citizens are much higher than before. They are more ready to participate in the government decision making so as to protect their own interest. Also the population are not just refugees but large portion are local born citizens. They possess greater sense of belonging to Hong Kong. So they have greater commitment to improve the government. Of course, without the 1997 problems, there are surely having more hesitations and resistance for the power holders to give up their power to open competition in elections.

As the political consciousness of the citizens raises, representative government appears to be a better system to absorb the energy of the political potentials and to ease the possible political confrontations. In short, responding to the needs of the situations, the demand of the public, Hong Kong government underwent a significant political reform to establish representative government before 1997. Christopher Pattern, the last colonial governor in Hong Kong, also changed the image of the authoritarian style of ruling to a more transparent one. He also requested government departments to prepare their performance pledges.

### **The Development of Policing**

In the 1970s in order to gain public support and to improve the police image, a series of new policing strategies were introduced. These included the introduction of Neighbourhood Policing Units, the setting up of Fight Crime Committee, the establishment of Police Community Relations Officers (PCRO)

Scheme, the use of media by producing television programme like Junior Police Call, Police 15, Crime Watch and On the Beat, etc.. They all helped to encourage public participation in the community policing so as to restore their trust in and co-operation with the police.

Internally the police force also reorganise its command structure with a view to devolve the authority and responsibility to the lowest practical and acceptable command level in the early eighties. Later the information technology also assumed a more significant role in advanced policing strategies in Hong Kong. In order to improve the quality in policing, a good monitoring and careful review system is required. In 1986 the unofficial members of Executive and Legislative Council Office (UMELCO) Police Group was renamed as Police Complaints Committee (PCC). It is the watchdog unit to monitor and to review all the complaints against police by the public.

Also in 1995 police issue their performance pledges so as to have better indicators for their performance evaluations. Also a Service Quality Wing was established in the police force in 1995. The wing is responsible to overview the ways to improve the performance of police from a quality point of view. The police have to be trained to think in advance the needs and expectations of their “customers”. More emphasis on the concept of “service” instead of “social control” has been made. This is in fact an attempt to change or to improve the police culture. Police are required to be aware more of the right and need of the public whom they are serving. Policing nowadays is more civilian in outlook.

However, policing in Hong Kong has continued to develop its paramilitary capabilities under the shelter of civilian outlook. For instances due to the impending withdrawal of the British Garrison before 1st July, 1997, police have to assume the role of border defence. Furthermore the increase of violent crime which involved use of firearms and even grenades do require a better equipped police force. In fact since 1995, the newly recruited women police constables and those serving women police officers on voluntary bases can be armed as their male counterparts after sufficient training and on the operational grounds.

The analysis in this chapter just identifies the distinct development of policing at different stages of Hong Kong history. Facing the uncertainties after 1997, the policing strategy may again be changed in accordance with the changing government style and the changing situational needs. In fact throughout the three stages of historical evolution, the role of police as agents of government to effect control onto the public is not changed. However the strategies and the images change from the domination of minimum, to paramilitary and then to civilian look only.



## Chapter Four: Controlling Mechanisms on Contemporary Policing in Hong Kong

Policing in contradictions concerns the exploitation of liberty of the working class so as to protect the interests of the rulers, the capitalists and the elites in a society. Policing as an apparatus of the state helps to define liberty and civility; and to balance the tension between the two. The colonial police force in Hong Kong has experienced various stages of development greatly influenced by the changing exogenous factor (Sino-British relations) and shaped by the changing endogenous factor (Government-Community relations) in the past 155 years. At the late colonial era, the police force has established a more civilian outlook and a strong paramilitary capacity at the same time. This chapter is to review critically three types of police relations so as to understand how the policing is to be monitored in Hong Kong. In fact three sets of questions about policing are to be addressed to in the following: firstly, how neutral and autonomous the policing is from politics? Secondly, how fair and equal the policing is in law enforcement? Thirdly, how open and accountable the policing is to the community?

### **Police-Government Relations**

The police-government relations is really worthy of note. This is because the implicit role of police in politics is very crucial especially in time of changes. 'If the police is an independent political actor, it can critically affect political competition and mold social processes, which in turn shape political

life.’<sup>1</sup> The British government always claims that the civil servants should be political neutral. However if police is subordinate to a higher authority, police become a political agent of that authority. Therefore whether police in Hong Kong are really independent political actors or political agents of the government?

