

C.1 From the Chinese SARs to its Silk Roads: Essays

Hong Kong on the Peripheries of the Chinese and Global Imaginaries

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A nation, and its leading forces, exercises hegemonic dominion through effective leadership.² Leadership is understood as the performance of discursive tropes³ that then symbolizes the unity of a collectivity around a core.⁴ The discursive tropes of leadership socialize power relations in ways that legitimate the exercise of power through the

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² In the socialist context, see, Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy. Towards a Radical Democratic Politics* (London: Verso, 1985). Both concepts of hegemony and dominion are highly contested in the literature. Hegemony tends to be understood, at least by post Marxist theorists in the West as a societal force that is discursive in its essence; dominion, on the other hand is understood as the exercise of (administrative) power through institutions. The former, then, is societally endogenous; the latter societally exogenous. Cf.,

³ J. Hillis Miller, *Tropes, Parables, Performatives: Essays on Twentieth Century Literature* (Duke University Press, 1990) (the use of symbolic language to guide or illuminate abstraction in ways that develop collective meaning for the concept performed or described through language, images or stories). The word trope itself suggests the use of language to lead or direct (from the Greek verb *τρέπειν* (*trepein*), "to turn, to direct, to alter, to change" Merriam-Webster Dictionary (Merriam-Webster, 2009).

⁴ Dirk Nabers, "Power, Leadership, and Hegemony in International Politics: The Case of East Asia," *Review of International Studies* 36:931-949 (2010).

structures that appear to manifest legitimating discourse.⁵ In Chinese Marxist-Leninism, the leadership hegemony belongs to the leading social forces organized as a communist party that strictly adheres to its fundamental objectives and is faithful to its political line applied to meet the challenges posed by the contradictions presented at every stage of historical development.⁶ Central to that exercise of leadership is the fundamental principle of core-collective.⁷ The core-collective principle is in turn discursively developed through the principle of democratic centralism, a system of deliberative subordination built around core-collective engagements.⁸

In applying core-collective principles and the “spirit” of democratic centralism, one speaks here of societal leadership--cultural, moral and ideological--not just over the masses that one leads, but as well of the leadership of that core over allied and subaltern groups.⁹ Allied and subaltern groups exist not just within the national heartland, but also within its periphery and among those other collectives outside the nation that are subject in some measure to the authority or influence of the core hegemon.¹⁰ All great ideological powers assert hegemony--or seek it. Hegemons necessarily differentiate their hegemony through the discursive tropes that serve to deepen legitimacy by its suggestion of a ‘truer’ alignment between its verities and the needs and desires of the people. “Hegemony means nothing more than the discursive struggle between political actors over the assertion of their particular representations of the world as having a universal significance.

⁵ See, e.g., G. John Ikenberry and Charles A. Kupchan, “Socialization and Hegemonic Power,” *International Organization* (reflexive, discourse-based conception of power, allowing for a complex reformulation of interests and identities).

⁶ Communist Party of China, Constitution; available [] (General Program).

⁷ Mao Zedong, “The Chinese Communist Party is the Core of Leadership of the Whole Chinese People (25 May 1957),” In *Selected Works of Mao Tsetung* V:447 (1977).

⁸ Robert L. Kuhn, “How Does ‘Democratic Centralism’ Work?,” CGTN (20 October 2017); available https://news.cgtn.com/news/77417a4d31597a6333566d54/index.html (Interview with Li Junru former vice president of the Central Party School). Li explained:

That is, individual Party members are subordinate to the Party organization, the minority is subordinate to the majority, the lower Party organizations are subordinate to the higher Party organizations, and all the constituent organizations and members of the Party are subordinate to the National Congress and the Central Committee of the Party, where both democracy and centralism are advocated. . . The core plays his role by pooling the opinions of the individuals, analyzing and differentiating the opinions, and arguing for his own propositions. (Ibid.).

⁹ Cf., Antonio Gramsci, *Prison Notebooks* (Joseph A. Buttigieg and Antonio Callari (trans); Columbia University Press, 2011 (1937)). See also the interesting discussion in Howard H. Lentner, “Hegemony and Autonomy,” *Political Studies* 53:735-752 (2005).

¹⁰ Cf., Evelyn Goh, “Contesting Hegemonic Order: China and East Asia,” *Security Studies* 28(3):614-644 (2019).

Ultimately, it is only through hegemony that leadership can be established.”¹¹

These notions usefully serve as the starting point for understanding the relationship between the Chinese central authorities--the core of its leadership sustained in authority by its fidelity to its ideology in concept and fact--and its special administrative regions. These SARs stand at the borderlands of the Chinese heartland and serve as a space where Chinese and foreign hegemonies sometimes collide--especially the hegemonies of the liberal democratic order and its project of global convergence around notions of personal autonomy, human rights, and markets driven trade. The challenges of leadership in the SARs serve as a template for understanding not merely the performance of leadership at the Chinese borderlands but also the constitution of Chinese internationalism--the performance of leadership beyond the borders of the nation but within its spheres of hegemony, and beyond.¹²

Hong Kong has proven to be a flashpoint in that engagement. It was here that the leadership of the Chinese central authorities was severely tested between 2019 and 2020.¹³ That testing involved not just engagement with the international community and the United States, but also a contest for the “hearts and minds” of the Hong Kong masses--the issue at its core grounded on the direction and allegiance of Hong Kong patriots: to themselves, to the international community or to the Chinese central authorities. These relationships have been transformed in profound ways since the start of mass protests in June 2019, and their suppression under the new administration of more closely supervised relations marked by the National Security Law for Hong Kong.¹⁴

The essay suggests that way that the continued Sinification of Hong Kong’s imaginary both further develops Chinese ideological development, and evidences the growing space between that development and those of other important global actors. It does this by examining a few instances of engagement between Chinese and American (mostly) hegemonies in and around Hong Kong in 2021. The essay highlights the way that these changes now make more visible the conceptual borders between China (and Hong Kong) and other emerging great systems of self-reflexive ideology. Those borderlands, in turn, also suggest the way that the territories of emerging post-global imperial orderings are being constructed and where those borders are being established.

¹¹ Dirk Nabers, “Power, Leadership, and Hegemony in International Politics,” *supra* at p. 940.

¹² See, Larry Catá Backer, “China,” in *Tipping Points in International Law: Commitment and Critique* (John D. Haskell and Jean d’Asremont (eds), Cambridge, 2021); pp. 52-73.

¹³ Discussed in Larry Catá Backer, *Hong Kong Between ‘One Country’ and ‘Two Systems’*, (Little Sir Press, 2021).

¹⁴ Siu-kai Lau, “The National Security Law: political and social effects on the governance of the Hong Kong Special Administrative Region,” *Public Administration and Policy* 24:(3):234-240 (2021).

A. The National Security Law as Constitutional Principal and as a Statutory System Between Common Law and Socialist Law--Hong Kong SAR Court of First Instance Decision in Tong Ying Kit v. Secretary for Justice (20 May 2021).

