

香港社會科學學報

HONG KONG JOURNAL OF SOCIAL SCIENCES



第 67 期 (2026 年秋冬)

Vol. 67 Spring/Summer 2026

Available online at www.hkjoss.com

Research article

 <https://doi.org/10.55463/hkjss.issn.1021-3619.67.4>

Indigenous Rights in Hong Kong's New Territories: Hakka, Weitou, Land, and Law

香港新界原居民權益：客家、圍頭、土地與法律

Yu Him Ronald Kan ^{1*}

¹ Department of Hakka Language and Social Sciences, National Central University, Taoyuan, Taiwan
(PhD Student)

* Correspondence: ronaldkan@tonykan.com.hk

Abstract:

"Indigenous inhabitants" of New Territories occupy a distinctive constitutional position in Hong Kong enshrined by the Basic Law, yet this legal category is substantially a product of colonial land administration and the 1972 Small House Policy. This article asks how the legal identity of the indigenous inhabitant was constructed, and how Article 40's guarantee of 'lawful traditional rights and interests' should be reconciled with equality norms and with the heritage interests of Hakka and Weitou lineages now exposed to the Northern Metropolis development. Employing a doctrinal-historical method, the article advances three findings. First, "indigenous inhabitant" is a legal artifact of colonial land registration, not a primordial ethnic category. Second,

Keywords: Indigenous Inhabitants; Hakka; Weitou; Customary Land; Constitutional Protection; Article 40; Northern Metropolis.

关键词：

新界原居民；客家；
圍頭；習慣土地；
憲制保護；《基本法》第 40 條；
北部都會區



Copyright: © 2026 by the authors. HKJSS

This article is an open-access article distributed under the terms and conditions of the Creative Commons Attribution License (<https://creativecommons.org/licenses/by-nc-nd/4.0/>)

in *Kwok Cheuk Kin* (2021) and *Chan Wah* (2000), the Court of Final Appeal has produced a layered constitutional regime in which political rights are subject to equality review while economic entitlements remain insulated under Article 40. Third, this article proposes that cultural heritage — Hakka and Weitou language, ritual, and built environment — may be interpreted as a derivative right under Article 40, operationalized through a statutory Heritage Impact Assessment for the Northern Metropolis. The findings contribute to debates on indigenous rights, customary land, and heritage governance in post-colonial East Asian jurisdictions.

摘要： 新界「原居民」在香港《基本法》下享有獨特的憲制地位，然而此一法律身份本質上是殖民地土地登記制度的產物，並於 1972 年丁屋政策正式定型。本文探討「原居民」法律身份如何被建構，以及第 40 條所保障之「合法傳統權益」如何與平等規範及客家、圍頭宗族在發展北部都會區所面臨的文化遺產風險相協調。本文採用法律釋義學與社會歷史交叉之研究方法，提出三項論點：第一，「原居民」是殖民地土地登記制度之法律建構，而非自然族裔範疇；第二，終審法院於《郭卓堅》（2021）及《陳華》（2000）兩案所確立的分層憲制保護結構中，政治參與權受平等審查規範，而丁屋等經濟性權益則受第 40 條豁免；第三，本文建議將客家及圍頭的語言、儀式及聚落環境解釋為第 40 條之派生文化遺產權益，並提出設立北部都會區法定文化遺產影響評估制度作為配套機制。本文之分析有助於探討東亞後殖民司法管轄區關於原住民權利、習慣土地與遺產治理之議題。

Article History:

Received: May 2, 2026

Revised: May 29, 2026

Accepted: June 10, 2026

Published: June 22, 2026

1. Introduction

The New Territories, leased by the late Qing to the United Kingdom on 1 July 1898 for ninety-nine years, comprise more than eighty percent of Hong Kong's land area but follow a constitutional and tenorial trajectory that diverges sharply from that of Kowloon and Hong Kong Island (Cheung, 2021; Wong, 2018). When the Hong Kong Special Administrative Region was inaugurated in 1997, a special category of right-holders rooted in that lease was preserved by the Basic Law. Article 40 declares that "the lawful traditional rights and interests of the indigenous inhabitants of the 'New Territories' shall be protected by the Hong Kong Special Administrative Region" (Basic Law, 1990, art. 40).

Behind this brief constitutional formula lies a complex legal architecture. It includes the New Territories Ordinance (Cap. 97) which authorizes the courts to "recognize and enforce any Chinese custom or customary right affecting ... land" situated in the New Territories (New Territories Ordinance, 1910, s. 13); the Small House Policy of 1972, which permits a male indigenous villager to build a three-story village

house at concessionary terms once per lifetime (Lands Department, 1972); and the Heung Yee Kuk Ordinance (Cap. 1097), which constitutes the statutory advisory body representing rural interests (Heung Yee Kuk Ordinance, 1959). Through this apparatus the lineage-based villages of the New Territories—principally Hakka (客家) and Weitou (圍頭, literally 'walled-village people'; the Cantonese sub-dialect-speaking punti (本地) /local lineages of the New Territories, to be distinguished from Hakka migrants) lineages, but also Hoklo and Tanka boat-people communities—have retained customary structures of property, governance, and ritual that are unusual in a global financial center. "Indigenous inhabitant" (原居民) is the statutory term for persons defined under the *Government Rent (Assessment and Collection) Ordinance* (Cap. 515, s. 2) as male descendants of a person resident in an "established village" in the year of 1898; "indigenous villager" is used interchangeably in administrative practice.

Two recent moments have made this architecture politically and analytically urgent. First, in *Kwok Cheuk Kin v Director of Lands* (with Heung Yee Kuk

as an interested party) [2021] HKCFA 38, the Court of Final Appeal (CFA) decided that the Small House Policy as protected under Article 40 despite its admittedly discriminatory character, while clarifying the meaning of "lawful" and "traditional" (*Kwok Cheuk Kin*, 2021, paras. 35, 39, 43–47). Second, the Government's 2021 Northern Metropolis Development Strategy proposes to reorganize roughly 30,000 hectares of the northern New Territories into an innovation, ecological, and cross-boundary urban region, raising acute questions about the future of Hakka and Weitou walled villages, ancestral halls, and intangible cultural heritage (HKSAR Government, 2021).

This article responds to those moments. It argues that protecting "lawful traditional rights and interests" cannot be understood without reckoning with colonial origins of the indigenous category and the cultural substrate—Hakka and Weitou lineage life—that gives the category social meaning. It further argues that current jurisprudence has produced a layered structure capable of protecting both equality and tradition, but that heritage protection remains the weak link of that structure.