Royal Hong Kong Police Force is one of the departments in Hong Kong government. Briefly the detailed framework of the government of Hong Kong is laid down by the Letters Patent and Royal Instructions.<sup>2</sup> The government consists the Governor who is appointed by the Queen of Britain as the head of Hong Kong, the Legislative Council which is responsible for making legislatures and controlling finance allocation; and the Executive Council as the highest policy making body. Policy administration was carried out by the government secretariat which is further divided into different policy branches, and their respective departments. Structurally the policy branches are at a higher level than departments in the government administration hierarchy. They are mainly headed by the generalists who are usually recruited, trained and promoted in the administrative officers stream. They are the elites in the society and enjoy high salary and speed promotion prospects. The departments, on the other hand, usually comprises professionals in specialized fields. The heads of departments are accountable to the Secretary of the policy branch.

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<sup>1</sup> Bayley, David H. (1985) *Patterns of Policing: A Comparative International Analysis*. US: University Press, p.210.

<sup>2</sup> Miners, Norman, *The Government and Politics of Hong Kong*, 5th ed., Hong Kong: Oxford University Press, 1994, pp.54-62.

However the status of Commissioner of Police is rather different from heads of other departments. The Commissioner of Police had direct contact and personal brief with the Governor and the Executive Council about law and order in the Territory every month. Such a direct communication is essential in a colonial city. The British colonial tradition always relies on police to assume extensive power to suppress riots before the military force are mobilized. Henry R.T.M. even opined that the Commissioner of Police was of equal status of the Secretary for Security.<sup>3</sup>

Furthermore the Royal Hong Kong Police is a very 'large' department in Hong Kong government in terms of share of human resources and finance. The strength of police is about 15 % of the total number of civil servants and the Force constantly gets more than 5 % of the financial pie of the government. (Table 5.1 and 5.2 refers) In fact having about 30,000 officers for a population of around 6 million, the Royal Hong Kong Police is one of the largest police force in the world both in terms of the absolute and proportionate terms .

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<sup>3</sup> Henry R.T.M., Constructive Critique attached to TSUI Yiu-kwong's paper 'Problems of a Para-military Police Force in a Changing Society — A Case Study of the RHKPF, unpublished desertation, CUHK, 1979; held by the RHKP Library.



Table 5.1

## Police Size in Hong Hong in 1956 - 1993

Year	Police Establishment		Police Strength		Police Per 100,000 Population	Citizens Per Police Officer
	(Reg.)	(Aux.)	(Reg.)	(Aux.)		
1956-7	5932	--	--	--	226.9	439.8
1957-8	6874	--	--	--	251.2	397.1
1958-9	7135	--	--	--	250.0	399.0
1959-60	7629	--	--	--	257.1	388.0
1960-1	8135	--	--	--	264.5	377.0
1961-2	8352	--	--	--	263.1	379.1
1962-3	8597	--	--	--	256.9	388.3
1963-4	8753	--	--	--	249.8	399.3
1964-5	9529	--	--	--	265.1	376.2
1965-6	10346	--	--	--	280.2	355.9
1966-7	10966	--	--	--	293.8	339.4
1967-8	11383	--	--	--	296.9	335.8
1968-9	12253	11471	--	--	312.1	319.5
1969-70	12512	12080	--	--	313.8	317.7
1970-1	13058	12505	--	--	329.8	302.2
1971-2	13773	11999	--	--	340.5	292.7
1972-3	14963	12153	--	--	366.9	271.6
1973-4	16062	11387	--	--	386.1	258.0
1974-5	16215	11573	--	--	375.7	265.2
1975-6	17124	16234	--	--	386.8	258.5
1976-7	18579	17602	--	--	406.9	245.7
1977-8	19064	5000	18630	4408	410.1	243.8
1978-9	20894	5000	20894	4663	425.6	234.9
1979-80	21981	5176	20363	4993	436.0	229.3
1980-1	22473	5435	15815	4235	435.4	229.7
1981-2	23477	5435	22887	5275	448.0	223.2
1982-3	24211	5435	23893	5432	455.0	219.8
1983-4	24832	5435	24636	4937	462.2	216.4
1984-5	25397	5611	25182	4813	467.6	213.8
1985-6	25957	5611	25762	4841	471.4	212.1
1986-7	26626	5787	26305	5009	474.6	209.8
1987-8	27367	5747	27210	5055	484.0	206.6
1988-9	27450	5747	26980	5496	478.7	208.9
1989-90	27578	5747	26403	5380	481.6	207.6
1990-1	27247	5741	26430	5749	473.7	211.1
1991-2	27206	5746	26825	5636	467.3	214.0
1992-3	27263	5746	27251	5636	461.9	216.5