In a very interesting opinion applying the new Hong Kong National Security Law,¹⁵ the Hong Kong SAR Court of First Instance (the lower court of the High Court of Hong Kong) issued its opinion in *Tong Ying Kit v. Secretary for Justice* (20 May 2021).¹⁶ The case was noteworthy because it was the first brought under the 2020 Hong Kong National Security Law. The case involved a 23 year old defendant who was alleged to have driven a motorcycle into police carrying a sign tied to the popular protests that had been occurring in the SAR since June 2019.¹⁷ He was charged with inciting secession and terrorist activities during protests that had taken place in July 2020.¹⁸ Western news coverage emphasized the great change that the National Security Law was making in the form of legal action now being taken against the protester community in Hong Kong:

In a different era, the rider, Tong Ying-kit, might have been accused of dangerous driving and assaulting a police officer. Instead, the authorities arrested him last July under a draconian national security law Beijing had imposed on Hong Kong, only hours earlier, that took aim at dissent and other political activity challenging China's rule.¹⁹

¹⁵ "In full: Official English translation of the Hong Kong national security law," Hong Kong Free Press (1 July 2020); available [https://hongkongfp.com/2020/07/01/in-full-english-translation-of-the-hong-kong-national-security-law/].

¹⁶ *Tong Ying Kit v. Secretary for Justice* (20 May 2021; No. 473 of 2021; HCAL 473/2021 [2021] HKCFI 1397; available [https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=135853&currpage=T]).

¹⁷ Brian Wong, "First person charged under Hong Kong's national security law will stand trial at High Court, with no cap on sentencing," South China Morning Post (6 October 2020); available [https://www.scmp.com/news/hong-kong/law-and-crime/article/3104396/first-person-charged-under-hong-kongs-national].

¹⁸ Seina Chong, "Hong Kong court denies bid for jury trial by city's first national security defendant," Hong Kong Free Press (20 May 2021) ("Since last June, the police national security department has arrested 107 people and so far charged 57 of them, the overwhelming majority of whom are democrats. Most remain behind bars pending trial." Ibid.).

¹⁹ Austin Ramzy, "Protester Who Crashed Into Police Faces Hong Kong's First Security Law Trial: Tong Ying-kit, who hit officers while riding a motorcycle with a protest flag, is accused of terrorism and inciting secession. He could be sentenced to life in prison," The New York Times (30 July 2021); available [https://www.nytimes.com/2021/06/23/world/asia/hong-kong-security-law-trial.html] ("The policing of speech has gained prominence in recent months as the authorities have enforced the security law against opposition politicians and the news media. It marks a dramatic change in a city where residents have long cherished the freedom to air their political views, no matter how critical they may be of the government." Ibid.).

Ring Ying Kit was eventually tried and convicted,²⁰ and sentenced to nine years in prison.²¹

At issue in the case was the validity of the National Security Law's provisions (¶ 46) that curtailed the right to a jury trial.²² The issue was technical, but also discursive. It represented a point conflict that mirrored the underlying conflict that had produced the protests of 2019 and eventually the call of some Hong Kong people for substantially greater autonomy and connection to international norms and practices over those grounded in the ideologies of Chinese Marxist-Leninism. In that respect the decision represented an iteration of that conflict between legal-normative systems within the Chinese borderlands.

The judge first rejected the idea that the right to a jury trial had not been preserved in colonial Hong Kong either as a legal principle or as constitutional doctrine. The court first limited its consideration of the issue to the constitutional right to a jury trial.²³ Challenges to the constitutionality of the National Security Law, on the other hand, were not possible.²⁴ Here, within the constitutional order of China, the periphery is incapable of determining the extent or practice of sovereign authority. The sovereign authority of the periphery is exercised by the grace of the superior authority, in accordance with law and the constitutional system of the superior power.²⁵ However, the court has discretion within the barriers of overarching constitutional provisions to

²⁰ See Anushka Sahay, "Hong Kong Court Convicts Human Rights Activist Under National Security Law," *Jurist* (28 July 2021); available [Tong Ying Kit v. Secretary for Justice].

²¹ See, Rhoda Kwan, "Explainer: Hong Kong's national security crackdown – month 13," *Hong Kong Free Press* (4 August 2021); available [https://hongkongfp.com/2021/08/04/explainer-hong-kongs-national-security-crackdown-month-13/] (discussing the arrests and charges made to date against a number of people including writers of children's books and a raid on a university).

²² Paragraph 46 created three exceptions to the application of a right to a jury trial--cases involving foreign forces, cases involving the protection of state secrets, and cases where the safety of jurors and their family members might be threatened. "In February, Secretary for Justice Teresa Cheng informed the defendant's legal team his trial will be heard by three judges appointed for national security cases, instead of a jury, citing "the personal safety of jurors and their family member." "Hong Kong court denies jury trial to first person charged under national security law," *Reuters* (9 June 2021); available [https://www.reuters.com/world/asia-pacific/hong-kong-court-denies-jury-trial-first-person-charged-under-national-security-2021-05-20/].

²³ *Tong Ying Kit v. Secretary for Justice* (20 May 2021), *supra*, ¶ 7. The judge specifically rejected any contention that there is a general right to a jury trial in Hong Kong (*ibid.*, ¶7(1). Issues of trial fairness in the absence of a jury were also not considered (*ibid.*, ¶7(3).

²⁴ *Ibid.*, ¶7(4); citing *HKSAR v Lai Chee Ying* (黎智英), [2021] HKCFA 3, at [32].

²⁵ Thus, "the legislative acts of the NPC and NPCSC leading to the promulgation of the NSL as a law of the HKSAR, done in accordance with the provisions of the Basic Law and the procedure therein, are not subject to review on the basis of any alleged incompatibility as between the NSL and the Basic Law or the ICCPR as applied to Hong Kong." *HKSAR v Lai Chee Ying*, [2021] HKCFA 3, at [[37]

interpret the application of measures.²⁶ Yet that discretion produces very real consequences. The first is the subordinate role of international law and norms within the Chinese constitutional order. The second is the superior role of Chinese central authorities in the interpretation and imposition of the structures within which that discretion may be exercised by the judicial authorities in the peripheries. The third is that local non judicial authorities have a very limited role to play in the construction of the scope and framework of the autonomy within which their administrative responsibilities are defined.²⁷

Given the framework of sovereign authority within the constitutional system of China, of which Hong Kong is a part, analysis was straightforward and unsurprising. The first step in the analysis required a determination of the nature of the understanding of the right to a jury trial within the legal ordering of the autonomous region.²⁸ The court noted that the development of the common law right to jury trial had been modified by statute during the colonial period, a common law-statutory scheme that survived after the transfer of sovereignty to China in 1997. Thus irrespective of the “advantages of trial by jury eloquently expounded by eminent judges of high stature in other common law jurisdictions,”²⁹ already circumscribed the right before the enactment of the National Security Law.