The article's contribution lies in connecting three bodies of analysis that are usually treated separately: the constitutional doctrine of Article 40, the social history of Hakka and Weitou lineage heritage, and the governance challenges of the Northern Metropolis. Existing scholarship has examined each strand in isolation; no prior study has proposed, in doctrinal form, that cultural heritage interests may be interpreted as a derivative right under Article 40, supported by a statutory heritage-impact mechanism modelled on the Environmental Impact Assessment Ordinance (Cap. 499). By developing this argument and situating it within the Northern Metropolis context, the article advances both constitutional scholarship and heritage governance in post-colonial East Asia.

2. Research Aim

The article addresses four research questions:

(1) How did the 1898 lease and subsequent colonial legislation construct the legal identity of the "indigenous inhabitant" in the New Territories?

(2) How should the terms "lawful" and "traditional" in Article 40 of the Basic Law be interpreted, given the holdings of the CFA in *Chan Wah* and *Kwok Cheuk Kin*?

(3) How does the customary regime under the New Territories Ordinance, especially Tso/Tong ancestral

land managed by appointed managers under section 15, interact with constitutional equality?

(4) How can the heritage interests of Hakka and Weitou lineages be protected within the Northern Metropolis program, and is there a coherent doctrinal route through Article 40?

The aim is interdisciplinary: to clarify a legal-doctrinal puzzle while making it intelligible to social-science readers concerned with identity, customary land, and heritage in post-colonial Asia. Each research question is addressed in turn: (1) in Section 5.1; (2) in Sections 5.3–5.4; (3) in Section 5.5; and (4) in Sections 5.6 and 6.3–6.4.

3. Literature Review

3.1. The Construction of the Indigenous Category

A first body of scholarship treats "indigenous inhabitant" as a politicized identity rather than a primordial ethnicity. Chan (1998) argued that the colonial encounter "politicized tradition" by giving rural elites incentives to consolidate genealogical and territorial claims around particular villages. Chan (2003) extended this work to show how memory-making—genealogies, ancestral halls, and ritual—provided the cultural raw material for a legal identity that the post-1972 Small House Policy crystallized. Cheung (2021) developed a parallel argument from a constitutional perspective, characterizing the indigenous category as "the result of collusion between the colonizer and the colonized," produced when the colonial administration sought rural cooperation in opening land for new towns (pp. 37–40).

3.2. Customary Land and Lineage Property

A second body of work concerns the legal architecture of lineage property. Selby (1991) traced the doctrinal evolution of section 13 of the New Territories Ordinance and argued that colonial recognition of "Chinese custom" was always partial, mediated by the courts' interpretive power. Sit (2023) compiled detailed materials on Tso (祖, lineage ancestral trust organized along generational lines) and Tong (堂, branch-lineage hall trust) ancestral corporations, showing how lineage corporations function as both economic and ritual institutions, with a designated manager under section 15 of Cap. 97 holding legal title and ritual authority. Hakka and Weitou village ethnography by Faure (1986), Watson (1985), and Hayes (2006) supplies the social-

historical backdrop, including lineage segmentation, walled village (圍村) defense, and the ritual calendar.

3.3. Constitutional Protection and Equality

A third literature interrogates the relationship between Article 40 and Hong Kong's equality regime. Wong (2018) provides the most thorough Chinese-language commentary, arguing that Article 40 is selective—not every historical entitlement counts as a "lawful traditional right and interest." Lu (2026) analyzes the gendered dimension of the Small House Policy, contending that excluding female indigenous villagers from the right to apply produces inequality not adequately captured by the *Kwok Cheuk Kin* litigation. Liao (2018) emphasizes the role of the Heung Yee Kuk and cultural resilience of rural communities, while CFA's own reasoning in *Kwok Cheuk Kin* (2021, paras. 35, 39, 43–47) supplies the authoritative doctrinal articulation of the post-2021 settlement.

3.4. Heritage and the Northern Metropolis

A nascent fourth literature concerns development pressure. The Northern Metropolis Development Strategy frames north New Territories as an area of "Urban-Rural Integration and Co-existence of Development and Conservation" (HKSAR Government, 2021), while official monument-listing practice still leaves many village cultural landscapes outside the strongest statutory protection (AMO, 2024; Antiquities and Monuments Ordinance, 1976). For that reason, the heritage problem is not merely whether individual buildings are listed, but whether Hakka and Weitou languages, ritual cycles, ancestral halls, and lineage landscapes—including *taipingqingjiao* (太平清醮) festivals, Hakka *qilin* dance, and mountain-song repertoires—are assessed before land resumption and infrastructure decisions are made (UNESCO, 2003).

The literature thus converges on three propositions: indigenous identity is constructed; lineage property is real and functioning; constitutional protection is uneven. However, no existing study has connected these three propositions in a single doctrinal argument, nor has any prior scholarship proposed that cultural heritage may function as a derivative right under Article 40 — a gap that becomes urgent given the Northern Metropolis development. This article integrates these strands by tracking how Article 40 actually operates in the courts

and by proposing a heritage extension that the existing literature has not articulated in doctrinal form.

4. Research Methods

The study employs a doctrinal-historical method consisting of three components.

First, **constitutional and statutory interpretation**: a close reading of the Basic Law (especially articles 25, 39, 40, and 122), the New Territories Ordinance (Cap. 97, esp. ss. 13, 15), the Heung Yee Kuk Ordinance (Cap. 1097), the Rural Representative Election Ordinance (Cap. 576), the Government Rent (Assessment and Collection) Ordinance (Cap. 515), the Sex Discrimination Ordinance (Cap. 480, sch. 5), and the New Territories Land (Exemption) Ordinance (Cap. 452). Statutes are cited by section number. Where official English texts exist, they are quoted verbatim; otherwise, paraphrase is used.

Second, **case law analysis**: paragraph-level reading of *Kwok Cheuk Kin v Director of Lands* [2021] HKCFA 38 and *Secretary for Justice v Chan Wah* (2000) 3 HKCFAR 459. Paragraph numbers are cited rather than page numbers. The analysis attends to the four-pronged reasoning in *Kwok Cheuk Kin* paragraphs 35 and 43–44 and the "but-for" discrimination test in *Chan Wah*.

