

While additional chapters on reparations, the Australian approach to the waiver in the San Francisco Peace Agreement and what survivors felt would have truly completed the collection, their absence does not detract from the great contribution which the editors and authors of *Australia's War Crimes Trials 1945–1951* have made.

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*Law and Politics of the Taiwan Sunflower and Hong Kong Umbrella Movements*, edited by BRIAN JONES [Routledge, Abingdon, 2017, 236pp, ISBN 978-1-472408614-1 (h/bk), 978-1-315-57506-3 (ebk), £105.00 (h/bk)]

*Law and Politics of the Taiwan Sunflower and Hong Kong Umbrella Movements* opens with an intriguing chapter (Jones and Su) on the democratic credentials of the Sunflower protests that took over the Taiwanese parliament in 2014, all of which have contemporary domestic resonance. These include (i) defending democracy against China (ii) democracy as social economic justice in an age of free trade (iii) defending democracy against an imperial executive and (iv) defending democracy against 'winner takes all' politics. Although more could have been done to make the connections between the events looked at in the book and more widespread and international political issues raising similar questions, this does not detract from the admirable project that lies behind this timely book. Its 12 chapters were well thought through: three each on Hong Kong and Taiwan, four comparing those two, with the final two drawing on wider themes and perspectives, alongside a useful background in the Introduction.

In the first chapter, Jones and Su traverse the democratic credentials of the Sunflower Movement, considering whether non-violent protests such as these occupations serve or defeat wider notions of democratic government. In doing so, they offer a theory of confrontational contestation, one that disputes the particular nature of Taiwanese democracy, without rejecting it *in toto*—'acting within the confines of the current regime' (17)—but in a way that more actively confronts us. There are then two contrasting chapters in the Taiwan section: an informative doctrinal one by Chang outlining several key judicial decisions brought against, or by, Sunflower protesters—with a useful albeit short contrast with the (likely) protection under the International Covenant on Civil and Political Rights (ICCPR). Yeh offers us the idea that the longer-lasting gain of the movement will not be found in positive court decisions but in renewed civic constitutionalism. The occupations and activism is evidence of the necessary shift from institutional democracy to a democracy of and by the people—democracy from below, to echo EP Thompson as he sought to 'rescue the poor stockinger ... from the enormous condescension of posterity'. It would have greatly enhanced the book had these two—the juriscentricism of Chang's chapter and Yeh's civicism—married up a little more but that is a small gripe. If I have a complaint about the book in general, it is that it often fails to capitalize on several easy opportunities to delve away from the law. In any discussion of the ambit of the right of free assembly, a focus on doctrine and legislation gets us only so far. In any system, as Chang herself says, what is 'most problematic is the broad discretionary power given to the police' (39). That passing reference tantalizes the reader with the other side of the coin but stops short—even a brief detour touching on some of the key sociological literature (say on policing styles, such as that by Vitale or Gillham and Noakes) would have helped enormously.

The next section features the three chapters on Hong Kong. Chen's chapter on the law and politics of constitutional reform and democratization took rather a long time to get going, largely because it provided a (necessary) historical account of the contradictions and tensions inherent in the notion of One Country, Two Systems, such that counter-intuitively true democrats in Hong Kong tended not to favour universal suffrage for elections to the position of Chief Executive, the slate for this latter

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being pro-China nominees. The decision in late August 2014 by the Chinese National People's Congress Standing Committee (NPCSC) that the Chief Executive 'must love the country and love Hong Kong' (76) was the tinder that ignited the Umbrella protests a short time later. Hualing provides an account of political protest in high-income societies, highlighting the sometime tension between ideals of democracy and the rule of law, and within that the contentious role of courts, and noting too the 'civic constitutionalist' shift in the debate that non-institutional mobilizations such as Occupy portend 'from the legislature, the courts, and classrooms, to offices, families and streets' (98). Insights derived from Graeme Robertson's work on protest in hybrid regimes (*The Politics of Protest in Hybrid Regimes: Managing Dissent in Post-Communist Russia* (CUP 2011)) might here have added to what was an already interesting chapter. The last in the section, Matthews on the *nomos* of Hong Kong's Umbrella Movement prompted the most thought, perhaps because it was sited in a very different domain, that of (primarily) the geographical and the sociological (where he looks to Berger on the *nomos* as discursive ordering). This chimes with recent protest/dissent scholarship—including my own as well as that of Timothy Zick in the USA—and drawing on Philippopoulos-Mihalopoulos's ideas of 'lawscapes' in the first few pages allows Matthews to claim one success of the Umbrella movement was that it made 'suddenly visible the spatial ordering that is so often simply assumed ... ruptur[ing] the quotidian production of space [for commercial private ends]' (106–7).