The National Security Law, in turn, was to be interpreted through the lens of the context in which it was enacted. And indeed, the case is particularly important as a template litigation against which there is likely to be developed a number of important judicial approaches to the administration of the National Security Law.³⁰ The great themes of the

²⁶ *Ibid.*, supra, ¶42 (“NSL 4 and NSL 5 expressly stipulate that those rights, freedoms and values are to be protected and adhered to in applying the NSL. They provide the context in which NSL 42(2) must be construed and applied. As far as possible, NSL 42(2) is to be given a meaning and effect compatible with those rights, freedoms and values. Save insofar as NSL 42(2) constitutes a specific exception thereto, that corpus of law, comprising not only the human rights and rule of law principles but also the generally applicable HKSAR rules governing the grant or refusal of bail is intended to have continued effect in NSL cases.”).

²⁷ *Tong Ying Kit v. Secretary for Justice* (20 May 2021), supra, ¶8.

²⁸ *Ibid.*, ¶¶9 et seq.

²⁹ *Ibid.*, ¶14.

³⁰ *Ibid.* ¶ 17. It is a passage worth considering in full:

17. The social events and legislative history leading to the enactment and promulgation of the NSL as a national law applied to the HKSAR under BL 18 have been summarised in *HKSAR v Lai Chee Ying*, ante. In particular, the Court of Final Appeal notes the concerns of the Central Authorities in the light of recent disruptions in Hong Kong[30]:

“At present, the increasingly notable national security risks in the HKSAR have become a prominent problem. In particular, since the onset of Hong Kong’s ‘legislative amendment turmoil’ in 2019, anti-China forces seeking to disrupt Hong Kong have blatantly advocated such notions as ‘Hong Kong independence’, ‘self-determination’ and ‘referendum’, and engaged in activities to undermine national unity and split the country. They have brazenly desecrated and defiled the national flag and emblem, incited Hong Kong people to oppose China

disruption of the social order, of secession, and of chaos threatening the stability and prosperity of the SAR, and therefor of its autonomy, are underlined in the passage.³¹ That disordering also produced its own palette of lawlessness that threatened not merely the aggregated social order, but the safety of individuals.³²

That fear and that threat also was an important element in the judicial calculus that follows. It is to the double threat of individual and social safety that NSL is intended to be directed, and its provisions remaking the rest of the legal order of the autonomous region (and thus reshape the scope of its autonomy).³³ The effect is to broaden, and substantially the insight that the entirety of the NSL in so far as it now “constitutes a specific exception thereto, that corpus of law, comprising not only the human rights and rule of law principles but also the generally applicable HKSAR rules. . . is intended to have continued effect in NSL cases.”³⁴ *But given that logic, there is no caselaw that can fall outside of the purview of the NSL as a principle--even as such actions may not touch on the specific provisions of the NSL as statute.*

and the Communist Party of China (‘CPC’), besiege Central People’s Government (‘CPG’) offices in Hong Kong, and discriminate and ostracize Mainland personnel in Hong Kong. These forces have also wilfully disrupted social order in Hong Kong, violently resisted police enforcement of the law, damaged public facilities and property, and paralyzed governance by the government and operation of the legislature. Moreover in recent years, certain foreign or external forces have flagrantly interfered in Hong Kong’s affairs. They have made intervention and created disturbances in various ways, such as by legislative and administrative means and through non-governmental organizations. In collusion with those anti-China Hong Kong disrupters, these forces of the same ilk backed and cheered on the disrupters and provided a protective umbrella, and utilized Hong Kong to carry out activities endangering national security. These acts and activities have seriously challenged the bottom line of the ‘One Country, Two Systems’ principle, seriously undermined the rule of law, and seriously jeopardized national sovereignty, security and development interests.”

³¹ For a discussion of the refinement of these discursive elements during 2019-2020, see Larry Catá Backer, *Hong Kong Between ‘One Country’ and ‘Two Systems’*, *supra*.

³² *Tong Ying Kit v. Secretary for Justice* (20 May 2021), *supra*, ¶18 (“the tension in the society resulting from recent public unrests has led to “doxxing”, that is, extensive leaking of personal information and cyber-bullying on the Internet and various social and other media. Therefore, many people, members of the police force and their family in particular, are concerned about unlawful infringement of their right to privacy and the privacy of their home”).

³³ *Ibid.*, ¶¶19-21. It is useful to note in that respect that the court indicated a general agreement with prior opinions that suggested that NSL effectively remapped the corpus of Hong Kong Law all now understood through the prism of national security (*ibid.*, ¶19); that the NSL itself is to be construed as a whole and with reference to the social disturbances of 2019-2020 (*ibid.*, ¶ 20); and that NSL in effect assumes super-constitutional status against both domestic law and its efforts to transpose international law.

³⁴ *Ibid.*, ¶ 21 (quoting Junior Police Officers’ Association of the Hong Kong Police Force v Electoral Affairs Commission & Or [2020] 3 HKLRD 39, at ¶ 42).

The court then turned to its interpretation of the right to a jury trial as now limited by NSL §§ 41, 45, and 46. The court rejected the contention that the defendant “has a “constitutional right” to a jury trial once an indictment is preferred against him.”³⁵ More specifically that the constitution of the scope of a jury trial in light of the NSL supported the court’s “conclusion that the preferment of an indictment on its own does not confer on an accused the right (let alone constitutional right) to a jury trial.”³⁶

The court, however, hedged the analysis. It concluded in the alternative that even if the constitutional principle protecting the right to a jury in the circumstances of the case before it,³⁷ would be protected under the circumstances of this case, NSL ¶¶ 46(1) and 62) would, by “necessary implicate,” abrogate that principle.³⁸ The reasoning was interesting. First, the court interpreted the word “maintained” in the Basic Law to be “about the preservation of the continuity of the jury system” rather than about its boundaries; that is that the Basic Law protected the jury system as it is legitimately developed and thus maintained, preserving but neither creating serving as a source of constitutional right.³⁹ Second, NSL ¶46(1) itself has constitutional status, at least in the sense that it may not be challenged by application of other provisions of the Basic Law.⁴⁰ It then followed, for the court, that the effective constitutional supremacy of NSL as a national measure defining the scope of regional constitutional autonomy, and the unambiguous wording of the provision in this case (e.g., to vest determination of the circumstances under which jury trials may be denied), that “the legislative intent is that any previous right to jury trial in the CFI, if existed, shall be abrogated in “criminal proceedings concerning offences endangering national security.”⁴¹

The court then rejected arguments that sought to challenge the exercise of prosecutorial discretion in the determination. The court was

³⁵ Ibid., ¶ 25. The court noted that such a right would be inconsistent with an accepted interpretation of the legislative scheme introduced before the 1997 handover. (Ibid., ¶ 26(a)). The court also reasoned that before the NSL a determination to try a case to the Court of First Instance would have resulted in a jury trial, but the NSL effectively carves an exception under the circumstances of NSL §46 (Ibid., ¶ 26(b)). Lastly, the court determined that reading NSL as a whole, it is clear that the mandatory nature of the discretion afforded the authorities coupled with the nature of the express grounds for avoiding a jury trial read in light of the reasons for enactment of NSL suggested that it was reasonable to conclude that NSL did not require communication with the accused before a decision was made (Ibid., ¶ 26 (c)).

