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AN EVALUATION OF WOMEN’S SOCIAL STATUS IN COLONIAL HONG KONG WITH A FEMINIST LENS—CASE STUDIES

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Abstract

Even though Hong Kong remained under British control from 1842 to 1997, denizens were not modernized in a way comparable to that of the British. To the contrary, while governing Hong Kong, British colonizers allowed continued reference to ancient Chinese customs in the area. Such policy diminished women’s chances of receiving fair treatment in matters such as property management and divorce. Unlike in Hong Kong, women were legislated to be parallel to men in matrimonial and property inheritance petitions in China, Britain, and colonial Singapore. This study is based on two exemplary cases judged by authorities in colonial Hong Kong. Furthermore, the study explores how differently the judicial offices in Britain, the People’s Republic of China, and Singapore viewed these issues. Women in these regions were characterized as legal heirs of familial properties, though the attitudes toward women’s equal placement with their husbands when facing divorce were addressed in varied manners. Such research requires a correction in historical misconceptions and elevates gender studies on Chinese women to a more comprehensive status in chronological comparisons. Additionally, this research implicates that gender equality cannot be analyzed from only one perspective but in an interconnected manner, for a synthesis can allow us to see weak points in women’s status in colonial Hong Kong more deeply.

Keywords: feminism, Chinese customary law, family law, petitions

Introduction

When an imperial state colonized a certain area centuries ago, that colony was supposed to be controlled in a way that paralleled how the colonizers were governed in their homeland; however, things were different in Hong Kong, a British colony from 1842 to 1997. Here, the British allowed the judicial practice that “all natives of the Island of Hong Kong and all the citizens of China living there were to be governed by the laws of China, with the exception of all kinds of torture.”¹ In this context, the phrase “laws of China” refers to Chinese customary law, which the British decided to

use when it came to judicial punishment. Under this manifesto, local authorities in judicial proceedings (apart from those related to “torture”) continually used ancient Chinese customs, in which women were significantly objectified as men’s subjects. This meant that women could not engage in careers outside the home or inherit property from their deceased fathers. The usage of Chinese customary law was justified by Article 13 of the New Territories Ordinance (1910):

Article 13: Court of First Instance or the District Court may enforce Chinese customs

(1) Subject to subsection (2), in any proceedings in the Court of First Instance or the District Court in relation to land in the New Territories, the court shall have power to recognize and enforce any Chinese custom or customary right affecting such land.

(Amended 1 of 1953 Fourth Schedule; 55 of 1994 s. 10; 25 of 1998 s. 2)

(2) In subsection (1), proceedings (法律程序) does not include proceedings in respect of or in relation to the Probate and Administration Ordinance (Cap. 10), the Intestates’ Estates Ordinance (Cap. 73) or the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481).

(Added 55 of 1994 s. 10. Amended 58 of 1995 s. 27)²

Consequently, women tended to have little income and were usually at a disadvantage in court when petitioning for their rights.

Although the founding of the People’s Republic of China (PRC) in October 1949 marked a new era in Chinese history, Hong Kong was distant from such a proactive milestone, partly because it remained under British control for another 48 years. Even though the extent of this characterization has weakened significantly in the modern period, it still remains distant from annihilation. To prevent gender inequality from worsening, the feminist movement emerged. This paper focuses on feminism’s effect on Chinese customary law, which was practiced in colonial Hong Kong.

The formation of Chinese customary law was initially promoted by Confucianism, which introduced the concept of li. One major part of this ideology was that women had an obligation to obey their fathers before marriage, their husbands after marriage, and their sons (if they had any) if their husbands died.³ Ancient Chinese women were thus always a level below men, which restricted them from obtaining fair treatment if they attempted to equalize themselves with their

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² Hong Kong, New Territories Regulation Ordinance, 1910, Cap. 97.
³ Etiquettes and Ceremonies, 2014.
male relatives. For instance, when young women in ancient China reached the age of marriage, their freedom to choose their preferred spouse was miniscule. Instead, they had to listen to their fathers, who had supreme authority in the family. Fathers would find their daughters husbands whom they believed would be the most appropriate to “continue the family line,” whereas women’s responsibilities in this process were to agree and marry those men. Traditions like this one permeated the entirety of Chinese territory and remained in place for centuries; therefore, when the British took control of Hong Kong in the mid-nineteenth century, it proved relatively difficult for them to shape the place into an entirely British region.