Sources: RHKP Annual Departmental Reports of relevant years; Annual Digest of Statistics of relevant years; Traver 1991

Table 5.1

## Police Share in Government Resources

Year	Police Establishment	Civil Servants	% of Police Expenses in Civil Servants	Police Expenses  (Million) \$	Government Expenditure  (Million) \$	% of Police Expenses in Public Expenditure
1980-1	22,473	149,638	15.0%	1,213	22,057	5.4
1981-2	23,477	164,483	14.3%	1,511	29,383	5.1
1982-3	24,211	169,712	14.3%	1,745	35,684	4.8
1983-4	24,832	173,452	14.3%	1,947	38,596	5.0
1984-5	25,397	174,891	14.5%	2,210	39,882	5.5
1985-6	25,957	178,094	14.6%	2,517	43,444	5.7
1986-7	26,626	182,199	14.6%	2,842	47,930	5.9
1987-8	27,367	185,486	14.8%	3,144	53,636	5.8
1988-9	27,450	187,883	14.6%	3,868	64,799	5.9
1989-90	27,578	189,868	14.5%	4,302	81,945	5.2
1990-1	27,247	187,006	14.6%	5,555	95,198	5.8
1991-2	27,206	182,387	14.9%	6,270	108,012	5.8
1992-3	27,263	180,675	15.1%	7,300	123,490	5.9
1993-4	27,319	180,092	15.2%	*7,325	155,207	4.7

Sources: Hong Kong Estimates of Revenue and Expenditure for relevant years; Quarterly Report of Employment Vacancies and Payroll Statistics of relevant years; RHKP Annual Departmental Reports of relevant years; Traver 1991; \*estimate figures only

The share of human and financial resources can be easily justified especially as 1997 is approaching, the British military force is gradually withdrawing from the territory, the heavy burden of border defence and internal security shift largely on the shoulders of the police. Now almost all male police constables have to undergo basic tactical training in the Police Tactical Unit and the subsequent practical attachment which altogether last for one year. The purpose of this policy is to enlarge the trained manpower that can be mobilized in short notice to reform into internal security platoons to combat riots. Furthermore, such training is now extending to female police constables. Pilot scheme to include female officers in the internal security platoon is undergoing at the moment. The government as well as the police force have well prepared for any possible chaos aroused during and after the handover of sovereignty by 1st July 1997.

As Bayley suggests, 'police activity is crucial for defining the practical extent of human freedom'.<sup>4</sup> A large police force is not just to combat crime, but perhaps more significantly to serve the political purposes such as regulating public meetings and imposing censorship on political activities, etc. For instances, in the intermediate colonial era, the colonial government had great desire and determination to eliminate the influence of the Chinese communists upon Hong Kong, anti-communist squad was first introduced in early 1930s. Later the unit expanded as a large department and renamed as political bureau or later special branch. However, the Communist China will resume sovereignty in

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<sup>4</sup>*Ibid.*, pp.189-200.



Hong Kong in 1997, the special branch was disbanded gradually from 1990 - 1995.

Nowadays, protest actions against the Communist government of China are not encouraged. In 1989, police had charged several members of the Four-fifth Action (a radical political group which conduct frequent protests against the Chinese government) for unlawful assembly. Also in 1990, ten odd activists for democratic movement were charged for unlawful using of loudspeaker in 1990.<sup>5</sup>

As the political democratization process has commenced but progressed slowly since the issue of a Green Paper entitled 'The Future Development of Representative Government in Hong Kong' in July 1984, citizen participation in public affairs is now more supported by the government. Now people can elect representatives to participate in the three tiers of political institutions namely the Legislative Council, the Regional and Urban Council, and District Boards. As a result, the government becomes more tolerate on public petitions, processions, and other forms of protest actions. Less arrest and prosecution actions are taken during the police-public confrontations in recent years.

The police force enjoys large share of resources and special status in the government structure, it is surely highly valued by the ruling authority. However most of the members of the Legislative Council and Executive Council

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<sup>5</sup>*Hong Kong Daily News*, 18th February, 1991.

come from the capitalist class or social elites, police are inevitably deployed to secure their interests. In the mid 1996, the Police Tactical Unit has established a new peak patrolling team which comprises well-trained police officers to conduct covert patrol in plain clothes at the peak area. The purpose is to arrest illegal immigrants whose presence endanger the security of the wealthy inhabitants at the peak.

