Book Reviews

Making Hong Kong China: The Rollback of Human Rights and the Rule of Law. By Michael C. Davis. Ann Arbor: Columbia University Press, 2020. 166pp. Paperback. ISBN: 9781952636134.

Reviewed by Matthew Hurst

Imagine living in a "freewheeling city"—vibrant culture, competitive commerce, a free press and the rule of law—only to find that one day "one of the most infamous authoritarian regimes takes direct control" (1). With an Orwellian depiction of today's Hong Kong after the enactment of the national security law and amid the coronavirus pandemic, Chapter 1 of *Making Hong Kong China: The Rollback of Human Rights and the Rule of Law*, "Introducing Hong Kong," invites the reader to ask: how did we get from there to here? Michael C. Davis addresses this question by adopting a teleological approach and a lens informed by law through which to analyze Hong Kong's protests and government reaction, exploring issues of constitutionality, policing, politics and identity. The title of the book, *Making Hong Kong China*, sums up Davis's thesis that the pattern of Beijing's interventions in Hong Kong over time demonstrates that mainland China has already started making, and is increasing its efforts to make, Hong Kong, China.

Apart from the introduction, each chapter or group of chapters is organized into sections and begins with a title page that highlights one or more emotive words intended to reflect public sentiment in Hong Kong at that time. The first section (containing Chapter 2) starts with "Hope" on its title page, which is followed by "Despair" (containing Chapter 3). Then, "Trepidation" (Chapter 4) joins the list.

Next, the penultimate section, with Chapter 5, reads: "Hope, Despair, Trepidation and Fear." Finally, the title page of the last section (containing Chapters 6–8) highlights "Fear" in black text while the other words ("Hope, Despair, Trepidation") are colored in grey, implying that fear is now all that remains.

Chapter 2, "The Hong Kong Basic Law," explains the initial sense of "Hope": the 1984 Joint Declaration and 1990 Basic Law, which captured "nearly all of the guarantees stipulated in the Joint Declaration" (20), gave Hong Kong hope that the rule of law and its relative autonomy would continue after the Handover. Davis provides an accessible analysis of the Basic Law and explores several of its provisions—such as democracy, national security and human rights protections—in detail. However, the Basic Law contained two deficiencies—one relating to its interpretation, the other relating to democratic reform—which "laid the foundation for the massive political protests that have occurred" (21).

In Chapter 3, "On the Road to the Current Crisis," Davis catalogues the ways in which Beijing's attempts to intervene in efforts towards political reform turned an initial sense of hope into despair, undermining the principles that had given Hong Kong hope. Beijing's approach—misguidedly copied from mainland tactics that "have no hope of winning hearts and minds in an open society like Hong Kong" (33)—was met with resistance in the form of political participation and protest. Looking at protests from 2003 to 2014, Davis draws two insightful lessons: first, that "the task of guarding Hong Kong's autonomy and avoiding absorption into the mainland would be left to Hong Kong's civil society" (31) and second, that "when Beijing is calling the shots, [...] nonviolent mass protests have not worked. When the matter was left to the local government, sufficient public pressure would sometimes produce results" (32).

Chapter 4, "2014–2019: The Government Takes Revenge on the Protesters," examines how "trepidation" joined "despair." After the 2014 Umbrella Movement, the government expelled several elected legislators and

appealed for harsher sentences for a number of protesters, signaling that their participation in protests and politics was unwelcome. Meanwhile, Beijing's Liaison Office upped its support for pro-Beijing candidates while the National People's Congress issued its own interpretations of the Basic Law with increased frequency. Adding nuance to an otherwise gloomy chapter, Davis recounts how the judiciary remained relatively unscathed: its robust checks-and-balances resilient and the Bar Association defensive over the rule of law.

Chapter 5, "2019 Fury: The People Respond," analyzes the events in Hong Kong in 2019, which added "fear" to the mix. The clashes of political and legal cultures examined in the previous chapter accentuated a sense of identity that was drawn in opposition to the government and agitated Hong Kong civil society until sentiment exploded in 2019, catalyzed by the extradition bill. Davis explains why extradition to mainland China had previously been blocked; when a change to this was tabled, those suspicious of the bill protested. However, as the government was in the "habit of pleasing Beijing," it did not promptly address concerns leading to "increasingly aggressive protest tactics" (60). By leaving matters to the police, "the government encouraged the heavy-handed police abuse that followed" (59).

The contribution of this chapter is its cross-sectional analysis. First-hand accounts—such as the recent Oscar-nominated documentary short *Do Not Split* (2020) directed by Anders Hammer—studies comparing 2014 and 2019—such as Antony Dapiran's *City on Fire* (2020)—and edited volumes that cover a range of angles—such as *Rebel City* (2020) edited by Zuraidah Ibrahim and Jeffie Lam—are each individually valuable. Davis's contribution in Chapter 5 is to thread these otherwise disparate strands together, drawing links between and across individuals and institutions to form a wider and more encompassing analysis. For instance, several paragraphs of the Police Procedures Manual are dissected and then compared with the use of force and quantity of arrests made; the latter put pressure upon the criminal justice system and some

lawyers voiced concerns about the potential mistreatment of their clients, echoing initial concerns about human rights and extradition. Davis suggests that the government's disregard for calls for an inquiry shows it is "certain that Beijing was calling the shots" (64). Davis explores the events of 2019 from several levels of analysis: the battles between protesters and police that took place on the streets, the prisons in which lawyers met with their detained clients, and the offices of the political elite. Each is clearly bounded in its own sub-section yet woven together into a sweeping analysis of 2019.