³⁶ Ibid., ¶ 27.

³⁷ This would require a broad but not implausible reading of ¶ 86 of the Basic Law (“The principle of trial by jury previously practised in Hong Kong shall be maintained.”).

³⁸ Ibid., ¶28.

³⁹ Ibid., ¶ 28(a).

⁴⁰ Ibid., ¶ 28(b).

⁴¹ Ibid., ¶ 28(c). The interpretation of the application of that NSL provision, on the other hand, the court declined to examine. Ibid., ¶29.

disinclined to expand what was seen as a fairly well established jurisprudence that severely limited the ability of a criminal defendant to challenge such exercises of discretion.⁴² That left only the traditional grounds for challenge--abuse of discretion. Yet at the same time, the court distinguished ordinary abuse of discretion jurisprudence, when the object was abuse by a non-prosecutorial administrator, and the standard for abuse where the challenge was to a decision of the Secretary for Justice.⁴³ Three specific circumstances are identified: "namely, (i) acting in obedience to political instruction, (ii) bad faith, and (iii) rigid fettering of prosecutorial discretion."⁴⁴

The court rejected the contention of procedural impropriety. Even though the court recognized the modern trend in favor of requiring administrators to provide reasons for or justifying their exercise of discretion (which can then serve as a basis for reasoned review), the court rejected its applicability in the "special case" of the exercise of prosecutorial discretion.⁴⁵ The court also rejected arguments grounded in illegality for failure to show bad faith or dishonesty.⁴⁶ The reasoning was curiously formalist, in the sense that it went little further than the examination of the face of the certificate, and its formal invocation of the power to do what NSL ¶ 46 permitted, along with a statement that certified that "all relevant circumstances and information" had been taken into account.⁴⁷ The resulting deferential standard would appear to make it virtually impossible to prevail absent hard proof.⁴⁸

Curiously, neither litigants nor court raised the first of the grounds for challenge: acting in obedience to political instruction. That one would raise particularly thorny issues at the juncture between the core values and operating principles of Marxist-Leninist systems (the operating core of the central authorities and the authors of the NSL), and those of common law systems (derived under liberal democratic organizational principles). To what extent does applying guidance of the vanguard, or acting in accordance with the vanguard's political line as specifically applicable to the case, constitute a breach of the provision? A broad reading of "acting in obedience" would suggest that the provision would be breached in those circumstances. But the more likely narrow interpretation would limit its application to cases where a specific official

⁴² Ibid., ¶¶ 30-33, citing U.K. case law.

⁴³ Ibid., ¶ 35 ("It is well-established that prosecutorial independence of SJ should not be put on the same footing as an ordinary exercise of discretion by an administrator, and thus her prosecutorial decision could not be reviewed by the court based on ordinary judicial review grounds.").

⁴⁴ Ibid. ("Whilst the above list is not meant to be exhaustive of the circumstances in which judicial interference would be justified, the courts have consistently emphasized the rarity of instances where it would be appropriate for the court to interfere with a prosecutorial decision and in which case the evidence must also be such that it points unquestionably to the desirability of doing so").

⁴⁵ Ibid., ¶¶ 36-42.

⁴⁶ Ibid., ¶¶ 43-44.

⁴⁷ Ibid., ¶ 43.

⁴⁸ See also *ibid.*, ¶ 45.

directly instructed the prosecutor to take a specific decision in a specific case. That, in turn, would be far more difficult to prove, but would be a way of harmonizing the operating principles of otherwise incompatible systems.

The implications, beyond the four corners of the National Security Law will be potentially far reaching and will require a new gloss on the Hong Kong variant of what is now much more emphatically Chinese constitutional jurisprudence. The pattern certainly is clear. For the periphery, the measure of autonomy is determined by the center. That autonomy may, in some measure permit legal permeability, and the harmonization of multiple legal systems blended in contextually prudent ways within the autonomous region. But that porosity is strictly bounded by the overarching core principles of security and of the supremacy of center as the singular site for the determination of autonomy's scope. Close to the heartland, that scope of autonomous discretion is quite small. That is the lesson of this case for Hong Kong.

Yet it is also a glimpse of the model that can then be internationalized in the form of hub and spoke systems of relationships. The farther out from the core, the greater the autonomy and the looser the control, subject, of course, to the paramount obligation to preserve the core principles of stability, security, and the interests of the heartland. It is to the development of the mechanisms of that system of dynamic autonomy grounded in core-collective and hub-spoke models of management that underlie the development, not just of the principles of autonomy for the SARs but also along the Chinese Belt & Road.⁴⁹

The political expression of these principles have been developed with greater precision since the enactment of the NSL. It was most clearly articulated in the context of the celebrations of the Chinese Communist centenary. That is the subject of the following two sections of this essay.

B. 'Two Systems' Under 'One Country' Under the Guidance of the Communist Party--Hong Kong Officials Celebrate the Centennial of the Chinese Communist Party

On the eve of the 2nd anniversary of the protests at LegCo⁵⁰ in Admiralty that resulted in substantial violence and that, in some ways, marked a point of no return for protestors, the central and local authorities, and the international community,⁵¹ a significant speech was delivered by Luo Huining, a senior member of the Chinese Communist

⁴⁹ Discussed infra Larry Catá Backer, "Brief Reflections on Emerging Global Trade Empires: From Trans-Pacific Partnership to "Building Back Better" (B3W) in the Shadow of China's Belt & Road Initiative."

⁵⁰ "612 Admiralty Conflict," HKC News (IPCC Thematic Study Report); available [https://www.hkcnews.com/antielab-conflicts/612/612-en.html].

⁵¹ Discussed in Larry Catá Backer, *Hong Kong Between 'One Country' and 'Two Systems'*, (Little Sir Press, 2021).

Party and the Director of the Liaison Office of the Central People's Government in Hong Kong.⁵²

The occasion was important--marking the centenary of the establishment of the Chinese Communist Party. The event was sponsored by the Liaison Office of the Central Authorities in Hong Kong and marked the increasing visibility of not merely the central authorities but, perhaps more importantly, of the more vigorous and public engagement of the vanguard party itself in Hong Kong. Its purpose was meant to mark not merely the centenary of the CPC, but also its intimate connection with the return of Hong Kong. “

General Secretary Xi Jinping pointed out profoundly, "The one hundred years of our party is the century that we are committed to fulfilling our original mission, the one hundred years that we have laid the groundwork and the foundation, and the one hundred years that we will create brilliance and open up the future." Hong Kong has integrated into this magnificent epic with its own special experience, and the cause of "One Country, Two Systems" has become a splendid chapter in it.⁵³

The theme of the remarks were an important indication of the way that the vanguard understood not merely its own place within the nation, but also the relationship of the national heartland, with the CPC at the core, and its periphery. That required both a more developed rationalization of the incorporation of One Country Two Systems as an integral component within Chinese Marxist-Leninism, and not autonomous of it, and an understanding of that ideological connection between heartland and periphery (in ideological/historical terms) in the broader context of China's place (and mission) in the world (again from an ideological/historical position).