In view of the above, police force in Hong Kong has been established as a large and easily mobilized force which is designed to combat riots and to maintain internal security in time of emergency. The government controls the resources allocation as well as the policy formulation in policing, the development of policing strategy is inevitably influenced by the ruling class which comprises mostly the capitalists and the elites. Their interests and political orientations inevitably affect the deployment of policing. As the political situations in Hong Kong is still not very democratic or pluralistic, the government and the capitalists still hold the decision making powers. Therefore the police force only need to be loyal to the government. The police force depends on the government to allocate resources and to make significant policy. In return, it can enjoy certain privilege and reasonable degree of autonomy in daily operations.

## **The Police-Judiciary Relations**

The Royal Hong Kong Police Force is a statutory organisation. Its functions and powers are listed clearly in the Police Force Ordinance<sup>6</sup>. The police activities are strictly bound by law. There are 18 police functions and 13 disciplinary offences that every police officer has to know and memorize. However the police functions can be categorized into three main types as public order, law enforcement and public services respectively as table 5.3 below.

In brief police can have five main types of power which individual citizens not usually have. They are power to arrest, to question, to search, to prosecute and to seize property. The laws empower police officers in various aspects, they also act as an essential check-and-balance measures upon police powers. For instance, according to the Police Force Discipline Regulations, there is a list of disciplinary offenses laid down as a guide to control police practices. Committing such offenses are subject to internal disciplinary action. (Table 5.4 refers)

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<sup>6</sup> Police Force Ordinance, Cap. 232, Laws of Hong Kong., 1990.



**Table 5.3**

**Major Police Functions Listed in Police Force Ordinance (Cap. 232)**

**Category One : Public Order:**

- (1) Preserving the public peace;
- (2) Regulating processions and assemblies in public places or places of public resort;
- (3) Controlling traffic upon public thoroughfares and removing obstructions therefrom;
- (4) Preserving order in public places and places of public resort, at public meetings and in assemblies for public amusements, for which purpose any police officer on duty shall have free admission to all such places and meetings and assemblies while open to any of the public;

**Category Two: Law Enforcement:**

- (5) Preventing and detecting crimes and offences;
- (6) Apprehending all persons whom it is lawful to apprehend and for whose apprehension sufficient grounds exists;
- (7) Assisting in carrying out any revenue, excise, sanitary, conservancy, quarantine, immigration and alien registration laws;
- (8) Assisting in preserving order in the waters of the colony and in enforcing port and maritime regulation therein;
- (9) Executing summons, subpoenas, warrants, commitments and other process issued by the courts;
- (10) Exhibiting information and conducting prosecutions;
- (11) Attending the criminal courts and, if specially ordered, the civil courts and keep order therein;
- (12) Escorting and guarding prisoners;
- (13) Executing such other duties as may by law be imposed on a police officer.

**Category Three: Public Service:**

- (14) Preventing injury to life and property;
- (15) Protecting unclaimed and lost property and finding the owners thereof;
- (16) Taking charge of and impounding stray animals;
- (17) Assisting in the protection of life and property at fires;
- (18) Protecting public property from loss or injury;

**Table 5.4**

**S3 (2) Police (Discipline) Regulations Cap. 232 S.45**

**Concerning Duty Performance:**

- (1) Absence from duty without leave or good cause;
- (2) Sleeping on duty;
- (3) Cowardice in the performance of duty;
- (4) Being unfit for duty through intoxication;
- (5) Neglect of duty or orders;
- (6) Making a statement which is false in a material particular in the course of his duty or in connexion with the discharge by the police force of any of its duties or functions;
- (7) Unlawful or unnecessary exercise of authority resulting in loss or injury to any other person or to the government;

**Concerning Chain of Command:**

- (8) Contravention of police regulations;
- (9) Insubordination;

**Concerning Conduct:**

- (10) Unlawful or unnecessary exercise of authority resulting in loss or injury to any other person or to the government;
- (11) Malingering;
- (12) Wilful destruction or negligent loss of or injury to government property;
- (13) Conduct calculated to bring the public service into disrepute.

Furthermore there are criminal offences which would be committed by police officers only. They are desertion<sup>7</sup> and threatening or insulting another officer of senior or equal rank<sup>8</sup>. Apart from the black and white layout of rules, the deliberate separation of powers between the law execution and judiciary also helps to establish mutual sanctioning effects. For instances, police are often assuming a more authoritarian role in dealing with the citizens, however they are generally at a lower status as compared to judiciary personnel such as the judges and barristers. At court, police officers are to be interrogated. Their credibility is always tested and their authority is often challenged. Judges and prosecutors always negatively sanction police officers for failing to prepare cases that meet court's requirement.