What was women’s social status in colonial Hong Kong compared to other places? To answer this question, I analyzed the judgments of two cases, along with certain articles in the Matrimonial Proceedings and Property Ordinance in Britain, the New Marriage Law (1950) in China, and the Women’s Charter in colonial Singapore. This method will reflect how the judgments in these cases varied between regions with different versions of matrimonial laws. These differences show that women were given hardly any rights in marriage and family issues compared to their husbands and the male relatives in their families and when compared to Britain, colonial Singapore, and Mainland China. This could alter public attitudes toward women’s social status in a place that was officially colonized by Britain for around 150 years.

As for the two cases included in this paper, one is about property inheritance and management in a local clan, and the other is about divorce. Specifically, I focus on the female parties and interpret their actions according to feminist theory. From my interpretations, I hope to make inferences about whether the registrars made convincing judgments on these cases.

In this study, I began with a literature review that contextualizes my research. Specifically, by reviewing the contributions of previous scholars on this topic, I will show the significance of my study, which fills a research gap by providing a synthesized view of historical jurisprudence. After the literature review, I will introduce the cases and compare the judgments with potential modifications that might have appeared if the cases had been judged in Britain, China, or colonial Singapore.

**Literature Review**

Though it currently exists as one of the special administrative regions of the PRC, Hong Kong was once ruled as a colony by the British Empire. Rather than forcing Hong Kong’s residents to adopt British laws, however, the colonizers allowed the continuation

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of Chinese customs, which accentuated women’s obligation to obey males. Numerous studies have been conducted to analyze how women reacted to their circumstances and the causes of such phenomena.

My topic focuses on understanding the historical origins and feminist implications of women’s social status in Hong Kong. In this literature review, I examine the physiological, cultural, and judicial clashes that took place between the authors of the literature examined. Regarding physiological clashes, some scholars believe that women should understand the corporeal differences they have as another sex, while others believe that women should focus on laws, an aspect that can concretely change their social status. From a cultural perspective, although some researchers say that ancient Chinese customs shaped women’s subordinate status in society, others argue that these traditions enlightened women’s pursuit of gender equality. Judicially, some authors contend that it was better for the colonizers to have used British laws to rule Hong Kong because these statutes gave women additional rights in the eighteenth and nineteenth centuries, while others disagree by emphasizing the irreplaceable position of Chinese customs.

The Physiological Clash

Researchers have disagreed on prioritizations in pursuing gender equality. In this debate, some researchers have argued that it is important for women to understand their conditions. Preliminarily, their arguments were initiated from Marxist interpretations of women. From a Marxist viewpoint, women are physiologically different from men. Women have body parts that men do not have, such as the uterus and vagina, used in pregnancy and childbirth. Pressuring women to fulfill these procreative obligations not only undermines the necessity for them to participate in education or socially productive tasks as men do but also pushes them into a subordinate class. According to Karl Marx, if women were allowed to participate in economic production with their husbands, they would be considered “class [enemies] by nature.” In comparison, if women follow what is congenitally designed for them, such as housework, they are the elixirs of family distortion. Under such conditions, Fanny M. Cheung believed that women’s centers should be built in places like colonial Hong Kong, where male supremacy was highly treasured. With the establishment of a women’s center, women could be motivated to leave their homes and enter society. Additionally, at the center, women would be “[encouraged] to take the initiative of finding more information about themselves.” Cheung provides convincing data illustrating the consequences of restraining females’ involvement in education in Hong Kong, especially