In the context of the sharp confrontation between the two major camps of capitalism and socialism at that time, what kind of mind and courage was needed to make a political decision on "one country, two systems"? To this day, we can still ask this question: Which other ruling party in the world will allow the implementation of two social systems within one country? The

⁵² 百年伟业的“香江篇章”——骆惠宁在“中国共产党与‘一国两制’”主题论坛上的主旨演讲 来源: 中央政府驻港联络办 发布时间: 2021-06-12 [The "Xiangjiang Chapter" and a century of great cause——Luo Huining's keynote speech at the theme forum of "The Communist Party of China and 'One Country, Two Systems'"; Source: Central Government Liaison Office in Hong Kong Post time: 2021-06-12]; available [http://www.locpg.gov.cn/zt/2021-06/12/c_1211197854.htm] (hereafter Luo Huining Speech)

⁵³ Luo Huining Speech, *supra*. (“习近平总书记深刻指出,“我们党的一百年,是矢志践行初心使命的一百年,是筚路蓝缕奠基立业的一百年,是创造辉煌开辟未来的一百年”。香港以自己的特殊经历融入了这部壮丽史诗,“一国两制”事业成为其中的华彩篇章。”)。

great initiative of "One Country, Two Systems" has changed the so-called historical stereotype that whenever territory is lost it is necessary to go to war to regain it.⁵⁴

Its creation [One Country Two Systems] marked the era when, in the fullness of political wisdom, the Chinese Communists wrote a brilliant Chinese plan into the history of human political civilization. It marked a time when, in the fullness of political wisdom, the Chinese Communists wrote a brilliant Chinese plan into the history of human political civilization.

The speech is worth reading carefully for its indications of the construction principles and approaches of the central authorities to the governance and oversight of Hong Kong and to the connection between the construction of Hong Kong's governance autonomy (Two Systems) strictly within the core normative principles of the political economic model of China (One Country) led by its vanguard, the Chinese Communist Party.⁵⁵ A very few observations, though, are in order to better situate the discursive themes of that speech within the wider context of the structuring of the relationships between heartland and periphery, between core (center) and collective, and between the core-periphery and its dependencies, friends, competitors and enemies.

1. The Sinicization of the One Country Two Systems principle is an important discursive development. First it provides a basis for making its continued use palatable within and consistent with Chinese Marxist-Leninism in the New Era. Second, it underlines the position of the central authorities, significantly developed since August 2019, that the One Country Two Systems principle is completely detached both from international law, and from any lingering oversight of the international community. International law, including the norms for self-determination, fractured sovereignty, and international oversight, have no application to what is now definitively for the central authorities strictly a matter of Chinese constitutional doctrine to be interpreted solely by Chinese authorities with reference to Chinese binding political principles.

2. That the fracturing of governance that is the essence of One Country Two Systems is an entirely discretionary project. It derives its authority from a concession of the national authorities. It represents a discretionary flexibility exercised by the central authorities to push

⁵⁴ Ibid. ["在当时资本主义和社会主义两大阵营尖锐对立的背景下，作出“一国两制”政治决断，需要何等的胸怀和勇气？直至今日，我们依然可以如此发问：世界上还有哪个执政党会允许在一国之内实行两种社会制度？“一国两制”的伟大创举，改变了历史上但凡收复失地就要大动干戈的所谓定势，是中国共产党人充满政治智慧的时代创造，在人类政治文明史上写下了光彩夺目的中国方案。”].

⁵⁵ This approach is very much consistent with analysis of the development of the approach of the central authorities to the Leninist principles within which "Two Systems" must be applied with "One Country" which is elaborated in Larry Catá Backer, *Hong Kong Between 'One Country' and 'Two Systems'*, supra.

forward its important policies of reform and opening up, of developing the nation's productive forces, and of opening a convenient window to the outside world. But as a discretionary policy it too must change, and change with the times. The end of the Reform and Opening Up Era and the start of the Chinese New Era, marked by important changes to the fundamental contradiction to be overcome under the leadership of the vanguard and the governing ideology, also produced a strong need to adjust the content and context within Hong Kong's "Two Systems" would be understood and operated.

3. The forward movement of development of Two Systems within One Country has never changed its fundamental objective--to eventually fully incorporate Hong Kong within the nation. That incorporation necessarily requires a slow and sustained period of adjustment. But adjustment itself must provide further incentives to move closer to the ideological heart of the nation in form and function. It is for the Chinese Communist Party to provide the leadership necessary to guide local authorities in that project. Deviation suggests not just disagreement but a rejection of the basic aim of joining with the nation and must therefore be understood as a substantial threat to the state, and to the stability and prosperity of Hong Kong.

4. The vanguard has been able to definitely place the chaos of 2019-2020 within a historical context that is entirely compatible with the scientific determinism of fundamental Chinese Leninism. There are two points that appear to be underlined and will play a greater role in the transformation of governance within the Two Systems formulation. The first is the critical role of patriotic education within autonomous regions, especially in this case, an autonomous region that must shed its attachment to the culture, values, and practices of foreign powers. A patriotic front, then, is an essential element not merely for Sinicization of Hong Kong, but also as a central element of the Communist Party's work to develop Hong Kong's culture, society, and norms within the overall principles of Chinese Marxist Leninism. The second is the critical role of Communist Party leadership in the salvation of Hong Kong from the forces of chaos, of lawlessness, and of an effort to detach the SAR from a process of deeper integration with the rest of the country.

5. It is in that context that Luo Huining offers three lessons:

(a) "First, to advance the cause of "one country, two systems", we must uphold and maintain the leadership of the Communist Party of China. History tells us that without the Communist Party, there would be no New China, no socialism with Chinese characteristics, no "one country, two systems", and no smooth return of Hong Kong and prosperity and stability after the return." Meeting the challenge of "chaos" in Hong Kong is now

understood as an essential⁵⁶ stage in the legitimization of the role of the vanguard party and its central role as the leading political force in the country--a political force with as great an obligation to the people of the autonomous regions (whatever governance deviation is otherwise permitted them) as to the people of the rest of the nation. To have failed in Hong Kong would have constituted a direct and serious threat to Chinese Leninism and the standing of the Communist Party as the legitimate vanguard. The chaos from 2019, as the central authorities had maintained almost from its beginning, was evidence of the use of international law and legalities as a cover for the projection of foreign designs on Hong Kong--to again detach what had only recently been reunited with the nation. Against the 黑手 [black hand] of foreign interference there is only the Communist Party and the patriotic front it leads.

(b) "Second, to advance the cause of "one country, two systems", systems and mechanisms related to the implementation of the Constitution and the Basic Law must be constantly improved."⁵⁷ This is in accord with the fundamental premise of Chinese Leninism that itself posits the development of theory to suit the times and to anticipate not merely the fundamental challenges of the current historical era, but also to anticipate the challenges of future eras of historical development. One Country Two Systems, then, must be understood as a work in progress. It is a living principle that changes as society changes--but it changes under the leadership of the Communist Party, not of the masses on the streets or others.