Chapter 6, "Crackdown: The National Security Law," looks at the aftermath of 2019 and the 2020 national security law. In Davis's view, the disqualification of opposition political candidates, prosecution of protestors, and intimidation of academics and journalists were a "textbook authoritarian crackdown" (78). The possibility that the national security law might override the Basic Law is entertained; Davis counterargues that the Basic Law is required by an international treaty, the Joint Declaration. Nonetheless, should the courts have to decide which overrode the other, the National People's Congress would still be able to overturn any decision. Several worries are spelled out: the law's enactment without public consultation; the vagueness of its wording; the exclusion of pro-Beijing groups from judicial review; the possible importation of "mainland methods of interrogative investigation"; and, owing to "Mainland police [being] known for abusive practices" (84), threats to the human rights of those extradited.

As Davis describes in Chapter 7, "International Support for Hong Kong," these worries have successfully generated encouragement from around the world for those in Hong Kong who are battling against the law. Such support included the British government introducing a pathway to British citizenship for British Nationals (Overseas) passport holders in January 2021, the United States Congress passing the Hong Kong Human Rights and Democracy Act in November 2019, and the European Union entertaining a ban in 2020 on the export of

products that have the potential to be used for repression or surveillance.

Finally, Chapter 8, "Conclusion: The Challenge Ahead," summarizes the argument that a pattern of interventions by Beijing upon Hong Kong's autonomy has already threatened human rights and the rule of law. The book began with a picture of a free international city on a quest to become ever more democratic, but which has found itself in a decidedly different reality. Hong Kong's civil society has reacted against this and garnered international support, but victories have become fewer as interventions have increased. So, what of the future?

In the closing section, Davis interprets the title 'Making Hong Kong China' as both a description of Hong Kong's past and as a look into its uncertain future, after the year 2047 when the Joint Declaration is set to expire. This interpretation is, he makes it clear, his own hope for Hong Kong's future, rather than a prediction:

> Hong Kong is clearly in need of a renewed constitutional commitment [...] a return to the trajectory outlined in the Joint Declaration and the Basic Law [... with steps such as] withdrawing the national security law, mandating the independent investigation of police behavior in the recent protests, dropping all charges against protestors except in cases of extreme violence and injury, and reopening the debate over democratic reform. (109–10)

However, I think this quote also illustrates the main weakness of *Making Hong Kong China*. From the start, it is emphasized that "guessing the underlying reasons for Beijing's behavior is beyond the scope of this book" and that the "primary importance here is the reaction of Hong Kong itself" (7), and Beijing's approach to Hong Kong is repeatedly assumed simply to be "a product of the culture of control that pervades mainland politics" (8). But by choosing not to discuss mainland politics, Beijing becomes a black box whose political elite, the two-level game they

negotiate with the mainland Chinese domestic audience and the interaction between the two governments remains unexplored. Just as describing events and motivations in Hong Kong itself is valuable in understanding protest, so too is unpacking Beijing's motivations valuable in understanding its approach to Hong Kong and the reaction that protests have encountered. Since Deng Xiaoping met British Prime Minister Margaret Thatcher in 1982, Beijing's vision for Hong Kong's future has been bound to the idea of resolving issues left over from history and recapturing lost territory. Even now, Beijing acts with the same awareness of its history of humiliation and shares Deng's goal of full reunification in the 1980s. Refusing to even try to understand Beijing curtails understanding Hong Kong's past, present and future. "One of the fundamental flaws," writes Dapiran when evaluating the Umbrella Movement, was the protesters' "core demands, when clearly none of them would ever been acceptable to Beijing" (Dapiran 87). Whether one likes it or not, Hong Kong issues are largely inseparable from Beijing. Hopes for Hong Kong's future that do not take account of this reality are likely to be dashed.

My final comment is on the book's structure. It is peculiar and confusing that four of the five sections contain only one chapter each (Chapters 2–5), and the attempt to summarize epochs of Hong Kong's history in a few words on each title page seems unnecessary and limits the scope of analysis by excluding events and alternative voices. This is most evident in the first section: "Hope." Pessimism about the possibility of Britain and mainland China's negotiations, voices who wanted continued British administration, and the events of Tiananmen in 1989—which is only mentioned in passing—disagree with this purported sense of "Hope." To cite just one contrasting viewpoint, "anxious" is how Dapiran describes 1980s Hong Kong (Dapiran 21), with protests following 1989 expressing the "widespread anger and pessimism Hong Kongers faced with an uncertain future" (Dapiran 24). The complexity of emotions felt across almost two decades is lost as certain events and voices remain largely ignored by

Davis. The title pages do not add to the thesis and their emotive content jars with what is otherwise a mostly dispassionate, law-based analysis.

Overall, Davis's *Making Hong Kong China* provides a timely view on the past few decades of Hong Kong's legal and political history. Adopting a legal lens through which to analyze the protests, the book contributes a thorough yet accessible thesis to the existing literature.

References

Dapiran, A. *City of Protest: A Recent History of Dissent in Hong Kong*. Melbourne: Penguin Group Australia, 2017. Print.