Third, **historical-social contextualization**: synthesis of secondary sources on Hakka and Weitou lineage organization, Tso/Tong ancestral property, walled village settlement, and ritual practice, with cross-validation between Chinese- and English-language scholarship. The author served as a co-opted executive committee member of the New Territories Heung Yee Kuk and as member of the HKSAR Intangible Cultural Heritage Advisory Committee. These roles provided contextual familiarity with the institutions and practices discussed in the article. However, the author recognizes that such involvement may give rise to perceptions of institutional proximity. To manage this risk, the legal analysis and constitutional conclusions in this article are derived exclusively from publicly available legal sources — the Basic Law, Hong Kong legislation, and published Court of Final Appeal judgments — and from peer-reviewed and published scholarly literature. No unpublished institutional information, internal committee deliberations, or non-public materials from either body have been used as evidence. Observations from these roles are treated as

background context only and are not cited as primary evidence for any claim. Readers should weigh the normative recommendations in Sections 6.3–6.4 with this positionality in mind.

The article does not generate new empirical data; it is a doctrinal-interpretive contribution. Its evidentiary base is therefore documentary and judicial.

Source selection followed a tiered logic. Constitutional and statutory sources were identified by the relevant legal provisions directly engaging indigenous rights and customary land (Basic Law arts. 25, 39, 40, 122; Cap. 97 ss. 13, 15; Cap. 576; Cap. 480 sch. 5; Cap. 452). Case law was limited to decisions of the CFA, the highest appellate court of the HKSAR, because only CFA authority can authoritatively resolve constitutional questions; lower-court decisions and judicial review judgments at the Court of First Instance level are cited only where they illuminate the facts subsequently considered by the CFA. Policy documents were selected from official government publications and Lands Department circulars. Social-historical secondary sources were selected on the basis of scholarly consensus in Hong Kong village studies (Faure, 1986; Watson, 1985; Hayes, 2006) and supplemented by recent monograph scholarship on Tso/Tong property (Sit, 2023) and constitutional commentary (Cheung, 2021; Wong, 2018).

The article distinguishes three analytical modes throughout. Legal-doctrinal analysis (Sections 5.1–5.5) describes and interprets existing law as it stands; it identifies what the courts have held and what statutes provide. Historical-contextual analysis (Sections 5.1, 6.1) explains the social and political conditions that produced the legal rules. Normative analysis (Sections 6.3–6.4, 7) proposes what the law could or should be interpreted to mean and what policy instruments would give effect to such an interpretation. Where normative claims are advanced, the article uses conditional or propositional language to signal that these are proposals rather than descriptions of settled law.

5. Results

5.1. From 1898 Lease to 1972 Small House Policy

The Convention for the Extension of Hong Kong Territory leased the "New Territories" from 1 July 1898 for ninety-nine years (Cheung, 2021). The territory was overwhelmingly rural, with a population of roughly one hundred thousand organized around

lineage villages, in contrast to the largely migrant urban population of Hong Kong Island (Sit, 2023). The dominant lineages were *punti* (本地)—locally called Weitou (圍頭) after the walled-village settlements they built and the Cantonese sub-dialect they spoke—including the Tang of Kam Tin and Ping Shan, the Hau of Ho Sheung Heung, the Pang of Fanling, the Liu of Sheung Shui, and the Man of San Tin (some say they are the descendants of Song hero Wen Tianxiang 文天祥 whose Hakka identity is disputed). The Lius are of Hakka decent (Chan, 1998). The Haus were originally Hakkas who gave up their language and culture because the *puntis* were allotted more quotas for the imperial *keju* exams (Cheung, 2021).

Hakka (客家) lineages, who migrated south in successive waves from the seventeenth and eighteenth centuries, occupied hill villages and coastal terraces and produced their own walled settlements, ancestral halls (祠堂), *qilin* (麒麟) dance traditions, mountain-song (山歌) repertoires, and Hakka-language ritual lexicons (Faure, 1986; Hayes, 2006; Watson, 1985). Weitou and Hakka villages share many institutional features—patrilineal genealogies (族譜), Tso/Tong ancestral trusts, *jiao* (醮) festivals, *dim dang* (點燈) lantern-lighting rites for newborn boys—but they preserve distinct languages, marriage exchange networks, and cuisines, and they often interact in carefully ritualized ways across territory boundaries (Hayes, 2006). Tanka (蜑家) and Hoklo (鶴佬) boat populations existed alongside, but because they did not hold registered village land they were ineligible for the later statutory classification of "indigenous inhabitant" (Cheung, 2021).

The administrative absorption of these populations was accomplished primarily through land law. The Land Court Ordinance (1900) declared all New Territories land to be Crown land subject to adjudication, the Block Crown Lease (1905) converted heritable village holdings into renewable Crown leases, and the New Territories Ordinance (1910) created a permanent statutory regime (Cheung, 2021; Sit, 2023). Cheung (2021) summarizes the result tersely: "the British, almost overnight, economically transformed the form of land ownership in the New Territories (p.23)." The transformation was not primarily about denying customary entitlement; rather, the colonial state retained registered Chinese custom while routing all transactions through a Crown-leasehold

superstructure. The doctrinal consequence is critical: section 13 of the New Territories Ordinance empower the courts "to recognize and enforce any Chinese custom or customary right affecting" New Territories land, but this power was discretionary, exercisable only in proceedings before the Court of First Instance or the District Court, and progressively limited by general statutes such as the Marriage Reform Ordinance (1970) (New Territories Ordinance, 1910, s. 13).

Section 13 was therefore the principal doctrinal channel through which Weitou and Hakka customary law—lineage succession, *fung shui* prohibitions, ancestral hall trusteeship—survived as a recognized legal source within a colonial common-law system. The post-war decades saw rural representatives consolidate institutional power through the Heung Yee Kuk, statutorily recognized in 1959 as the consultative voice of the New Territories (Heung Yee Kuk Ordinance, 1959; Liao, 2018). In 1972 the colonial government, seeking to rationalize land policy and secure rural cooperation for new-town development at Sha Tin, Tuen Mun, and Tai Po, introduced the Small House Policy. The Policy permits any "indigenous villager" to apply for a "Building Licence" to construct a small house per lifetime, subject to land availability and planning approval (Lands Department, 1972). The Policy thus transformed a residual customary practice of self-built rural housing into a statutorily structured concession, simultaneously legitimizing male-line indigenous identity and converting it into an administrable category. As Cheung (2021) observes, "indigenous inhabitant" became a recognizable legal status only after 1972; before that date, sources oscillate among "villager," "resident," and "lineage member."

5.2. The Constitutional Settlement: Articles 40 and 122

The Joint Declaration between the two powers (1984) preserved the renewability of New Territories leases beyond 1997 without premium for indigenous villagers, and the Basic Law gave that arrangement constitutional form. Article 122 stipulates that for lots, small houses, and similar holdings held by lawful male-line successors of 1898 indigenous inhabitants, the previous rent stays the same (Basic Law, 1990, art. 122). Article 40 states that "the lawful traditional rights and interests of the indigenous inhabitants of the 'New Territories' shall be protected by the Hong

Kong Special Administrative Region" (Basic Law, 1990, art. 40).