(c) "Third, to advance the cause of "one country, two systems", Hong Kong must be better integrated into the overall development of the country. The destiny of Hong Kong has always been closely linked with the motherland, and the development of the country has always been the biggest support for Hong Kong's development."⁵⁸ If, indeed, One Country Two Systems is a continuous process of development under the leadership of the Communist Party, Marxist-Leninist Theory refined in China since 1949 makes clear that this movement must have a purpose. That purpose must include the object of reunification. This is not just a formal reunification (what the protests were interpreted to demand), but a reunification in which eventually the need for Two Systems will become irrelevant under the triumph of the One Country Principle with the Communist Party at its center.

⁵⁶ Luo Huining Speech, *supra* ("第一，推进“一国两制”事业，必须坚持和维护中国共产党的领导。历史告诉我们，没有共产党就没有新中国，就没有中国特色社会主义，就没有“一国两制”，也就没有香港的顺利回归和回归后的繁荣稳定。").

⁵⁷ *Ibid.* ("第二，推进“一国两制”事业，必须不断完善同宪法和基本法实施相关的制度和机制。").

⁵⁸ *Ibid.* ("第三，推进“一国两制”事业，必须推动香港更好融入国家发展大局。香港的命运从来同祖国紧密相连，国家发展始终是香港发展的最大依托。").

6. The history of modern China, it now appears, begins with the decline of the last imperial dynasty, perhaps even from the end of the time of the *Qianlong* Emperor.⁵⁹ That decline brought humiliation and national disintegration. It weakened the social order and produced a situation in which the Chinese were no longer masters of their own nation. It was only through a decades long process directed by the leading social forces eventually operating as the Communist Party of China that change occurred. That trajectory of change includes Hong Kong which remains an unfinished project of the process of reversing the post Qianlong decay. "We firmly believe that with the historical process of the motherland becoming a socialist modern power, the majority of Hong Kong compatriots will further enhance their sense of belonging to the great motherland, further enhance their sense of identity with the Communist Party of China, and further enhance their sense of pride in being Chinese."⁶⁰

7. The position of the central authorities, and their construction the Hong Kong narrative is clear--both to explain the period of chaos (2019) and the vindication of patriotic forces bringing back principles of prosperity and stability(2020) within China and constrained by its core political principles and under the leadership of the vanguard party. But that view is substantially incompatible with the narrative of Hong Kong that is being developed and deployed by liberal democratic states. That difference, now much clearer, will mark the new borders (abstract to be sure) between Marxist Leninist and liberal democratic world views. Its consequences for the internal ordering of these states and their allies and dependencies, and more importantly, for shaping the relations between them, that that is decoupled but intensely interactive, will be quite profound.

8. There is no going back to conditions before June 2019. The continued development of the character and methods of the great patriotic campaign, that started with the increasingly pointed application of the National Security, Anthem, and Flag Laws, is producing a great rectification (整风 zhěng fēng). "Those who clamor for the "end of one-party dictatorship" and deny the party's leadership of the cause of "one country, two systems", those who attempt to use Hong Kong as a geopolitical pawn, a tool to contain China, and a bridgehead to infiltrate the mainland, are destroying the foundation of the "one country, two systems" system. These are the real enemies of Hong Kong's prosperity and stability."⁶¹ This is not a revelation; the central authorities, and certainly through the Hong Kong and Macao Affairs Office almost since

⁵⁹ Cf., William T. Rowe, "Introduction: The Significance of the Qianlong-Jiaqing Transition in Qing History," *Late Imperial China* 32(2):74-88 (2011).

⁶⁰ Luo Huining Speech, *supra* ("我们坚信，伴随祖国迈向社会主义现代化强国的历史进程，广大香港同胞一定会进一步增强对伟大祖国的归属感，进一步增强对中国共产党的认同感，进一步增强身为中国人的自豪感。")

⁶¹ *Ibid*, ("那些叫嚣“结束一党专政”、否定党对“一国两制”事业领导的人，那些企图把香港作为地缘政治的棋子、遏制中国的工具、渗透内地桥头堡的人，是在毁坏“一国两制”制度根基，是香港繁荣稳定的真正大敌。")

the start of the protests, the central authorities have been making this point. It is not clear that they were believed. The reality is unavoidable. Mao Zedong's "On the People's Democratic Dictatorship,"⁶² hovers closely around this speech. Its insights, in historical context, can be avoided only at great peril.

9. That *zhěng fēng* will not only draw a strong line between patriotic forces and others in Hong Kong--as identified and corrected under the leadership of the vanguard; it will also more clearly distinguish between Marxist Leninist and liberal democratic-internationalist ideologies. It is unwise to forget Xi Jinping's statement underlining the focus of this trajectory in his Report to the 19th CPC Congress.

We will remain committed to the policy for the Hong Kong people to govern Hong Kong and the Macao people to govern Macao, with patriots playing the principal role. We will develop and strengthen the ranks of patriots who love both our country and their regions, and foster greater patriotism and a stronger sense of national identity among the people in Hong Kong and Macao. With this, our compatriots in Hong Kong and Macao will share both the historic responsibility of national rejuvenation and the pride of a strong and prosperous China.⁶³

That distinction will be more precisely drawn no doubt; and the policing of its borders may move local authorities from targeted rectification to 整风运动 a rectification movement within Hong Kong to purge anti-patriotic elements. The speech makes clear that decoupling of these ideologies, and the rectification (*zhěng fēng*) of destabilizing ideologies, people and of foreign influences in Hong Kong, are key elements in the challenges that must be overcome by the vanguard in the New Era. "With the Party Central Committee with Comrade Xi Jinping as the core at the helm and the united struggle of 1.4 billion Chinese people, including compatriots in Hong Kong and Macau, the Chinese dream of the great rejuvenation of the Chinese nation will surely be realized, and a new chapter in the practice of "one country, two systems" in the new era will surely continue to be written!"⁶⁴

⁶² Mao Zedong, "On the People's Democratic Dictatorship" remarks in commemoration of the 28th Anniversary of the CPC (30 June 1949); available [https://www.marxists.org/reference/archive/mao/selected-works/volume-4/mswv4_65.htm].

⁶³ Xi Jinping, "Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era" Remarks delivered at the 19th National CPC Congress (18 October 2017); available [http://www.xinhuanet.com/english/download/Xi_Jinping's_report_at_19th_CP_C_National_Congress.pdf] ; discussed Larry Catá Backer, *Hong Kong Between 'One Country' and 'Two Systems'*, *supra.*, pp. 155 et seq.

⁶⁴ Luo Huining Speech, *supra* ["有以习近平同志为核心的党中央掌舵领航，有包括港澳同胞在内的 14 亿中国人民的团结奋斗，中华民族伟大复兴的中国梦一定能够实现，新时代的“一国两制”实践一定能续写崭新篇章！"].