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in their employment rates: “The percentage who attained postsecondary school or university education was only 2.1% for females and 4.5% for males.” Consequently, Cheung argues, women “usually become involved in community or voluntary work for affiliative rather than individualistic motives.” Thus, Cheung accentuates the importance of a women’s center to provide irreplaceable benefits in helping women in Hong Kong learn more about their social status. With this achieved, Hong Kong could move further toward becoming a concretely liberal place like many Western states. Because Cheung wrote this in Hong Kong just before the handover, it provides a useful window on the situation of women in Hong Kong at the end of British rule.

Though approving of Cheung’s belief in the importance of understanding how women are characterized by society, especially from a physiological view, Catherine MacKinnon prioritizes jurisprudential change, which can equalize women and men in court. In her opinion, consciousness-raising can be endless because women cannot fully access implicit messages about their status. In this case, it is important for women to critically view the laws to “change the state’s relation to women and… women’s relation to men,” where laws can be enhanced to be more impartial and to treat people of both genders fairly. Though MacKinnon goes further than Cheung, her plans for the future are relatively ambiguous. People like Rachel Stern therefore specify how laws should be changed to balance the rights of men and women. In her paper “Unpacking Adaptation,” Stern criticizes Cheung’s opinions by claiming that “consciousness is a slippery, unquantifiable concept.” She also argues that it is important for women in Hong Kong, especially those involved in the female inheritance movement, to adapt liberal ideologies that originated from other parts of the world to “fit the worldview of the participants and attract followers.” After accumulating followers, women can develop a global interpretative world view of gender equality, in which they can sense that their society is relatively outdated compared to developed areas in the West. The most important group in this process will be translators who “[close] the gaps between indigenous women’s private perception of the problem and the public framing of it.” Here, private perception refers to women’s consciousness of their status and public framing refers to the laws supporting their conditions. According to Stern, when the gaps are closed, women can get closer to their allies, which can ultimately promote a jurisprudential change.

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9 Ibid., 102.
10 Ibid., 103.
11 MacKinnon.
12 Ibid.
14 Ibid.
15 Ibid., 430.
16 Ibid., 434.
in women’s social status. Such a structure of argumentation is built upon those developed by Marx, Cheung, and MacKinnon. Marx’s discriminatory ideas provoke a clash between men and women, while Cheung, MacKinnon, and Stern try to rationalize gender equality at different levels. Specifically, Cheung shows the importance of women’s consciousness of their positions in society, which is preliminary. MacKinnon builds her ideas upon Cheung’s, bringing out the necessity for jurisprudential change, and Stern specifies MacKinnon’s statements by delineating the crucial actors involved. The connection between ancient Chinese culture and gender equality cannot be denied, however.

The Cultural Clash

Researchers also hold different opinions about the contributions of Chinese culture in shaping women’s social status. Customarily, Chinese women were obliged to follow the commands of their fathers before marriage, their husbands after marriage, and their sons if their husbands died before them. Under such a tradition that has affected both Mainland China and Hong Kong, males, especially fathers, in Chinese families must be respected, especially in the naming of their descendants. According to Jérôme Bourgon, Chinese traditions implicitly shaped women’s subordinate status in both their families and society by accentuating the patriarchal powers of fathers. In fact, if a character in a son’s name clashed with his father’s, he could be “deprived of the [Jinshi/Doctorate] degree by examiners,” even though he earned good scores on the exams. Women were not allowed to hold degrees like men were in ancient China, and their future lives were mostly outlined by their fathers. Specifically, according to Athena Liu, Chinese women had to marry the young men their fathers selected for the alliances between their families and their soon-to-be husbands’ families and to follow the filial acts introduced by Confucian thinkers, in which the women were responsible for giving birth to infants. Conversely, if Chinese women either refused to marry the fiancés chosen by their fathers or failed to bear descendants, they were regarded as troublemakers because “[their] ancestors would become unworshipped ghosts.”