A survey of Hong Kong magistrates in June and July 1995 revealed that there were about 20% of police cases involving confession evidence. However when those defendants were put to court, 45.8% of them denied making confession voluntarily. Among such denials, the magistrates subsequently refused 18% of the confession evidence.<sup>9</sup> As a result the police were subject to criticize on their cases handling techniques. Also their credibility is of doubt in the eyes of the public.

Moreover the Bill of Rights<sup>10</sup> which came to effect since June 1991 and caused lots of amendments on existing laws. Many presumptions on

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<sup>7</sup> Ibid., S.28.

<sup>8</sup> Ibid., S.34.

<sup>9</sup> *South China Morning Post*, 28th January 1996.

<sup>10</sup> Hong Kong Bill of Rights, Cap. 383, Laws of Hong Kong, 1991.



various ordinances are repealed as they are found being inconsistent with the Bill of Rights. For example, previously if any person found at, or escape from, the site of manufacture of dangerous drugs was presumed to have been manufacturing. But this kind of presumption has been repealed.<sup>11</sup> For preventive offences such as the loitering<sup>12</sup>, possession of instrument fit for unlawful purpose,<sup>13</sup> etc., previously the suspect can be charged if he cannot give a satisfactory account for his conduct, but now it is the police officer to prove his reasonable suspicions on the suspect's criminal intent. Therefore police powers on arrest, search, seizure, stop and detention, etc, have been further restricted.

Police powers on maintaining order in public gatherings are also affected. For example, the Summary Offence Ordinance (Cap.228) which requiring person wishing to use a loudspeaker in public place to obtain a permit from the Commissioner of Police was repealed<sup>14</sup>. Also the requirement for applying permit to hold a public procession has been canceled, but prior notification is still required if the number of participants exceeds 30. If the number of attendees to a public meeting is not more than 50 in public place or 500 in private premises, notification is not required. In other words, as a result of the introduction of Bill of Rights, police control on public gatherings and processions becomes more lenient.

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<sup>11</sup> Dangerous Drugs Ordinance, S. 45, 46, 47(1)(c), and S. 48, Cap. 134, Laws of Hong Kong., 1995.

<sup>12</sup> Crime Ordinance, S. 160(1), Cap. 200, Laws of Hong Kong, 1995.

<sup>13</sup> Summary Offences Ordinance, S. 17, Cap.228, Laws of Hong Kong, 1995.

<sup>14</sup> Summary Offences Ordinance, S4(29), Cap. 228, Laws of Hong Kong, 1995.

Also, new ordinances such as Crimes (Torture) Ordinance and the Personal Data (Privacy) Ordinance are introduced to protect the right of suspects under police investigation. The former ordinance has come to effect in 1993 which mainly protect the suspects from being physically or mentally torture during the investigation. The penalty for conviction for such offense is life imprisonment. The latter ordinance will become operating in the third quarter of 1996.

Approaching to 1997, the legal system in Hong Kong has to undergo significant changes such as localization in the judiciary, introduction of full Chinese version of Hong Kong Laws, and the review on legal reforms, etc. The police officers especially those Chinese officers should have better mastering on their legal knowledge, and then have more confidence in court proceedings, once the language barriers are removed. At the same time, the citizens are more conscious on their rights in the legal proceedings. The right of silence, right of privacy, and all other human rights do cause the police investigation more difficult and complicated.

Furthermore the citizens nowadays can use private summons to prosecute police officers for criminal offences. On 5th March 1996, a court hearing was held for a case of private prosecution. In that case five police officers of Mongkok district were charged for assault even though the police internal investigation mechanism - Complaints Against Police Office (CAPO) - had once ruled the case as bearing insufficient evidence.<sup>15</sup>

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<sup>15</sup> *Sing Tao Jia Pao*, 29 February 1996.



Obviously the Hong Kong legal system tends to impose greater constraints on police power nowadays. However legal proceedings are still very technical and expensive for the general public. It seems that they are tools of the privileges (the wealthy and the educated) to control policing in Hong Kong only.

### **The Police-Community Relations**

In Hong Kong the police force was basically colonial and alien with little concern with public acceptance before the late 1960. The watershed laid in the major disturbances which later developed as riots in the mid 1960s. After that, the Hong Kong government recognized the essence of gaining public supports in governing. The police force as agents of government also start to canvass public supports by a series of measures. For instance, the setting up of the Fight Crime Committee,<sup>16</sup> the creation of Junior Police Call<sup>17</sup> and the

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<sup>16</sup> Fight Crime Committee was originally named Fight Violent Crime Committee first formed in 1973. It aims at making policy and measures to combat crime. Nowadays, the Committee is a high standing one which consists of the Attorney General, the Secretaries for Security, Home Affairs, Health and Welfare, Education and Manpower, the Commissioner of Police and Correctional Services, together with some unofficial members. The chairman is the Chief Secretary.