The third section traverses four comparative themes: ideas of sovereignty (Huang), civil disobedience (Ho), an economic/trade analysis of democracy and the rule of law (Wu), and Chinese public opinion of the movements (Zhu). Together these provide us with an alternative vantage point. In Huang's chapter we see the contrast between Hong Kong, a 'people without sovereign power', and Taiwan 'sovereignty without people' (120) given Taiwan's continued and long-standing claim to sovereignty over mainland China—what he terms 'unpopular sovereignty'. Each creates a tension. Although in Hong Kong the Basic Law provides the system of self-government, the final word on its meaning rests with the National People's Congress Standing Committee (NPCSC) in Beijing. Yet, as he argues is the case in Taiwan, constitutional autonomy must be founded on authenticity, not imposed, retained or even 'simply' the product of regular universal suffrage. Ho's chapter on civil disobedience fell into two: for those not up to speed, a literature review of contemporary theorizing, from Thoreau in the 1840s onwards, followed by an assessment of various Hong Kong court cases (primarily injunctions, when the norm would be to consider criminal infractions and punishment) though the two could have been synthesized better. The question is always how far, and why, should disobedience to the general law, through forms of dissent and political action, leave us exposed to penalties? Ho avers that the courts' rulings reflect a choice. While they were premised on a 'rationale of law and order', they could equally have demonstrated 'tolerance ... to open a dialogue ... when consensus has not been reached' (143). This prompted me to think here of recent social movement scholarly work on legal opportunities, such as that of Chris Hilson, and by Graeme Hayes and Brian Doherty on courts as strategic arenas and sites of struggle, and wondered whether this might have made a useful exploration in Ho's chapter.

The fourth part encompasses two concluding chapters on wider perspectives, though each could have been improved by limiting the overlaps between them. In some ways, the first parts of one or other—Roth on Democratic Political Obligation and DeLisle on Democracy and Constitutionalism—might have better served as an introductory chapter to the whole book, comprising as they did excellent, short and pithy summaries of (most of) the other chapters. Roth supplements Ho's chapter on civil disobedience a little, concluding that 'Sunflower and Umbrella Movements both combined civic defiance with a democratic constitutionalist ethos' (203) with activists in each breaking laws to enhance the community's own law-making competence. The difference, for Roth, is that the genesis of the former was democratic circumvention while the premise of the Umbrella Movement was democratic expansion. DeLisle sketches out a far broader and more expansive canvas, noting the pivotal and disproportionate role that law played in the essentially political contestations at the heart of the movements' claims (though I would suggest, far more so in Hong

Kong) where politics has for many years ‘been about legal, and specifically constitutional questions’ (210). Might this have been taken further? Law here is surely reflexive or Janus-like: it acts as both the trigger for dissent and looking the other way, structures how that dissent manifests and whether or not it is successful? DeLisle then traverses some similar ground—the legitimacy of these sorts of law-breaking protests, and the types of appeals (to democracy and constitutionalism) that may be made to assuage the bite of the law and to garner support. Again, some engagement with or even a nod to social movement ideas about the mobilizing opportunities such frames afford would have enriched this rewarding chapter yet more.

*Law and Politics of the Taiwan Sunflower and Hong Kong Umbrella Movements* attempts to fuse various views on and analyses of a key political moment, and does so largely very successfully. That it does so primarily from a legal perspective—all the chapters are written by lawyers or by those with training in law—should not concern us greatly. Several of the chapters confront us, as lawyers, with insights and frameworks derived from a much wider field. This review touched on Matthews’s chapter above. Another, Wu’s, takes us through some law and economics, to present empirical data that confirms ‘the conventional wisdom that trade openness improves a trading nation’s rule of law’ despite the fact, and this is the novelty, here the trading partner for both Hong Kong and Taiwan is undemocratic China, with a poor rule-of-law record (157). That the book perhaps might have drawn on an even wider and more varied literature is counsel of perfection (though suggesting a bibliography and case list, both missing here, is not!). What it does, it does perfectly soundly. The book is a very welcome addition for those interested in protest and dissent, and the issues that such political activism throws up, reminding us in salutary fashion of democracy as process, not simply an outcome or one-off result.

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