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Navigating between empires: the discourses on self-determination in and about Hong Kong

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Summary

This thesis examines how the discourse of self-determination has been invoked, shaped, and transformed by state and non-state actors in relation to Hong Kong from 1945 to 2021. Moving beyond a positivist framework, this thesis conceptualises self-determination not as a determinate legal right, but as a plural, malleable, intersecting legal-political discourses, which were deployed strategically by the UK, the PRC, the Hong Kong elites, and the counter-elites in moments of territorial and constitutional transitions. Using discourse analysis, archival research, and insights from critical legal theories, the study offers novel perspectives on Hong Kong's legal status. It traces Hong Kong's autonomy to the inter-imperial dynamics, the evolving demands of Hong Kong communities, and the territory's distinctive colonial and decolonial experiences. This study shows how state actors and non-state actors both employed the elastic understandings of self-determination to justify conflicting political demands and outcomes, which offers us critical insights as to how self-determination is better understood as authoritative language rather than legal right in 'inter-imperial zones' that are unlikely to become the focus of international legal adjudications.

This thesis makes four arguments. First, on a conceptual level, this thesis challenges international law's state-centric orientation by examining how international law was applied, interpreted, and contested in practice by intra-state and non-state actors in relation to Hong Kong. It emphasizes the argumentative elasticity of international law and the importance of studying its discursive use beyond judicial contexts.

Second, this thesis supplements the current understanding of self-determination by highlighting how its interpretation was shaped by historical, strategically, and ideologically contingent concepts. Seven overlapping discourses are identified: nationalism, self-government, colonial independence, freedom of choice, sovereignty, democracy, and autonomy, each leading to a different understanding of the entitlement, content, and scope of self-determination as a legal right. In Hong Kong, self-determination was employed primarily for justificatory purposes and flexibly interpreted to mean autonomy, sovereignty, self-government, or democracy, discourses that were sometimes complementary, sometimes contradictory. Hong Kong's autonomy reflects an amalgamate of influences from the discourses of autonomy, sovereignty, self-government, and democracy.

Third, through the study of Hong Kong, this thesis proposes a new framework of understanding colonial Hong Kong as a *de facto* Condominium subjected to two sovereigns, which made Hong Kong unfit for the application of UNGA rules on decolonisation. Despite meeting the UN criteria for a Non-Self-Governing Territory, its path toward self-determination has always been bilaterally negotiated agreements without the participation of the Hong Kong people. As a result, the territory's autonomy was constructed not as genuine political self-government but as a form of administrative autonomy. While discursively useful for reconciling conflicting expectations, the Hong Kong model of autonomy reinforced a distinct community identity without satisfying political aspirations, leaving the settlement structurally fragile. The example of Hong Kong reveals the inherent instability of imposed and non-participatory autonomy as a 'palliative' form of self-determination. It also highlights how the inherent ambiguities and elasticity of the term 'autonomy' could generate opposing expectations and inspirations that could widen the existing communal differences. The Hong Kong example thus offers us tools to rethink the conditions for viable autonomy and asymmetric power sharing as ways of conflict resolution in the contemporary world.

Finally, this thesis also made several new historical findings. This thesis a series of tacit understanding between the UK and the PRC in constraining the development of democracy in Hong Kong even before the signing of the Sino-British Joint Declaration in December 1984. At the same time, this thesis shows a more complex and nuanced diplomatic history behind the PRC's request to remove Hong Kong and Macau from the Chapter XI List of Non-Self-Governing Territories in 1972, and the interactions between Great Powers leading up to the official beginning of the Sino-British negotiations. Last but not least, this thesis is the first study that systematically studied the extensive influence of the UK behind the drafting of the key provisions of Basic Law. It was revealed for the first time that the use of the Electoral College to select the Chief Executive came from a UK proposal in 1988, and that the PRC had suggested to the UK as early as in 1990 to use the NPCSC's power of interpretation to resolve inconsistencies between Articles 22 and 24 of the Basic Law.