Though Yuhui Li approves of Bourgon’s and Liu’s arguments, she argues that ancient Chinese culture not only shaped but also promoted a change in women’s social status, discussing the inefficacy of socialist feminism in equalizing men and women in society. Instead of referencing ancient Chinese ideologies, Li implements data from

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17 Ibid.
19 Athena Liu, Family Law for the Hong Kong Sar (University of Washington Press, 1999).
20 Ibid.
the twentieth century. Specifically, although social resources such as employment and educational opportunities were redistributed under socialist feminism, Chinese women not only were still deficiently employed (49%) in industrial production in the 1980s\textsuperscript{21} but also retired much earlier than men: “In 1987, the percentages of employed men and women were 97.7 and 73.6 respectively for the age group of 45–49 years old.”\textsuperscript{22} Additionally, Li found that “in 1982 and 1988 respectively, women accounted for only 16.5 percent of students at Tsinghua University and 20 percent at Peking University.”\textsuperscript{23} In contrast, men from different social classes gained more access to better education after the “socialist revolution” in China. Li therefore concludes that such a revolution was unsuccessful because it only redistributed social assets between men of different classes instead of considering women.\textsuperscript{24} In fact, because male proletarians were given the chance to voice their opinions about how to promote further development in the PRC, Li argues, “Confucian patriarchy was replaced first by new democratic patriarchy, and then by patriarchal socialism.”\textsuperscript{25} Here, \textit{Confucian patriarchy} refers to the customary patriarchy established by ancient Chinese ideologies, whereas \textit{democratic patriarchy} refers to a modernized version of patriarchy after the emancipation of the male proletariat. For women, says Li, if “patriarchy” is not fully eliminated, gender inequality will continue to be a serious social problem in China, especially in rural areas. Overall, Li claims that socialist feminism is not an effective tool for pursuing gender equality in China.\textsuperscript{26} Such an assertion surpasses the attitudes conveyed by Bourgon and Liu. For them, the main contribution of ancient Chinese customs in this context is that they shaped women’s subordinate status in society. In comparison, Li highlights the future of feminists by introducing a trap that they may fall into, which is to naively support “democratic patriarchy.” Such a contribution increases the possibility for women to obtain an equalized social status with men because it reminds women of the importance of making themselves heard socioeconomically, a crucial aspect that is partially associated with MacKinnon’s ideas discussed earlier. To rationalize their ideas, Hong Kong women must have turned to a legal viewpoint at the same time.

The Legal/Judicial Clash

Finally, there is a debate about whether it was better for the British to use their own laws to control the people of Hong Kong. Some researchers believe the adoption of British laws might not be as damaging to Hong Kong as was previously predicted, as it could have emancipated women earlier. Greatly influenced by the

\textsuperscript{21} Li.
\textsuperscript{22} Ibid., 37.
\textsuperscript{23} Ibid.
\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid., 34.
\textsuperscript{26} Ibid.
Enlightenment, the British started to question the divinity of patriarchy in the eighteenth century instead of viewing the matter as “the stable marker of a cosmic and largely inscrutable divine order.”

In the nineteenth century, as Great Britain expanded geographically, white supremacy was further accentuated. Such a social trend brought equalization between men and women, especially among the white race, to center stage. However, hardly any significant changes were made. Fortunately, according to Wm. Roger Louis, as the British Empire gradually disbanded after World War II, the nation experienced a “[transformation] in imperial discourse,” in which “the reconceptualization of Empire to Commonwealth, a 'move from (masculine) power to (feminine) service’” was epitomized. This signifies British women’s access to job positions in the political field. Another avenue for women to participate in politics appeared when the British government gave women the right to vote before the proclamation of the 1923 Act. In contrast, Chinese customary law, which originated from locals’ adoption of ancient Chinese customs that treasured male supremacy, was used in colonial Hong Kong. Overall, Philippa Levine used historical facts from the eighteenth and nineteenth centuries to show Britain’s leading position in achieving gender equality, whereas Ann Sumner Holmes set her descriptions upon Louis’s by explaining amendments of British laws in the twentieth century, a time that connects better to colonial Hong Kong. Even though it seems that, from a judicial perspective, it would have been better for colonial Hong Kong to accept full British control because of the latter’s equalization of the two sexes, however, some researchers still argue that it was wise for the British to allow the continuation of Chinese customary law.