<sup>17</sup> Junior Police Call movement started in 1974. It aims at encouraging youth to help in fighting crime. It also recruits youngsters aged 9-11 to be members. By 1989 there are more than 500,000 members.



establishment of Crime Prevention Unit<sup>18</sup> all help to change the Chinese traditional tendency of avoiding contacting with police. As a result, the public are more willing to report crime nowadays. (Table 5.5 refers)

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<sup>18</sup> Crime Prevention Bureau was first known as the Prevaention of Crime Office in 1964. The bureau is responsible for formulating crime prevention policies, priorities and strategies at the force level; and conducting visits, survey and liaison at regional level.

Table 5.5

**Trends of Crime and CAPO Reports**

<b>Year</b>	<b>Number of Crime Reports</b>	<b>Number of CAPO Reports</b>
1974	43,595	808
1975	56,520	1,089
1976	62,009	1,261
1977	56,749	1,736
1978	52,387	2,247
1979	62,346	2,290
1980	73,838	2,595
1981	79,617	2,937
1982	87,227	3,473
1983	86,000	4,241
1984	83,532	4,166
1985	86,418	4,325
1986	81,411	4,532
1987	82,914	3,870
1988	79,859	3,217
1989	81,808	3,221
1990	88,300	3,424
1991	88,659	3,154
1992	84,056	3,229
1993	82,564	3,374
1994	87,804	2,997

**Sources: Report of the Police Complaints Committee of relevant years,; RHKP Annual Departmental Reports of relevant years**

On the other hand, the introduction of Police Community Relations Officers Scheme, the establishment of the Police Public Information Bureau and the experiment on Neighborhood Policing Units all help to change the autocratic image of the police to a more approachable and heroic style. However such changes also lead to greater public requirements on the standards of individual behaviour and duty performance of police. As a consequence, there is a large increase in the number of complaints against police. (Table 5.5 refers)

The complaints against police are dealt by the Complaint Against Police Office (CAPO). In 1963, the annual departmental report of police first began to have a section mentioning about complaints against police. In 1973 a police complaints office set up. In 1977, CAPO was put under the control of office of the Unofficial Members of Executive and Legislative Council (UMELCO). In 1986 the UMELCO Police Group renamed as Police Complaint Committee (PCC), which is not a statutory body yet. The PCC is supported by a full-time Secretariat. All complaint investigation reports are submitted to the PCC for vetting and endorsement. For years, despite of a large number of complaints against police, the ratio of substantiated cases is consistently low. (Table 5.6 refers)



**Table 5.6**

**Results of Investigations Endorsed by the PCC**

	1991 (% to total)	1992 (% to total)	1993 (% to total)	1994 (% to total)
I. Withdrawn/ Not Pursuable	2,944 (64.3)	2,585 (62.3)	3,006 (62.5)	2,704 (65.2)
II. Unsubstantiated/ Curtailed	1,240 (27.1)	933 (22.5)	771 (16.0)	613 (14.8)
III. False	84 (1.8)	52 (1.3)	73 (1.5)	52 (1.3)
IV. Substantiated/ Substantiated Other Than Reported	105 (2.3)	83 (2.0)	131 (2.7)	105 (2.5)
V. No Fault	130 (2.8)	114 (2.7)	116 (2.4)	87 (2.1)
VI. Not Proven	39 (0.9)	16 (0.4)	28 (0.6)	18 (0.4)
VII. Informal Resolution	38 (0.8)	363 (8.8)	687 (14.3)	569 (13.7)

Source: Reports of the Police Complaint Committee, Hong Kong Government, 1991-1995.

Though the police force claims that the investigation is impartial and the results reflect the high professional standard of the force members generally. However it does arouse the suspicions of biased handling in investigating such complaints by an internal body of the force. As a result, there are cries for an independent investigation office upon the complaint cases. At the moment the force management appears to have no intent to hand over the complaints investigation power to an independent body. Instead more supervision and review on the investigation results would be made by the PCC.

