### Film and Constitutional Controversy

In modern-day Hong Kong, major constitutional controversies have caused people to demonstrate on the streets, immigrate to other countries, occupy major thoroughfares, and even engage in violence. These controversies have such great resonance because they put pressure on a cultural identity made possible by, and inseparable from, the 'One Country, Two Systems' framework. Hong Kong is also a city synonymous with film, ranging from commercial gangster movies to the art cinema of Wong Kar-wai. This book argues that while the importance of constitutional controversies for the process of selfformation may not be readily discernible in court judgments and legislative enactments, it is registered in the diverse modes of expression found in Hong Kong cinema. It contends that film gives form to the ways in which Hong Kong identity is articulated, placed under stress, bolstered, and transformed in light of disputes about the nature and meaning of the city's constitutional documents.

Marco Wan is Associate Professor of Law and Director of the Law and Literary Studies Programme at the University of Hong Kong. He is trained in both legal and literary/cultural studies, and his research focuses on law and film, law and literature, and the ways in which perspectives from the humanities shed light on the legal regulation of gender and sexuality. His first book, *Masculinity and the Trials of Modern Fiction* (2017), was awarded the Penny Pether Prize from the Law, Literature, and Humanities Association of Australasia. He is Managing Editor of *Law & Literature*.

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

### Law in Context

Series editors Professor Kenneth Armstrong University of Cambridge Professor Maksymilian Del Mar Queen Mary, University of London Professor Sally Sheldon University of Kent

Editorial advisory board

Professor Bronwen Morgan University of New South Wales Emeritus Professor William Twining University College London

Since 1970, the Law in Context series has been at the forefront of a movement to broaden the study of law. The series is a vehicle for the publication of innovative monographs and texts that treat law and legal phenomena critically in their cultural, social, political, technological, environmental and economic contexts. A contextual approach involves treating legal subjects broadly, using materials from other humanities and social sciences, and from any other discipline that helps to explain the operation in practice of the particular legal field or legal phenomena under investigation. It is intended that this orientation is at once more stimulating and more revealing than the bare exposition of legal rules. The series includes original research monographs, coursebooks and textbooks that foreground contextual approaches and methods. The series includes and welcomes books on the study of law in all its contexts, including domestic legal systems, European and international law, transnational and global legal processes, and comparative law.

Books in the Series Acosta: The National versus the Foreigner in South America: 200 Years of Migration and Citizenship Law Ali: Modern Challenges to Islamic Law Alyagon Darr: Plausible Crime Stories: The Legal History of Sexual Offences in Mandate Palestine Anderson, Schum & Twining: Analysis of Evidence, 2<sup>nd</sup> Edition Ashworth: Sentencing and Criminal Justice, 6<sup>th</sup> Edition Barton & Douglas: Law and Parenthood Baxi, McCrudden & Paliwala: Law's Ethical, Global and Theoretical Contexts: Essays in Honour of William Twining Beecher-Monas: Evaluating Scientific Evidence: An Interdisciplinary Framework for Intellectual Due Process Bell: French Legal Cultures Bercusson: European Labour Law, 2<sup>nd</sup> Edition Birkinshaw: European Public Law Birkinshaw: Freedom of Information: The Law, the Practice and the Ideal, 4<sup>th</sup> Edition

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

> Broderick & Ferri: International and European Disability Law and Policy: Text, Cases and Materials Brownsword & Goodwin: Law and the Technologies of the Twenty-First Century: Text and Materials Cane & Goudkamp: Atiyah's Accidents, Compensation and the Law, 9th Edition Clarke: Principles of Property Law Clarke & Kohler: Property Law: Commentary and Materials Collins: The Law of Contract, 4<sup>th</sup> Edition Collins, Ewing & McColgan: Labour Law, 2nd Edition Cowan: Housing Law and Policy Cranston: Commercial Law from the Nineteenth Century: Law as Backcloth Cranston: Legal Foundations of the Welfare State Darian-Smith: Laws and Societies in Global Contexts: Contemporary Approaches Dauvergne: Making People Illegal: What Globalisation Means for Immigration and Law David: Kinship, Law and Politics: An Anatomy of Belonging Davies: Perspectives on Labour Law, 2<sup>nd</sup> Edition Dembour: Who Believes in Human Rights?: Reflections on the European Convention de Sousa Santos: Toward a New Legal Common Sense: Law, Globalization, and Emancipation Diduck: Law's Families Dupret: Positive Law from the Muslim World Estella: Legal Foundations of EU Economic Governance Fortin: Children's Rights and the Developing Law, 3<sup>rd</sup> Edition Garnsey: The Justice of Visual Art: Creative State-Building in Times of Political Transition Garton, Probert & Bean: Moffat's Trusts Law: Text and Materials, 7th Edition Ghai & Woodman: Practising Self-Government: A Comparative Study of Autonomous Regions Glover-Thomas: Reconstructing Mental Health Law and Policy Gobert & Punch: Rethinking Corporate Crime Goldman: Globalisation and the Western Legal Tradition: Recurring Patterns of Law and Authority Haack: Evidence Matters: Science, Proof, and Truth in the Law Harlow & Rawlings: Law and Administration, 4th Edition Harris: An Introduction to Law, 8<sup>th</sup> Edition Harris, Campbell & Halson: Remedies in Contract and Tort, 2<sup>nd</sup> Edition Harvey: Seeking Asylum in the UK: Problems and Prospects Herring: Law and the Relational Self Hervey & McHale: European Union Health Law: Themes and Implications Hervey & McHale: Health Law and the European Union Holder & Lee: Environmental Protection, Law and Policy: Text and Materials, 2<sup>nd</sup> Edition Jackson & Summers: The Internationalisation of Criminal Evidence: Beyond the Common Law and Civil Law Traditions Kostakopoulou: The Future Governance of Citizenship Kreiczer-Levy Destabilized Property: Property Law in the Sharing Economy Kubal: Immigration and Refugee Law in Russia: Socio-Legal Perspectives