During drafting, Heung Yee Kuk lobbied unsuccessfully to amend Article 40 to "lawful and traditional rights and interests," seeking to capture purely customary entitlements lacking statutory grounding (Cheung, 2021). The retained conjunctive structure ("lawful traditional") was significant. Wong (2018) argues that it requires both legality and traditionality, and does not entail a blanket protection of "any rights ever held"; only those interests "consistent with the demands of the era and not incompatible with law" are constitutionally protected (pp. 430-431). According to former Chairman Lau Wong-fat, the protected scope encompasses "political, economic, livelihood, and traditional ways of life" (Sit, 2023, p. 145).

5.3. *Chan Wah* and the Limits of Tradition in Political Rights

Chan Wah (2000) and *Kwok Cheuk Kin* (2021) are the two cases that together define the constitutional boundaries of indigenous rights in Hong Kong. For readers outside the legal field, their significance can be stated briefly: *Chan Wah* established that indigenous status cannot be used to restrict general political rights, while *Kwok Cheuk Kin* established that indigenous status can shield traditional economic entitlements from equality challenges. The two cases thus divide the constitutional landscape into rights that are subject to equality norms and rights that are not — a division that shapes every subsequent argument in this article.

In *Secretary for Justice v Chan Wah* (2000) 3 HKCFAR 459, the Court addressed two village representative elections in which non-indigenous residents were excluded from voting or from candidacy. One arrangement excluded the non-indigenous husband of an indigenous female resident; another excluded a male born in the village but lacking indigenous status. Because village representatives form the constituency for Rural Committees and ultimately for the seat in the Legislative Council reserved for Heung Yee Kuk, the Court found that village representative elections engage political rights protected by Article 21 of Hong Kong Bill of Rights, mirroring Article 25 of International Covenant on Civil and Political Rights (*Chan Wah*, 2000).

Applying a "but-for" analysis, the Court found that the franchise rules discriminated on grounds of sex and marital status: a non-indigenous woman married to an indigenous man had voting right, while vice versa, a non-indigenous man did not. The Secretary for Home Affairs was therefore enjoined from confirming the elections. Importantly, the Court rejected an argument that political rights could be inferred as a derivative right under Article 40: even if Article 40 admits derivative rights, the political rights claimed in this case "cannot be deduced" (*Chan Wah*, 2000, para. 62).

The Government responded with statutory reform. The Village Representative Election Ordinance, later consolidated in the Rural Representative Election Ordinance (Cap. 576), introduced "dual village representative" structure. Each village now elects an Indigenous Inhabitant Representative (chosen by indigenous villagers, responsible for matters affecting indigenous lawful traditional rights and traditional ways of life) and a Resident Representative (chosen by all villagers, indigenous or not, but barred from those traditional matters) (Rural Representative Election Ordinance, 2003). The dual structure operationalizes the *Chan Wah* distinction: equality applies to general village affairs, while indigenous tradition retains a separate institutional space.

5.4. *Kwok Cheuk Kin* and the Insulation of Economic Tradition

In *Kwok Cheuk Kin v Director of Lands, Secretary for Justice and Heung Yee Kuk* [2021] HKCFA 38, the CFA confronted a direct constitutional challenge to Small House Policy itself, that the Policy breached Articles 25 and 39 of the Basic Law and Article 22 of the Hong Kong Bill of Rights by privileging male indigenous villagers (*Kwok Cheuk Kin*, 2021).

The Court upheld the Policy, but its reasoning was narrowly drawn. First, on the meaning of "lawful," the Court held in paragraph 45 that "lawful" refers to whether the Director of Lands acted lawfully — as a matter of public administrative law — in processing a particular small house application. The word does not require the underlying entitlement itself to pass an equality test (*Kwok Cheuk Kin*, 2021, para. 45). Second, on the meaning of "traditional," the Court held in paragraphs 46–47 that the relevant temporal benchmark is the "state of affairs" upon the Basic Law's promulgation, and that protected traditions need not be traceable to pre-1898 practice (*Kwok Cheuk Kin*, 2021, paras. 46–47). The Small House Policy of 1972 therefore qualifies as "traditional,"

even though it postdates the lease by seventy-four years.

Third, on the relationship between Article 40 and the equality articles, the Court advanced four reasons for the priority of Article 40: it preserves existing entitlements; it is a special provision relative to the general equality clauses; its very purpose is to legitimate an inherently differentiated regime; and Article 122 supplies textual confirmation of the framers' intent to protect specific male-line entitlements (*Kwok Cheuk Kin*, 2021, paras. 35, 43–44). Fourth, "the Court characterized the small house entitlement as a right to have one's application dealt with in accordance with the criteria laid down in the government's statements of current policy," and subject to lawfulness of the Director's discretion (*Kwok Cheuk Kin*, 2021, para. 39). The Court expressly declined to decide whether the Policy could be modified or curtailed in the future (*Kwok Cheuk Kin*, 2021, para. 39).

The doctrinal upshot is a layered constitutional regime. *Chan Wah* subjects political participation to ordinary equality norms; *Kwok Cheuk Kin* insulates Article 40 economic entitlements from such norms by treating Article 40 as *lex specialis*. Between the two extremes lies an unsettled middle—cultural and heritage interests—that neither case has squarely addressed. Notably, the *Kwok Cheuk Kin* characterization of small-house entitlement as a "policy-based" right whose implementation is constrained by the lawful exercise of executive discretion implies that future administrative tightening (for example, anti-abuse measures targeting the practice of *tou ting* (套丁), or the resale of small-house grants to developers) would not necessarily impair Article 40 protection (*Kwok Cheuk Kin*, 2021, paras. 39, 53–55). The constitutional ceiling thus protects the entitlement; the policy floor remains adjustable.

5.5. Tso, Tong, and the Lineage Property Regime

Tso and Tong are customary lineage corporations holding ancestral land mandating the appointment of a registered manager (司理) before whom the District Officer (now the Home Affairs Department) consents to dispositions (New Territories Ordinance, 1910, s. 15). The institution is overwhelmingly male-administered: female lineage descendants generally have no right to be appointed managers and no right to receive distributions from ancestral estates beyond

welfare payments at the manager's discretion (Sit, 2023; Lu, 2026).