C. On the Road to the New Democratic Dictatorship in Hong Kong it is Necessary to Control the Masses

"The Hong Kong government has no authority to dictate which passports foreign governments recognise as valid."⁶⁵ This verbal projectile hurled in the direction of the local authorities in Hong Kong and indirectly to the central authorities in China, provides the framing of a developing twist in the re-development of relations between China's autonomous periphery and the world beyond China. The physical manifestation of this conversation revolves around the recognition of the citizenship of people who may live in one territory but may be claimed as citizens of another. In a sense, the conversation, and the dispute that it spotlights, centers on the "ownership" of people by states, or more precisely, in the recognition among communities of states of the acceptable means through which states can claim rights over individuals through the mechanisms of citizenship.

The practice, especially in times of conflict has sometimes been viewed as heroic--for example during the Jewish holocaust when diplomats provides travel and citizenship documents to people who had to flee for their lives.⁶⁶ Sometimes they have been used to advance territorial claims or engage in other aggressive behaviors that threaten the territorial sovereignty of other states.⁶⁷ One sometimes encounters this practice described as the weaponization of nationality.⁶⁸ At the same time, the issue touches on disjunctions between identity (in the form of nationality)⁶⁹ and residence--and consequently, on migration to align

⁶⁵ Greg Torode and Anne Marie Roantree, "Exclusive: Hong Kong tells foreign governments to stop accepting special British passport," Reuters (25 March 2021); available [https://mobile-reuters.com.cdn.ampproject.org/c/s/mobile.reuters.com/article/amp/idUSKBN2BH0P] (a spokeswoman for the British Foreign Office).

⁶⁶ See, e.g., Gillian Brockell, "A Japanese Schindler: The remarkable diplomat who saved thousands of Jews during WWII," The Washington Post (27 January 2021); available [https://www.washingtonpost.com/history/2021/01/27/chiune-sugihara-jews-holocaust-japanese-schindler/]; Passports for Life, Holocaust Museum; available [https://passportsforlife.pl/]; Chanan Tigay, "The Untold Story of the Portuguese Diplomat Who Saved Thousands From the Nazis," Smithsonian (November 2021); available [https://www.smithsonianmag.com/history/the-righteous-defiance-of-aristides-de-sousa-mendes-180978831/].

⁶⁷ See, e.g., John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge University Press, 2000); Sener Akturk, "Passport Identification and Nation-Building in Post-Soviet Russia," *Post-Soviet Affairs* 26(4):314-341 (2010); Elena Borisova, "The limits of strategic citizenship: affective engagements with Russian passports in the context of migration from Tajikistan," *Social Anthropology* 28(4):827-842 (2020)..

⁶⁸ See, e.g., Kristopher Natoli, "Weaponizing Nationality: An Analysis of Russia's Passport Policy in Georgia," 28 *Boston University International Law Journal* 28:390-417 (2010); Aidan Eyakuze and Khalifa Said, "The Weaponization of Identity and Citizenship: The Case of Tanzania," *Development* 63:95-99 (2020).

⁶⁹ See, e.g., Marta Bivand Erdal & Arnfinn H Midtbøen, "'Birthplace unknown': on the symbolic value of the passport for identity-construction among naturalised citizens," *Identities: Global Studies in Culture and Power* 28(6):1-19 (2021);

identity with residence (or of moving borders to achieve that alignment in the case of Russian policy in the early 21st century for example).⁷⁰ This presents even greater issues in the context of preserving the integrity of multi-ethnic states.⁷¹ At its core, though, the issues revolve around *the difference between sovereignty over territory and sovereignty over persons*.

It is clear enough, at least abstractly under international legal principles, that all people are entitled to acquire, change, and retain nationality. The principle that no person was to be made stateless was embedded in the Universal Declaration of Human Rights. But in practice those rights have been fluid and sometimes unevenly applied.⁷² It is made more complicated where the traditional approaches of post 1945 human rights may be incompatible with the fundamental approach of Leninist governance. The latter may seek to rationalize the utilization of productive forces. These productive forces include human individuals. Human individuals are also components of mass mobilization at the heart of the project of transforming society ultimately to one that comes closer to the establishment of a communist society. That suggests that such mass societies in transition toward communism will include people who may resist the change. To control against enemies and protect patriots, as well as to rationalize individuals as productive forces, and their societal behaviors and culture, requires substantial control over the movements of people. That control has both an internal and an external component.⁷³ This was the hallmark of Soviet policy⁷⁴--one that led to significant conflict with the West, especially with respect to Jewish

Szaboics Pogonyi, "The passport as means of identity management: making and unmaking ethnic boundaries through citizenship," *Journal of Ethnic and Migration Studies* 45(6):975-993 (2019).

⁷⁰ Peter Dickinson, "Russian Passports: Putin's Secret Weapon in the War Against Ukraine," *Atlantic Council* (13 April 2021); available [<https://www.atlanticcouncil.org/blogs/ukrainealert/russian-passports-putins-secret-weapon-in-the-war-against-ukraine/>].

⁷¹ See, e.g., Sheryl Lightfoot, "Decolonizing Self-Determination: Haudenosaunee Passports and Negotiated Sovereignty," *European Journal of International Relations* 27(4):971-994 (2021).

⁷² Cf., essays in Rhoda E. Howard-Hassmann and Margaret Walton-Roberts (eds.), *The Human Right to Citizenship: A Slippery Concept* (University of Pennsylvania Press, 2015).

⁷³ See, e.g., Sam Lebovic, "No Right to Leave the Nation: The Politics of Passport Denial and the Rise of the National Security State," *Studies in American Political Development* 34(1):170-193 (2020).

⁷⁴ See, e.g., Matthew A. Light, "What Does It Mean to Control Migration? Soviet Mobility Policies in Comparative Perspective," *Law & Social Inquiry* 37(2):395-429 (2012); Dariuz Stola, "Opening a Non-exit State: The Passport Policy of Communist Poland, 1949-1980," *East European Politics and Society and Culture* 29(1):96-119 (2015).

immigration.⁷⁵ It is a fundamental Leninist position of Chinese Marxist Leninism from its earliest times.⁷⁶

While there is much concern about statelessness, Hong Kong now reminds us that the right to change nationality, or to seek nationality that is different from residence, remains as important an issue. The passport and travel documents issue now centered on Hong Kong people once again opens a quite peculiar discursive space for the exposure of the tensions between aspects of traditional Marxist Leninist approaches to the rationalization of the management of human resources and the individuals in which it is incarnated--through systems of both internal and external control of the movement of human bodies, with the sometimes incompatible thrust of Western and international principles that favor freedom of movement--internally and externally, and with it the associated freedom (as a basic human right) not just of nationality, but of changing it.⁷⁷

