LAW AND
JURISPRUDENCE
IN THE STREET

What’s the law got to say about social movements?

Dr Daniel Matthews (HKU Faculty of Law)
Israel’s 2011 Social Protest Movement
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“The participants in the summer 2011 events... did not appeal to the courts, they did not toil at preparing legalistic proposals for reform, and they refrained from asking for the assistance of lawyers in order to promote the demands that were at the core of the protest”

Israel’s 2011 Social Protest Movement

“The language of the protest is very general; it is more a language of emotion than a language of logic. Any attempt... to use it in a legal context sterilizes it”

(ibid.)
Hong Kong’s “legalistic” umbrella movement
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“The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.”

(Article 45, Hong Kong Basic Law.)
Hong Kong’s “legalistic” umbrella movement

“[The protesters] deployed constitutional arguments very successfully during the programme, practicing a kind of legalistic resistance... Legality became a kind of battleground, with each camp trying to enlist the rule of law on its side”

(Sebastian Veg. 2015. Legalistic and utopian. New Left Review 92, 65.)
Hong Kong’s “legalistic” umbrella movement

Chinese University of Hong Kong poll – the four values Hongkongers identify with most:

1. Rule of Law (23%)
2. Freedom (21%)
3. Fair and clean government (15%)
4. Democracy (11%)

(CUHK “Core Values” survey, Oct. 2014)
Occupy Wall Street – enacting the phrase “we the people”

“We are assembling in public, we are coming together as bodies in alliance, in the street and in the square. We’re standing here together making democracy, enacting the phrase ‘we the people’”

Judith Butler, at OWS (Oct. 2011)

“If hope is an impossible demand, then we demand the impossible”
Rethinking constituent power

We, therefore, the Representatives of the united States of America… do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States

(The American Declaration of Independence 1776)
Occupy - a new order of things

Hong Kong

New York

Athens
Occupy - a new order of things

What seemed like a way out of [law and regulation] in the sense of resistance, had generated its own fully regulated [space] with signs on what to do and not to do everywhere, corridors for bodies to follow in order to walk between the tents... and spatially designated areas that worked with or against [existing legal institutions].

Some conclusions

1. The need to be sensitive to the particular contexts in which the movements are taking place

2. The importance of “law” “regulation” and “order” emerging within the sites/movements themselves.