The Sex Discrimination Ordinance (Cap. 480) carves out "any discrimination between men and women arising from that policy of the Government" relating to small house policy and land given to male indigenous villagers (Sex Discrimination Ordinance, 1995, sch. 5). The New Territories Land (Exemption) Ordinance (Cap. 452) likewise excludes Tso/Tong land from the equal-succession regime (New Territories Land (Exemption) Ordinance, 1994).

These exemptions have attracted attention from the Committee on the Elimination of Discrimination Against Women (CEDAW) (Lu, 2026). Yet, existing regime survives, partly because Tso/Tong land is increasingly understood not only as economic property but as the institutional carrier of ancestral worship, lineage genealogies, and ritual cycles (Sit, 2023; Liao, 2018). In recent years, although CEDAW has not made recommendations to Hong Kong in this area, the report to CEDAW states that the PRC Government declared that laws on the property and succession rights of male indigenous villagers continue to be applied (CEDAW REPORT, 2020). Liao (2018) observes that ancestral hall holdings—the spatial expression of Tso/Tong land—are second only to government landholdings in scale and constitute "the most important cultural carrier of indigenous life (p. 269)."

5.6. The Northern Metropolis and the Heritage Question

The 2021 Northern Metropolis Development Strategy proposes to integrate roughly 30,000 hectares of the northern New Territories into a cross-boundary urban region anchored by the San Tin Technopole, Hung Shui Kiu/Ha Tsuen, and a new Yuen Long-Lok Ma Chau corridor (HKSAR Government, 2021). The Strategy promises "respect for traditional villages" but does not yet impose binding heritage-impact assessment on land resumption (HKSAR Government, 2021). Recent reporting describes Hakka and Weitou villagers in the affected zones contemplating resettlement, with ancestral halls and *fung shui* woods marked for review on a case-by-case basis (Lo, 2025). Villagers residing in affected areas are receiving eviction notices, some of whom would be left homeless as they are forced to move out before the deadline set by the Lands Department (Chen, 2026).

The cultural stakes are significant. Hakka villages in the affected zones host *qilin* dance lineages, traditional martial arts schools, mountain-song singing circles, and family-level Hakka-language transmission to the next generation. Weitou and Hakka walled villages such as Kat Hing Wai, Shui Tau Tsuen, and Shung Him Tong Tsuen, contain Grade I and Grade II ancestral halls that host *jiao* festivals on a roughly decadal cycle, *dim dang* lantern-lighting rites for newborn boys, and *spring and autumn ancestral worship* (春秋二祭) that draws diaspora descendants back from Europe and North America (AMO, 2026; Hayes, 2006; Liao, 2018). These practices depend on the spatial integrity of the village—orientation toward the *fung shui* wood, the ritual axis from village gate to ancestral hall, the route of *qilin* processions—and cannot be fully transplanted by reconstructing isolated buildings on resettlement plots. The Antiquities and Monuments Office has declared a small number of New Territories ancestral halls and Tin Hau temples as monuments backed by the Antiquities and Monuments Ordinance (Cap. 53), but the majority of structurally significant Weitou and Hakka buildings are currently classified as graded historic buildings under the administrative grading system—a status that, unlike statutory monument declaration, does not create enforceable legal obligations on owners or the Government (Antiquities and Monuments Ordinance, Cap. 53).

6. Discussion

6.1. Is "Indigenous" a Construct or a Continuity?

The findings support the constructionist view advanced by Chan (1998) and Cheung (2021). The label "indigenous inhabitant" is administratively traceable to the Block Crown Lease and the post-1972 Small House Policy, not to pre-1898 self-description. The CFA's holding in *Kwok Cheuk Kin* (paragraphs 46–47) that "traditional" be benchmarked to 1990, not 1898, gives doctrinal recognition to this constructionist reality (*Kwok Cheuk Kin*, 2021, paras. 46–47). At the same time, the substrate of the construct—Hakka and Weitou lineage life—is genuinely continuous, sustained through ancestral halls, genealogies, and ritual cycles dating back centuries (Faure, 1986; Watson, 1985). The constitutional category is constructed; the cultural material it administers is not. This distinction matters analytically because it reframes a familiar critique: the question is not whether "tradition" is real but whether

the legal apparatus that selects which traditions count is fairly designed. A constructionist account is therefore compatible with vigorous protection of authentic cultural practice; it merely insists that protection should follow function, not formal genealogy.

6.2. The Layered Constitutional Regime

The combination of *Chan Wah* and *Kwok Cheuk Kin* produces a layered regime. Where the right concerns political participation — such as voting in village representative elections, holding rural committee positions or membership in Heung Yee Kuk — equality norms apply in full. The only accommodation is the dual-representative structure introduced by Cap. 576 (Rural Representative Election Ordinance, 2003), which reserves a separate Indigenous Inhabitant Representative role for indigenous voters. Where the right at issue is economic and rooted in male-line lineage property (small houses, low-rent leases under Article 122, Tso/Tong management), Article 40 operates as *lex specialis* and immunizes the relevant differentiation. The middle layer—cultural and heritage rights, including language transmission, ritual practice, and the spatial integrity of walled villages—has not yet been judicially articulated.

6.3. Article 40 as a Source of Heritage Rights

This article proposes that the layered regime could accommodate a heritage layer through a derivative-rights interpretation of Article 40 — a reading that has not yet been tested before the courts but that is, it is submitted, consistent with the text and purpose of Article 40 as interpreted in *Kwok Cheuk Kin*. Four considerations support such an interpretation. First, *Chan Wah* did not foreclose derivative rights in general; it only denied that political participation could be derived (*Chan Wah*, 2000). Second, the purpose of Article 40, as articulated in *Kwok Cheuk Kin* paragraphs 35 and 43, is to preserve existing lineage entitlements; the bearers of those entitlements—ancestral halls, Tso/Tong land, ritual offices—are simultaneously cultural institutions (*Kwok Cheuk Kin*, 2021, paras. 35, 43). Third, section 13 of New Territories Ordinance recognizes "Chinese custom or customary right" without restricting the scope to property; family, ritual, and successional customs are routinely captured (New Territories Ordinance, 1910, s. 13). Fourth, Article 39 of the Basic Law implements the International Covenant on Civil and Political Rights (ICCPR), whose Article 27 protects the cultural rights of minority communities.

The ICCPR has domestic legal effect in Hong Kong through the Hong Kong Bill of Rights Ordinance. The International Covenant on Economic, Social and Cultural Rights (ICESCR), whose Article 15 protects participation in cultural life, applies in Hong Kong through specific implementing provisions, though it has not been incorporated wholesale into domestic law; its provisions nonetheless provide a relevant interpretive context under Article 39 of Basic Law.