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

> Lewis: Choice and the Legal Order: Rising above Politics Likosky: Law, Infrastructure and Human Rights Likosky: Transnational Legal Processes: Globalisation and Power Disparities Lixinski: Legalized Identities Loughnan: Self, Others and the State: Relations of Criminal Responsibility Lunney: A History of Australian Tort Law 1901–1945: England's Obedient Servant? Maughan & Webb: Lawyering Skills and the Legal Process, 2<sup>nd</sup> Edition McGlynn: Families and the European Union: Law, Politics and Pluralism Mertens: A Philosophical Introduction to Human Rights Moffat: Trusts Law: Text and Materials Monti: EC Competition Law Morgan: Contract Law Minimalism: A Formalist Restatement of Commercial Contract Law Morgan & Yeung: An Introduction to Law and Regulation: Text and Materials Nicola & Davies: EU Law Stories: Contextual and Critical Histories of European Jurisprudence Norrie: Crime, Reason and History: A Critical Introduction to Criminal Law, 3<sup>rd</sup> Edition O'Dair: Legal Ethics: Text and Materials Oliver: Common Values and the Public-Private Divide Oliver & Drewry: The Law and Parliament Palmer & Roberts: Dispute Processes: ADR and the Primary Forms of Decision-Making, 1<sup>st</sup> Edition Palmer & Roberts: Dispute Processes: ADR and the Primary Forms of Decision-Making, 3<sup>rd</sup> Edition Picciotto: International Business Taxation Probert: The Changing Legal Regulation of Cohabitation, 1600-2010: From Fornicators to Family, 1600-2010 Radi: Rules and Practices of International Investment Law and Arbitration Reed: Internet Law: Text and Materials Richardson: Law, Process and Custody Roberts & Palmer: Dispute Processes: ADR and the Primary Forms of Decision-Making, 2<sup>nd</sup> Edition Rowbottom: Democracy Distorted: Wealth, Influence and Democratic Politics Sauter: Public Services in EU Law Scott & Black: Cranston's Consumers and the Law Seneviratne: Ombudsmen: Public Services and Administrative Justice Seppänen: Ideological Conflict and the Rule of Law in Contemporary China: Useful Paradoxes Siems: Comparative Law, 2<sup>nd</sup> Edition Stapleton: Product Liability Stewart: Gender, Law and Justice in a Global Market Tamanaha: Law as a Means to an End: Threat to the Rule of Law Turpin & Tomkins: British Government and the Constitution: Text and Materials, 7th Edition Twining: General Jurisprudence: Understanding Law from a Global Perspective Twining: Globalisation and Legal Theory

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

Twining: Human Rights, Southern Voices: Francis Deng, Abdullahi An-Na'im, Yash Ghai and Upendra Baxi
Twining: Jurist in Context: A Memoir
Twining: Karl Llewellyn and the Realist Movement, 2<sup>nd</sup> Edition
Twining: Rethinking Evidence: Exploratory Essays, 2<sup>nd</sup> Edition
Twining & Miers: How to Do Things with Rules, 5<sup>th</sup> Edition
Wan: Film and Constitutional Controversy
Ward: A Critical Introduction to European Law, 3<sup>rd</sup> Edition
Ward: Law, Text, Terror
Ward: Shakespeare and Legal Imagination
Wells & Quick: Lacey, Wells and Quick: Reconstructing Criminal Law: Text and Materials, 4<sup>th</sup> Edition
Zander: Cases and Materials on the English Legal System, 10<sup>th</sup> Edition

# International Journal of Law in Context: A Global Forum for Interdisciplinary Legal Studies

The International Journal of Law in Context is the companion journal to the Law in Context book series and provides a forum for interdisciplinary legal studies and offers intellectual space for ground-breaking critical research. It publishes contextual work about law and its relationship with other disciplines including but not limited to science, literature, humanities, philosophy, sociology, psychology, ethics, history and geography. More information about the journal and how to submit an article can be found at http://journals.cambridge.org/ijc.