According to some researchers, Hong Kong being ruled by British laws was not a good idea. One of the major inceptions of this view is the high position of archaic values, such as politeness (li), filial piety (xiao), and trust (xin), in Chinese society. The denizens of Mainland China and Hong Kong incorporated these values into their judgments of civil matters, in which local customs served as the law, except when they were “proscribed by decree, ordinance, or statute.” Thus, using statutes such as the UK Prescription Act in this scenario would be “inapplicable to the local circumstances and inhabitants” because “the British system of imposing a magistrate over the Chinese customary rule seemed to create a contradiction in this system.” Because of the range of applicability of Chinese customs, however, Gary

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28 Ibid.
29 Ibid., 80.
31 Wen.
32 Lilienthal, Wang, and Ahmad.
33 Ibid.
Lilienthal, Wang Shi Qi, and Nehaluddin Ahmad argue that colonizers could use British laws in affairs beyond civil matters such as torture. This opinion differs from that of Wen Yen Tsao, who believes that once a manmade practice like Chinese customary law is rigidly established, it cannot be eroded by anything else. Overall, although Lilienthal et al. and Wen agree on the erroneousness of British laws ruling Hong Kong, they contradict one another about the extent. According to Lilienthal and his associates, British laws could be used in issues beyond civil matters, whereas Wen believes it was wise to fully allow the continuation of Chinese customs in Hong Kong.

Even though the researchers devoted their energy to analyzing women’s lives in Hong Kong, they still left gaps that have yet to be filled, especially from a comprehensive view.

Inferences

The authors of the literature discussed above are generally excellent in recording statistical facts and applying academic theories; however, many of the sources, such as those used by Ann Sumner Holmes, have distant publication dates (1860s). Additionally, sources such as Jérôme Bourgon’s article “Historians at the Court: How Cultural Expertise in Qing Law Contributes to the Invention of Hong Kong ‘Chinese Customary Law’” do not show readers a tight association between the title and the paper’s topic. Furthermore, by looking at some sources’ date of composition, we may question the accuracy of the literature because the researchers might have been restricted from delivering truth to their readers. For instance, Wen's “The Chinese Family from Customary Law to Positive Law” was published in May 1966, right on the verge of the Chinese Cultural Revolution. This meant Wen could have been limited in his right to speak as an academic researcher.

These debates set the historical background of the cases analyzed in the Reevaluations section of this paper. Though the cited authors managed to dive into their specified research topics from different perspectives, there is no literature on my topic with a synthesis of the academic lenses mentioned above. In this paper, I attempt to answer the following research questions:

1. What are the necessary steps to promote gender equality in jurisdictions?

2. How did the matrimonial codes in colonial Hong Kong compare to those in Mainland China, Britain, and colonial Singapore in demonstrating the lawmakers’ attitudes toward gender equality?

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34 Wen.
Methodologies: The Significance of Feminism and Its Effects in Pursuing Gender Equality

What Women Should Do

Gender inequality arose from our primitive antecedents thousands of years ago. To eradicate this condition through the concept of feminism, no group serves better as candidates of great import than females because of their deficiency of rights as human beings compared to their counterparts; however, during the process, females should be conscious of their situation, which means they should neither step back cravenly nor advance mindlessly. The characteristics of the current situation and the rational actions suggested under the guidance of feminism are available in various books, with the most notable being Toward a Feminist Theory of the State by Catherine MacKinnon, a radical feminist scholar.