In the case of Hong Kong, that issue of the detachment of residence from citizenship, and of sovereignty over territory from sovereignty over people, points to the difficulties of transitions within a colonial context. It is in that context that one can better understand the thrust of recent news reports from Hong Kong over control of the bodies of people living in one territory but belonging to another . . . or to both. These, in turn, suggest yet another diplomatic skirmish between old and new Empires over a site of imperial conflict--Hong Kong. At the end of March Reuters reported that China sought to declare invalid (in accordance to the laws of China as applied in this context and in furtherance of Chinese interests) a form of passport issued by the UK to its overseas citizens (recognized as the UK determined in accordance with its own laws and in furtherance of its own sovereign interests). As reported by Reuters:

The Hong Kong government on Thursday confirmed a Reuters report that it had told 14 countries to stop accepting a British travel document that many of its young people use to apply for working holiday visas in Europe, North America and parts of Asia. In a move seen by some envoys as a diplomatic affront, the government informed the foreign consulates in a letter that it no longer considered the British National Overseas (BNO) passport a valid travel document as of Jan. 31. The letter, seen by Reuters and confirmed by the Hong Kong government after

⁷⁵ See, e.g., George Perkovich, "Soviet Jewry and American Foreign Policy," *World Policy Journal* 5(3):435-467 (1988); Gregg A. Beyer, "The Evolving United States Response to Soviet Jewish Emigration," *International Journal of Refugee Law* 3(1):30-59 (1991).

⁷⁶ See, e.g., Xiang Bao, "Emigration From China: A Sending Country Perspective," *International Migration*, 41(3):21-48 (2003); Yao Lu, Zai Liang, Miao David Chunyu, "Emigration from China in Comparative Perspective," *Social Forces* 92(2):631-658 (2013).

⁷⁷ Cf., Rainier Bauböck, "Genuine links and useful passports: evaluating strategic uses of citizenship," *Journal of Ethnic and Migration Studies* 45(6):1015-1026 (2019).

the story was published, demanded that its Hong Kong passport should be used instead.⁷⁸

Beyond the usual petty games that are the stuff of entertaining the masses by feeding the propaganda organs of empire, there is an important ideological element to the move that may be worth considering at some leisure. To some extent, it is possible to frame these decisions from the lens of Mao Zedong's germinal and still profoundly influential insights developed in his "On the People's Democratic Dictatorship."⁷⁹ Two insights are readily apparent. The first is the notion of the value of people as critical elements in revolutionary struggle. Controlling people (especially those who might be turned to counterrevolutionary purposes) is essential to the success of the work of a vanguard.

Revolutionary dictatorship and counter-revolutionary dictatorship are by nature opposites, but the former was learned from the latter. Such learning is very important. If the revolutionary people do not master this method of ruling over the counter-revolutionary classes, they will not be able to maintain their state power, domestic and foreign reaction will overthrow that power and restore its own rule over China, and disaster will befall the revolutionary people.⁸⁰

Second, the work of the vanguard is critically hampered where it is unable to rectify counter revolutionary thinking. To those ends it is important not merely to ensure that foreign vanguards not have access to local potentially threatening popular elements, it is also important to maintain substantial control of the element oneself. That, of course, is the essence of building a strong people's democratic dictatorship--what may be understood to be a work in progress in Hong Kong.

You are not benevolent!" Quite so. We definitely do not apply a policy of benevolence to the reactionaries and towards the reactionary activities of the reactionary classes. Our policy of benevolence is applied only within the ranks of the people, not beyond them to the reactionaries or to the reactionary activities of reactionary classes. . . Here, the method we employ is democratic, the method of persuasion, not of compulsion. When anyone among the people breaks the law, he too should

⁷⁸ Greg Torode and Anne Marie Roantree, "Exclusive: Hong Kong tells foreign governments to stop accepting special British passport," *supra*. ("The UK will continue to issue British Nationals (Overseas) passports which remain valid travel documents." Almost 3 million Hong Kong residents hold or are eligible for the BNO document that was created ahead of Britain handing the city back to Chinese rule in 1997").

⁷⁹ Mao Zedong, *On the People's Democratic Dictatorship* (Remarks made at the commemoration of the 28th Anniversary of the Communist Party of China, 30 June 1949); available [https://www.marxists.org/reference/archive/mao/selected-works/volume-4/mswv4_65.htm].

⁸⁰ *Ibid*.

be punished, imprisoned or even sentenced to death; but this is a matter of a few individual cases, and it differs in principle from the dictatorship exercised over the reactionaries as a class.⁸¹

And thus its essence--democracy for the people (defined by reference to their patriotic loyalty expressed through the practices and behaviors indicated by the vanguard, for example through the National emblems and Anthem laws). For the rest of the population there is only to obey and to rectify false belief and action--or be punished (for example through operation of the National Security Law).

There can be no middle way in this. And efforts of foreign states to project their power through their power of citizenship and residence will be viewed necessarily as a gross interference in the establishment of a proper people's democratic dictatorship in Hong Kong. From the perspective of the Chinese vanguard this must be both necessary and good; the result inevitable. From the perspective of the liberal democratic states, the opposite is true; it evidences a gross violation of the rules of international comity and an interference with national authority to determine the character and availability of access to its own polity. This contradiction will not be easy to resolve. The contradiction is made harder to confront where the discursive needs of internal and external communicators--of performance of principle for inside and outside objectives--are themselves incapable (for the moment) of rationalization.

D. Concluding Thoughts: From the Center to the Periphery and Beyond.

The state of China, its self-conception and the construction of a reality around that kernel of ideas made flesh, suggest both its dynamic character and its critical role in the construction of the idea of China as an emanation of the core-collective principle. It is Chinese Leninism that constructs the modern Chinese state and rationalizes both its internal characteristics and its way of looking at the world from beyond its frontiers. But at the same time it substantially affects the way those frontiers are understood. Here one speaks not of walls but of hierarchies and of movements from the outside in, from the periphery to the center, from the outer bands of collective organization to its leadership core.

Hong Kong can be understood as both a territory and a conceptual space. It is a part of the Chinese sovereign state but sits at its periphery. That autonomy is conceptual but manifested within a physical territory. Yet, it is also a territory, conceptual and physical, that is quite porous both with respect to the manifestations of the desires of the heartland within its as well as to the penetration of that which lies beyond

⁸¹ Ibid.

the inner peripheries.⁸² It is an internal frontier space that faces the external frontier peripheries of that space that is not China but which may be understood as peripheral in a more attenuated way. The relation between the center and its periphery, then, suggests the template that is used in manifesting or rationalizing the relations between the Chinese center and those territories that lie beyond its internal periphery but which may be understood as areas amenable to relations of dependency. space

That template emerges clearly in three distinct forms considered in this essay. The first is in the context of the structures of legal dependency built around the National Security Law for Hing Kong of 2020 and its application by the Hing Kong courts. The second is in the context of the discursive constructions of Hing Kong as within rather than apart from the Chinese heartland, though with peculiar characteristics. The third is in the application of discourse and ideology not merely to the control of territory but of the bodies within them.



⁸² See, generally, Larry Catá Backer, “The Structural Characteristics of Global Law for the 21st Century: Fracture, Fluidity, Permeability, and Polycentricity,” *Tilburg Law Review* 17(2):177-199 (2012).