The police authority and the staff association object to have an independent investigation unit to esquire complaints against police. They generally think that such an arrangement will greatly affect the morale of police officer. Also, the confidentiality of police inquiries may have the risk to be compromised. More important of all, as a large portion of complaints are regarded as tactical complaints made by the 'bad guys' arrested by the police. They are ready to make false complaints to cause troubles to the arresting officers as revenge. Police officers are afraid that such an independent investigation unit may not have the ability to distinguish the tactical reports from the genuine ones. Then police officers have to face more stress in their work: that is have to mind the back !

The public are not just able to complain against the police for malpractice at the Complaints Against Police Office (CAPO). They can report to the Independent Commission Against Corruption (ICAC) for any corruption cases. The ICAC was first formed in 1974. The number of reports on police corruption has been very high as compared to that on the other government

departments. However the conviction rate is rather low which contrasts greatly with the large number of reports (Table 5.7 refers) . This may be due to the nature of corruption itself. The parties involved in bribery are very often willing to pay and to accept advantages. Therefore it is very difficult to gather sufficient evidence.



**Table 5.7**

**A Decreasing Trend of Police Share in ICAC Cases**

Year	No. of Complaints Received			No. of Cases Charged			No. of Police Convicted	No. of Referral of Disciplinary Actions	
	Police (A)	Total (B)	% of (A/B)	Police (C)	Total (D)	% of (C/D)		Police	Total
1975	1443	3189	45.2	30	108	27.7	--	22	53
1976	1492	3179	46.9	58	218	26.6	27	20	76
1977	1119	2433	45.9	55	259	21.2	19	20	70
1978	729	1700	42.8	126	272	46.3	39	103	265
1979	87	1234	39.4	62	181	34.2	19	301	388
1980	635	1665	38.1	44	284	15.4	17	43	73
1981	523	1772	29.5	29	333	8.7	12	27	82
1982	735	2344	31.3	57	509	11.1	22	64	181
1983	677	2349	28.8	26	403	6.4	12	80	241
1984	792	2526	31.3	50	466	10.7	20	114	238
1985	702	2365	29.6	42	410	10.2	17	99	240
1986	719	2550	28.1	36	302	11.9	12	118	214
1987	629	2574	24.4	19	276	6.8	11	104	320
1988	536	2299	23.3	15	514	2.9	9	75	174
1989	441	2253	19.5	13	404	3.2	3	127	293
1990	463	2423	19.1	16	348	4.5	5	53	188
1991	475	2400	19.7	10	303	3.3	1	39	139
1992	446	3480	12.8	8	334	2.3	3	--	--
1993	455	3096	14.6	9	337	2.6	2	--	--
1994	614	3284	18.6	15	643	2.3	5	--	--

Source: ICAC, Annual Departmental Reports of relevant years; and calculation by the author.

Apart from CAPO and ICAC, the general public nowadays have more channels to complain against police malpractice. For instances, the media can be viewed as a significant control mechanism on police. In a market-oriented society like Hong Kong, the police have to put great efforts to maintain a productive public image. Therefore they have to establish good relations with the media so that police success such as good arrests and seizures in anti-crime operations can be positively reported.

However the media also likes to uncover the bad points of police. For instance the recent reports on police indebtedness cause the police management to undergo internal survey and remedial actions so as to improve the situations. Also the famous journalist Leung Tin-wai was chopped by unidentified persons at Leung's office in mid 1996. The case aroused great concern in the media industry. They joined together to press the police to detect the case as soon as possible. Even the Governor and the Commissioner of Police had to openly respond to those pressing requests. The power of the media is increasing especially when Hong Kong has aroused international concerns due to her economic success and the coming political change.

However the media do not have any constraining power onto the police. Police management can respond to the press selectively. Furthermore, police may tend to manipulate the media by emphasizing high volume of crime or disorder in the community. By so doing, the force can justify increases in resources such as manpower, armaments and budget.

In fact the community can impose some control onto police by complaints and reports, however all these are usually more influential on individual police officers instead of the force as a whole. We can see that the nature and standard of police action all seem to rely on the individual integrity and moral qualities of the constable who alone is responsible for his actions to the court. Also most of the wrong doings are regarded as the instances of personal failure and inadequacy. They are seldom, explained in terms of organizational policy deficiency. The only possible failure of the organisation is the failure to recruit the right sort of person who displays the superhuman qualities demanded by the public, official agencies and senior police officers alike.