To pursue gender equality, women must undergo “consciousness-raising,” in which they must reorganize and view their experiences critically. They must utilize society as a figurative mirror, so it reflects their lives under the prosecution of masculine forces. Specifically, women are “pushed into [service] jobs, made to apologize for existing, taught to be unable to do anything requiring any strength at all, like opening doors and bottles.” With the help of the mirror, women can rediscover the consciousness grounded in the thawing of masculine domination, where they cast doubt about their self-concept: who they really are, how they are treated in families, and more. This meditative step then expands to the other females in society, where it finally settles into the conclusion that women were not born to be persecuted but that men view them in a stereotypical way with the assistance of physiology and it is the women who show complacency about this definition, the “truth,” and the process of being molded into “deformed postures” of serving in inferior jobs and mentally relying on their masculine relatives. This is exactly how some women restrict themselves from being subordinated by their social relationships with men.

The most pervasive part of consciousness-raising is the realization of the imbalance of power between the sexes, in which women sense that masculine power lives inside them, even though the power is not enshrined in any legalized statutes. After connecting with the reanalysis of self-concept, this sensation provides women with a verified interpretation of their discontent not as “crazy maladjusted,

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35 Ibid., 84.
37 MacKinnon, 88.
38 Ibid., 90.
hormonally imbalanced, bitchy, or ungrateful” but as an appropriate response to the situation. Thus, the necessity to act for a change toward balance in power arose from the depths of women’s minds, supported by consciousness-raising with correct knowledge.

There are several limitations in the overall analysis of consciousness-raising. Though MacKinnon states the connection between feminism and science, asserting that science symbolizes objectivity while feminism stands for subjectivity, she does not provide an effectual elaboration that connects the two terms to their attached interpretations, which weakens the bond between this paragraph and the rest of the analysis. In addition, the author connects her statements with Marxist theories. Although MacKinnon’s reattachment to feminist theories at the end of this segment may sound persuasive, it is unnecessary for her to restate terms that are relevant to Marxism only.

Feminist Jurisprudence: A Change for the Sake of Women

After the awakening of feminist consciousness, it is necessary for women to take further steps in advancing their desire to change their current conditions in society. This step, feminist jurisprudence, is vital but risky. On one hand, it further objectifies women’s actions under feminism. On the other hand, feminist jurisprudence leaves abstract rights, which authorize masculine hegemony, in awe, for it “has never been tried.” With this step achieved in the future, the figurative balance that tips toward the masculine will return to its neutral form.

Although women’s participation in consciousness-raising continues to increase, women are still members of a world in which they have no right to compose or modify domestic constitutions, redefine laws, or show their experiences externally. The main reason for this phenomenon is that men are not only capable of determining the characteristics of laws and constitutions but also unrestricted from actions that threaten feminine dignity. With such a dehumanizing background, there are various ways for women to initiate change to promote neutrality between the sexes, but why is it perspicacious for them to choose the law? MacKinnon provides us with a piece of background information:

Marx saw the modern state as “the official expression of antagonism in civil society.” Because political power in such a state could emancipate the

39 Ibid., 100.
40 Ibid., 97.
41 Ibid., 248.
42 Ibid., 249.
individual only within the framework of the existing social order, law could emancipate women to be equal only within “the slavery of civil society.”