Derivative-cultural reading does not displace Article 40's economic core; it supplements it. The protected interests would include (a) on-site preservation of ancestral halls and adjacent ritual space; (b) protection of access routes for *jiao* festivals, *dim dang* rites, and *qilin* dance processions; (c) custodianship of genealogical archives; and (d) targeted support for Hakka and Weitou language transmission, including funding within the HKSAR's intangible cultural heritage system rather than open competition with all other Hong Kong heritage projects.

It must be emphasised that the proposed heritage-derivative reading of Article 40 is not a brief for preserving all existing features of customary land arrangements. Protecting the spatial integrity of ancestral halls, the routes of ritual processions, and the transmission of Hakka and Weitou intangible cultural heritage is analytically distinct from insulating discriminatory succession rules from equality scrutiny. The argument advanced here is that cultural practices can and should be protected as a layer of Article 40's scope; it does not follow that every rule attached to those practices — including the exclusion of female lineage descendants from Tso/Tong management under section 15 of Cap. 97 — is thereby immunized. A calibrated reform of Tso/Tong gender rules could, in principle, be implemented without dismantling the ritual and cultural functions of ancestral trusts. Indeed, broadening female participation in the governance of Tso/Tong institutions could strengthen their legitimacy and long-term cultural resilience. This question is left for future policy and doctrinal work (see Section 8), but the principle is important: cultural protection and gender equality are not zero-sum.

Comparative experience supports such an extension. In Aotearoa New Zealand, the Treaty of Waitangi jurisprudence has steadily widened to encompass *taonga* (cultural treasures) and language; in Taiwan, the Indigenous Peoples Basic Law of 2005 explicitly protects land, territory, culture, language,

and traditional knowledge as a unified bundle. Hong Kong's Article 40 stops short of such an explicit textual mandate, but its open-textured language ("lawful traditional rights and interests") is hospitable to a similar interpretive expansion, especially when read through Article 39's continued application of the two international human-rights covenants.

These comparative references are offered as illustrative analogies rather than as a full comparative analysis; the structural differences between the Treaty of Waitangi (a founding constitutional document between the Crown and Māori) and Taiwan's Indigenous Peoples Basic Law (a statute explicitly covering a recognized constitutional category of indigenous peoples) on the one hand, and Article 40 of Basic Law on the contrary, are substantial. The analogy's value lies not in institutional identity but in the shared interpretive dynamic: in each jurisdiction, open-textured constitutional or quasi-constitutional language protecting 'traditional' rights has been read by courts and legislators to encompass cultural practices, not merely economic entitlements. It is this interpretive dynamic — purposive reading of open-textured protective language — that is proposed as the appropriate model for Article 40.

6.4. The Northern Metropolis as Stress Test

The Northern Metropolis is the practical test of the proposed framework. If "lawful traditional rights and interests" may be interpreted to include a heritage component — as this article proposes — policymakers would have strong grounds to establish a statutory Heritage Impact Assessment for any land resumption affecting recognized indigenous villages, ancestral halls, *fung shui* woods, and intangible cultural heritage bearers. Such an instrument is consistent with international practice (UNESCO 2003 Convention, ratified by China and applicable to the HKSAR) and could be adapted from the existing Environmental Impact Assessment Ordinance (Cap. 499) (UNESCO, 2003; Environmental Impact Assessment Ordinance, 1997). Without such an instrument, the constitutional architecture protects only economic interests while the Hakka and Weitou cultural ecosystem is dismantled.

Three design considerations deserve emphasis. First, the assessment must be triggered early—at the strategic-planning stage rather than at the project-approval stage—so that village layout, ritual axes, and *fung shui* woodland can be considered before infrastructure footprints are fixed. Second, the

assessment must be participatory: the Heung Yee Kuk, Rural Committees, and ritual specialists from affected lineages should be statutory consultees, complementing the existing administrative consultation with district authorities. Third, the assessment must produce binding outputs, not merely advisory commentary; otherwise the same regulatory weakness that has hampered the protection of Hakka and Weitou village clusters since the 1970s will reproduce itself at larger scale. The Northern Metropolis is, in this sense, both a stress test and an opportunity: it is the moment at which Article 40 either matures into a robust framework for cultural-heritage protection or, by default, contracts to the bare protection of small-house and Tso/Tong economic interests.

7. Conclusions and Suggestions for Practical Use

Three conclusions follow:

(1) The category of "indigenous inhabitant" is a colonial-era legal construction that crystallized around the 1972 Small House Policy. It rests on, but is not identical to, the cultural continuities of Hakka and Weitou lineages.

(2) Hong Kong's constitutional jurisprudence has produced a layered regime: political rights are subject to equality review (*Chan Wah*; Cap. 576); economic entitlements rooted in male-line lineage property are insulated under Article 40 (*Kwok Cheuk Kin*). The regime is functional but incomplete.

(3) Heritage protection may be doctrinally articulated as a derivative right under Article 40 — a proposed interpretive development that this article commends to policymakers, legislators, and courts — and could be operationally implemented through a statutory Heritage Impact Assessment for the Northern Metropolis, complemented by ring-fenced funding for Hakka and Weitou intangible heritage.

For practical application, the recommendations may be organized across three domains:

(a) Legal reform: Amend the Antiquities and Monuments Ordinance (Cap. 53) to add a New Territories Heritage chapter establishing a statutory Heritage Impact Assessment, triggered at the strategic-planning stage of the Northern Metropolis, for any land resumption affecting recognized indigenous villages, ancestral halls, *fung shui* woods, and intangible cultural heritage bearers. Adapt the

assessment framework from the existing Environmental Impact Assessment Ordinance (Cap. 499), with the Heung Yee Kuk, Rural Committees, and designated ritual specialists as statutory consultees whose submissions must be addressed in the final assessment report.

(b) Administrative reform: Direct the Lands Department to incorporate cultural-heritage triggers into the Small House Policy practice notes, so that applications in or adjacent to heritage-sensitive village layouts are subject to review by the Antiquities and Monuments Office before approval.

(c) Cultural-policy reform: The Heung Yee Kuk and the Intangible Cultural Heritage Office should jointly maintain a public registry of at-risk Hakka and Weitou living heritage practices — including *qilin* dance lineages, mountain-song bearers, and ancestral hall ritual specialists — with ring-fenced funding lines outside the general competitive grants process.