The police force has a high sense of brotherhood among its members. The prolonged irregular working hours, the need for keeping confidentiality of their work and high risk nature of their duties, all help to build up a great emphasis on “team spirit” with strong sense of social norms within the team members. Policeman may witness the malpractice of their colleagues but fail to report because of either a sense of camaraderie with the erring policeman or because of the organizational norm of secrecy about “squealing on” or report fellow officers for misconduct. Such fraternal and/or organizational commitments that protect deviants within the group are not uncommon to other associations; in similar ways doctors often protect each other from malpractice suits.<sup>19</sup>

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<sup>19</sup> MacNamera, Donald & Riedel, Marc eds. (1974) *Police: Perspectives, Problems, Prospects*. New York: Praeger.



Police officers are in fact, facing greater temptation than most of other professional to break the law in the course of duty. Society requires the police to maintain order to enforce the law, to protect citizens and property. However there is always an easier and a quicker way to accomplish such difficult tasks. For instances, assaulting the arrested persons in order to insure convictions, restructuring the sequence of decoy operations to ensure sufficient evidence for prosecutions, etc., which often turn the police to jail at the end. Furthermore police officers will conform their behaves to whatever is being assessed. The fear to jeopardize their own chances for advancement and to keep management happy, officers are again tempted if not really forced to take risks in accomplishing good productivity in terms of arrests and convictions.

Therefore the complaint and reports by the community can only control individual officers but have little effect onto the policy and culture of the police force as a whole. The police force is still not very open as it resists strong to have an independent CAPO. Also there are more and more performance pledges laid out, however, it is more likely a means to divert public attention and to shape up a more accountable image. However, it is not yet opened. It may need to take a long way to go to in order to change the culture of the force.

## Chapter Five: Conclusion

Policing is an interesting but controversial subject. In this thesis, it is defined as 'the enforcement actions of people who are authorized by the government to maintain law and order so as to regulate relations in the society through the usage of physical force.' Police are in fact agents of the government to effect control onto the public. Therefore it does impose fundamental threats to the individual liberty of citizens in the society. Liberty in this thesis refers to freedom from external interference. However as people gather together in a society cannot enjoy absolute freedom. This is because every member of the society has to perform certain obligations so as to survive in the society. Thus, the 'conformity to collective order' in a society is civility. Policing has to balance the need of liberty and civility in the society. Efficient policing in this thesis is only defined as one day to day language that is "a general impression of having capable, effective, desirable and satisfactory performance of people who are authorized by the government to maintain law and order in the society through the usage of physical force.

The emergence of modern policing is a parallel development of the formation of state or government in the modern society. The functionalists emphasize on the contract theory which infers the concept of policing by consent. In brief, police are regarded as agents of the state are given consent by the citizens to perform their prescribed duties. It is indeed a hypothetical bargaining. Citizens give up certain freedom (liberty) to trade for greater security. However such concept appears to be not so applicable to the Hong Kong situations where the



policing is forcibly imposed to the colony from the external power instead of emerging naturally.

The conflict school then explains the origin of modern policing as a conspiracy between the rulers and the capitalists. The inferred concept of policing in contradictions regards police as the control agents of the government to protect the interests of the rulers, the capitalists and the elites in the society where is indeed the venue for competition of powers and full of conflicting interests. It is quite applicable to explain the origin of Hong Kong policing. The liberty of the working class is exploited so as to secure the interests of the rulers and the capitalists.

Hong Kong, being a British colony, has experienced three stages of policing development. During the early colonial era (1841-1910), as the Hong Kong government adopted the philosophy of minimum state, the policing style was minimum policing. There was not many long term plan and little government intervention in the society. The policing at that time is inefficient. Entering the intermediate colonial era (1911-1969), Hong Kong experienced great political turmoils and civil unrests. The government changed to adopt crisis-coping strategies and the policing style became paramilitary. However the hard role of policing was later found being unable to stop the riots fundamentally. As a result, in the late colonial era (1970-1997), the government tends to be more responsive and responsible, a civilian policing style is developed. Both the government and the police force become more transparent and accountable.

In the contemporary, the police force in Hong Kong are subjected to various controls. The government is the most significant control mechanism as



it control the budget and the policy direction of policing. Due to the uncertain elements about future of Hong Kong, the police force is required to be more transparent and accountable on the one hand, and to be well trained, well equipped and well disciplined to assume paramilitary role again in time of emergencies, on the other.

The laws are another control mechanisms on policing in Hong Kong. However as the nature of laws is still very technical and expensive, they are often used by the privileges instead of the general public to sanction police malpractices.

The community can make complaints and reports to CAPO, ICAC and the media to control police activities. However all these actions are more useful in sanctioning individual police officers instead of the force as a whole.

To conclude, policing helps to define liberty and civility; and to balance the tension between the two in the society.

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