# Film and Constitutional Controversy

Visualizing Hong Kong Identity in the Age of "One Country, Two Systems"

MARCO WAN The University of Hong Kong



Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

### **CAMBRIDGE** UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

79 Anson Road, #06-04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org Information on this title: www.cambridge.org/9781108495776 DOI: 10.1017/9781108863025

### © Marco Wan 2020

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2020

A catalogue record for this publication is available from the British Library.

ISBN 978-1-108-49577-6 Hardback ISBN 978-1-108-79776-4 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

To all those who care about Hong Kong.

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>

### **Contents**

	Acknowledgments List of Abbreviations	<i>page</i> xii xiii
	Introduction	1
1	Love in a Time of Transition: Ng See-yuen's The Unwritten Law	26
2	Laughing at the Law: Johnnie To's Justice, My Foot!	46
3	Women's Rights and Censorship: Andrew Lau's Raped by an Angel	61
4	The Common Law after 1997: Joe Ma's Lawyer Lawyer	83
5	A Matter of National Security: Tammy Cheung's July	99
6	Choosing the Leader: Chief Executive Elections and Hong Kong Gangster Films	117
7	Scenes from a Traumatic Event: Documenting Occupy Central (with Observations on Cinema and the Anti-extradition Bill Protests)	135
	Coda: Wong Kar-wai's <i>2046</i>	155
	Bibliography Filmography Index	161 170 172

# Acknowledgments

This book brings together two of my great passions – constitutional law and film – and it is a pleasure to thank the people working within, and across, each of the two areas who have inspired me in the project. I am grateful to Peter Goodrich for inviting me to the *In Flagrante Depicto* symposium at the Benjamin N. Cardozo School of Law in New York, during which I first began thinking about law and film. His work continues to inspire. Gina Marchetti, with whom I co-taught a course on law and cinema at the University of Hong Kong (HKU), has generously shared her vast knowledge of East Asian film with me over the years, and I feel fortunate to have her as an interlocutor. Scott Veitch is a model of clear thinking, and his probing questions helped make the argument here sharper. I have also learned much from the work of Alison Conner, William P. MacNeil, and Desmond Manderson.

Joe Ng and Gemma Smith at Cambridge University Press have been wonderfully helpful editors. Cora Chan, Rey Chow, Sarah Cooper, Christopher Munn, and Michael Palmer read parts of the manuscript and gave many insightful comments. Andrew Counter once again read every word I wrote with love and care. Alision Lam provided helpful research assistance. I have also benefited from conversations with Russell Boaz, Jenny Chamarette, Johannes Chan, Albert Chen, Chu Yiu-wai, Christian Delage, Chris Hutton, Derek Lam, Li Cheuk-to, Daniel Matthews, Margaret Ng, Michael Ng, Helen Siu, Emma Wilson, John Wong, and Herman Yau.

Part of the book was written during a fellowship at the Käte Hamburger Center for Advanced Study in the Humanities "Law as Culture" in Bonn, Germany, and I would like to thank the director, staff, and fellows there for their warm hospitality. A version of Chapter 2 appeared in 31(4) *Cardozo Law Review* (2010), and a version of Chapter 4 appeared in *Law and Language*, edited by Michael Freedom and Fiona Smith (Oxford: Oxford University Press, 2010). I thank the publishers for permission to reproduce the material here. I also acknowledge with gratitude support from the General Research Fund (GRF) of the Hong Kong University Grants Committee.

# Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination against
	Women
CEPA	Mainland and Hong Kong Closer Economic Partnership Arrangement
ICAC	Independent Commission against Corruption
ICCPR	International Covenant on Civil and Political Rights
NGO	nongovernmental organization
NPCSC	Standing Committee of the National People's Congress
PLA	People's Liberation Army
PRC	People's Republic of China
SARS	Severe Acute Respiratory Syndrome

Cambridge University Press 978-1-108-49577-6 — Film and Constitutional Controversy Marco Wan Frontmatter <u>More Information</u>