8. Limitations and Further Study

This article is doctrinal-historical and does not present new empirical data. Its account of Hakka and Weitou cultural practices draws on existing ethnographies and the author's limited experience. Its constitutional analysis is sensitive to ongoing CFA jurisprudence and may need revision as new cases are decided. Future work should include (a) village-level fieldwork mapping intangible cultural heritage and practices at risk in the Northern Metropolis footprint, (b) comparative analysis with other post-colonial jurisdictions (e.g., Malaysia, Taiwan, Aotearoa New Zealand) where customary indigenous rights including land regimes are protected under written constitutions or reconciled customary with constitutional equality norms, and (c) survey research on female indigenous descendants' attitudes toward Small House and Tso/Tong reform.

In addition, the article does not include interviews, surveys, or ethnographic fieldwork with New Territories villagers, government officials, Lands Department officers, or heritage practitioners. The doctrinal-historical method adopted is appropriate for the article's analytical objectives, but the absence of stakeholder perspectives means that the lived experience of Hakka and Weitou lineage members — particularly those facing resettlement under the Northern Metropolis program — is captured only through published secondary sources. Future empirical work should address this gap directly.

Funding

This research received no external funding.

Institutional Review Board Statement

Not applicable. The study did not involve human or animal subjects.

Informed Consent Statement

Not applicable.

Data Availability Statement

In this study, empirical data were not newly generated nor analyzed. This is a doctrinal-historical article; its evidentiary base consists entirely of publicly available legal instruments, published Court of Final Appeal judgments, and peer-reviewed scholarly literature. No datasets, interview transcripts, survey data, or fieldwork materials were produced. Data sharing is therefore not applicable. All cited cases, statutes, and secondary literature are accessible through the URLs provided in the references and through standard legal and academic repositories.

Acknowledgments

The author thanks colleagues at Heung Yee Kuk's traditional culture committee and the HKSAR Intangible Cultural Heritage Advisory Committee for context on the lived practice of Hakka and Weitou heritage. Any errors are the author's own.

Conflicts of Interest

The author is a co-opt executive committee member of Heung Yee Kuk and an ex-committee member of Intangible Cultural Heritage Advisory Committee. Both bodies are discussed in this article in their institutional and legal capacity. The author declares that these roles did not influence the legal analysis, the interpretation of case law, or the conclusions of this article, all of which are based solely on publicly available legal sources and scholarly literature. The declaration of these roles is made in the interest of full transparency, in accordance with the journal's conflict-of-interest policy.

References

[1] ANTIQUITIES AND MONUMENTS OFFICE (AMO). (2026). *List of declared monuments and graded historic buildings*. Hong Kong: Leisure and Cultural Services Department. Retrieved from

<https://www.amo.gov.hk/en/historic-buildings/monuments/index.html>

[2] ANTIQUITIES AND MONUMENTS ORDINANCE. (1976). *Cap. 53* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap53>

[3] BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION. (1990). Retrieved from <https://www.basiclaw.gov.hk>

[4] CEDAW REPORT. (2020). *Ninth periodic report submitted by Hong Kong, China under article 18 of the Convention, due in 2018 : Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/CHN-HKG/9)*. Geneva: United Nations. Retrieved from <https://digitallibrary.un.org>

[5] CHAN, S.C. (1998). Politicizing tradition: The identity of indigenous inhabitants in Hong Kong. *Ethnology*, 37(1), 39–54. Retrieved from <https://www.jstor.org/stable/3773847>

[6] CHAN, S.C. (2003). Memory making, identity building: The dynamics of economics and politics in the New Territories of Hong Kong. *China Information*, 17(1), 66–91. <https://doi.org/10.1177/0920203X0301700103>

[7] CHAN WAH. (2000). *Secretary for Justice v Chan Wah and Others*, (2000) 3 HKCFAR 459; [2000] 3 HKLRD 641 (Court of Final Appeal). Retrieved from <https://legalref.judiciary.hk/>

[8] CHEN, L. (2026, May 10). 'Forfeiture of rights': Hong Kong villagers slam Northern Metropolis evictions. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/society/article/3353051/forfeiture-rights-hong-kong-villagers-slam-rushed-northern-metropolis-evictions>

[9] CHEUNG, X.S. (2021). *The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories"*. Hong Kong: City University of Hong Kong Press. [章小杉 (2021). 《「新界」原居民的合法傳統權益》]

[10] ENVIRONMENTAL IMPACT ASSESSMENT ORDINANCE. (1997). *Cap. 499* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap499>

[11] FAURE, D. (1986). *The structure of Chinese rural society: Lineage and village in the eastern New Territories, Hong Kong*. Hong Kong: Oxford University Press.

[12] GOVERNMENT RENT (ASSESSMENT AND COLLECTION) ORDINANCE. (1997). *Cap. 515*, section 2 (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap515>

[13] HAYES, J. (2006). *The great difference: Hong Kong's New Territories and its people, 1898–2004*. Hong Kong: Hong Kong University Press.

[14] HEUNG YEE KUK ORDINANCE. (1959). *Cap. 1097* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap1097>

[15] HKSAR GOVERNMENT. (2021). *Northern Metropolis Development Strategy*. Hong Kong: Office of the Chief Executive. Retrieved from <https://www.policyaddress.gov.hk/2021/eng/pdf/publications/Northern/Northern-Metropolis-Development-Strategy-Report.pdf>

[16] KWOK CHEUK KIN. (2021). *Kwok Cheuk Kin v Director of Lands, Secretary for Justice and Heung Yee Kuk*, [2021] HKCFA 38 (Court of Final Appeal). Retrieved from <https://legalref.judiciary.hk/>

[17] LIAO, S.L. (2018). *The neglected protagonists: The development of the New Territories Heung Yee Kuk and the inheritance of Chinese national culture*. Hong Kong: Commercial Press. [廖書蘭 (2018). 《被忽略的主角：新界鄉議局發展及其中華民族文化承傳》]

[18] LO, C. (2025, September 7). Changes afoot in Hong Kong's Northern Metropolis: Villagers make way, slowly for now. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/health-environment/article/3324621/changes-afoot-hong-kongs-northern-metropolis-villagers-make-way-slowly-now>

[19] LU, S.Y. (2026). Women's rights under the Small House Policy in Hong Kong. *Gender & History*, 38(1), 370–389. <https://doi.org/10.1111/1468-0424.12788>

[20] NEW TERRITORIES ORDINANCE. (1910). *Cap. 97*, section 13 (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap97>

[21] NEW TERRITORIES LAND (EXEMPTION) ORDINANCE. (1994). *Cap. 452* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap452>

[22] RURAL REPRESENTATIVE ELECTION ORDINANCE. (2003). *Cap. 576* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap576>

[23] SELBY, S. (1991). Everything you wanted to know about Chinese customary law (but were afraid to ask). *Hong Kong Law Journal*, 21, 45–77.

[24] SEX DISCRIMINATION ORDINANCE. (1995). *Cap. 480* (Hong Kong). Retrieved from <https://www.elegislation.gov.hk/hk/cap480>

[25] SIT, H.Y. (2023). *The Chinese clan system: With reference to the Tso and Tong of the New Territories of Hong Kong*. Hong Kong: Qiaomu Tang. [薛浩然 (2023). 《中國宗族制度：兼論香港新界的祖堂》]

[26] UNESCO. (2003). *Convention for the safeguarding of the intangible cultural heritage*. Paris: UNESCO. Retrieved from <https://ich.unesco.org/en/convention>

[27] WATSON, J.L. (1985). *Inequality among brothers: Class and kinship in South China*. Cambridge: Cambridge University Press.

[28] WONG, K.T. (2018). *The study of the interpretation and precedent of Hong Kong's Basic Law*. Hong Kong: City University of Hong Kong Press. [黃江天 (2018). 《香港基本法解釋理論及判例研究》]

參考文：

- [1] 香港古物古迹办事处 (ANTIQUITIES AND MONUMENTS OFFICE, AMO). (2026). 已宣布古迹及已评级历史建筑名单. 香港：康乐及文化事务署. 取自 <https://www.amo.gov.hk/en/historic-buildings/monuments/index.html>
- [2] 《古物及古迹条例》. (1976). 香港法例第 53 章. 取自 <https://www.elegislation.gov.hk/hk/cap53>
- [3] 《中华人民共和国香港特别行政区基本法》. (1990). 取自 <https://www.basiclaw.gov.hk>
- [4] CEDAW 报告. (2020). 中国香港根据《消除对妇女一切形式歧视公约》第 18 条提交的第九次定期报告 (CEDAW/C/CHN-HKG/9). 日内瓦：联合国. 取自 <https://digitallibrary.un.org>
- [5] CHAN, S.C. (1998). 传统的政治化：香港原居民身份认同研究. *Ethnology*, 37(1), 39–54. 取自 <https://www.jstor.org/stable/3773847>
- [6] CHAN, S.C. (2003). 记忆建构与身份塑造：香港新界经济与政治的动态关系. *China Information*, 17(1), 66–91. <https://doi.org/10.1177/0920203X0301700103>
- [7] CHAN WAH. (2000). Secretary for Justice v Chan Wah and Others, (2000) 3 HKCFAR 459; [2000] 3 HKLRD 641 (终审法院). 取自 <https://legalref.judiciary.hk/>
- [8] CHEN, L. (2026 年 5 月 10 日). “权利被剥夺”：香港村民抨击北部都会区清拆安排. *South China Morning Post*. 取自 <https://www.scmp.com/news/hong-kong/society/article/3353051/forfeiture-rights-hong-kong-villagers-slam-rushed-northern-metropolis-evictions>
- [9] CHEUNG, X.S. (2021). 《“新界”原居民的合法传统权益》. 香港：香港城市大学出版社. [章小杉 (2021). 《「新界」原居民的合法傳統權益》]
- [10] 《环境影响评估条例》. (1997). 香港法例第 499 章. 取自 <https://www.elegislation.gov.hk/hk/cap499>
- [11] FAURE, D. (1986). 《中国农村社会结构：香港新界东部的宗族与村落》. 香港：牛津大学出版社.
- [12] 《地租（评估及征收）条例》. (1997). 香港法例第 515 章，第 2 条. 取自 <https://www.elegislation.gov.hk/hk/cap515>
- [13] HAYES, J. (2006). 《巨大的差异：香港新界及其人民，1898–2004》. 香港：香港大学出版社.
- [14] 《乡议局条例》. (1959). 香港法例第 1097 章. 取自 <https://www.elegislation.gov.hk/hk/cap1097>
- [15] 香港特别行政区政府. (2021). 《北部都会区发展策略》. 香港：行政长官办公室. 取自 <https://www.policyaddress.gov.hk/2021/eng/pdf/publications/Northern/Northern-Metropolis-Development-Strategy-Report.pdf>
- [16] KWOK CHEUK KIN. (2021). Kwok Cheuk Kin v Director of Lands, Secretary for Justice and Heung Yee Kuk, [2021] HKCFA 38 (终审法院). 取自 <https://legalref.judiciary.hk/>

- [17] LIAO, S.L. (2018). 《被忽略的主角：新界乡议局发展及其中华民族文化承传》. 香港：商务印书馆. [廖書蘭 (2018). 《被忽略的主角：新界鄉議局發展及其中華民族文化承傳》]
- [18] LO, C. (2025年9月7日). 香港北部都会区正迎来变化：村民逐步让路. South China Morning Post. 取自 <https://www.scmp.com/news/hong-kong/health-environment/article/3324621/changes-afoot-hong-kongs-northern-metropolis-villagers-make-way-slowly-now>
- [19] LU, S.Y. (2026). 香港“小型屋宇政策”下的妇女权利. *Gender & History*, 38(1), 370–389. <https://doi.org/10.1111/1468-0424.12788>
- [20] 《新界条例》. (1910). 香港法例第 97 章, 第 13 条. 取自 <https://www.elegislation.gov.hk/hk/cap97>
- [21] 《新界土地（豁免）条例》. (1994). 香港法例第 452 章. 取自 <https://www.elegislation.gov.hk/hk/cap452>
- [22] 《乡郊代表选举条例》. (2003). 香港法例第 576 章. 取自 <https://www.elegislation.gov.hk/hk/cap576>
- [23] SELBY, S. (1991). 关于中国习惯法你想知道却不敢问的一切. *Hong Kong Law Journal*, 21, 45–77.
- [24] 《性别歧视条例》. (1995). 香港法例第 480 章. 取自 <https://www.elegislation.gov.hk/hk/cap480>
- [25] SIT, H.Y. (2023). 《中国宗族制度：兼论香港新界的祖堂》. 香港：乔木堂. [薛浩然 (2023). 《中國宗族制度：兼論香港新界的祖堂》]
- [26] UNESCO. (2003). 《保护非物质文化遗产公约》. 巴黎：联合国教科文组织. 取自 <https://ich.unesco.org/en/convention>
- [27] WATSON, J.L. (1985). 《兄弟之间的不平等：中国南方的阶级与亲属关系》. 剑桥：剑桥大学出版社.
- [28] WONG, K.T. (2018). 《香港基本法解释理论及判例研究》. 香港：香港城市大学出版社. [黃江天 (2018). 《香港基本法解釋理論及判例研究》]