Marx believed that women were restricted to the maximum extent from a legal perspective, in which they were blindfolded from seeing what sexual equality really looks like. In this case, it is necessary for women to critically view the laws in society and to advocate a modification of the legislation to “change the state’s relation to women and the women’s relation to men.” Under feminine jurisprudence, the first step is to be equipped with concrete reality. This can be partially completed by consciousness-raising and then fulfilled by women’s knowledge of the dehumanizing context of the law that implicitly supports the exclusion of females from inheritance, the denigration of women as entertainment, the regulations set for women in reproductive issues, and many others. The next step is to obtain a deeper understanding of masculine advantages. Eventually, these privileges encourage men to mistakenly believe in the naturalness of participating in sexually violent actions such as rape, prohibiting their spouses from abortion, and producing pornography to emphasize feminine subordination. When men are deprived of these extra rights, they feel they are being treated unequally in society. With effectual evidence, sexual inequality can be presupposed as a “factual backdrop,” which can exert pressure on the organizations in charge of composing laws, thereby forcing them to prioritize sexual equality and establish a new relationship between life and law, according to MacKinnon.

Though MacKinnon introduced the importance of feminine jurisprudence, there are ways in which her analysis is limited. For one thing, the differentiation between analysis and feminine jurisprudence is vague, which means it is plausible to unite the two. In addition, the examples mentioned by MacKinnon to support her point about masculine advantages are effective yet unique. In fact, it is better to utilize some common examples in this field, including marriage and inheritance.

As a theoretical framework dedicated to justify gender equality, feminine jurisprudence is an effective method in the impending sections of this paper, where I will talk about two cases judged in colonial Hong Kong during the 1960s and 1970s, since it binds feminism with legal judgments.

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43 Ibid., 240.
44 Ibid., 244.
45 Ibid.
46 Ibid.
47 Ibid., 247.
48 Ibid., 248.
Two Cases in Colonial Hong Kong

The following cases were selected from an online dossier of jurisdictions judged in colonial Hong Kong between the 1950s and the 1980s.

1973 Divorce Jurisdiction

Luk Chan Lai Wah, a citizen of colonial Hong Kong, initiated divorce proceedings by filing a petition for divorce on November 16, 1972. In the petition, she sued her husband, Luk Chi Man, and demanded periodic payments from him for the 10-year-old child of the family. Though such a petition could make the jury turn against the first respondent easily, Registrar Jones analyzed the property backgrounds on both sides before making an ultimate decision.

Registrar Jones first collected information from the first respondent, Luk Chi Man. He discovered that Luk worked as a canvasser at Messageries Maritimes, a shipping company, with a monthly salary of $1,450. Additionally, Luk had a total of $2,000 in his two bank accounts. Plus, he had 1000 shares in Success Holdings, with $5.50 per share currently. Astoundingly, a large percentage of the first respondent’s property came from housing.

Not long after his marriage to Luk Chan Lai Wah in 1961, Luk Chi Man bought a flat in Tai Kok Tsui for $15,000 but soon posted it for rent. The tenants in his flat paid him $250 a month. Temporarily, Austin Mansion and Kiu Yip Mansion had allured Luk at the beginning of the 1960s, but he gave them up in 1965, when he sold the latter for $50,000. In 1966, Luk bought a flat in Star Court for $70,000 with a deposit between $25,000 and $26,000; however, such an expensive flat could not satisfy Luk, so he offered it to others, and renters agreed to pay him $1,800 a month. Notably, this agreement was witnessed by Luk’s father. As time passed, Luk became financially stronger. Thus, after abandoning one segment of his property, a flat in Coral Court, in May 1972, Luk bought a flat at 14C Broadway Street for approximately $180,000, living there with his father and stepmother. Unexpectedly, because of his “intention to avoid or to defeat the claims of the petitioner,” Luk “sold” the flat on Broadway Street to his father and rejected the financial payments offered by the elderly man.

Compared to her husband, the petitioner was significantly more vulnerable in her finances. Though her job as an employee in a wig factory provided her with $450 monthly, she had stopped working because of health problems, including insomnia. In addition, Luk Chan Lai Wah had a flat in her name, officially a matrimonial home at North Point. Luk Chi Man voluntarily paid her $600 a month. Such conditions

49 Luk Chan Lai Wah v. Luk Chi Man and Another [1973], Hong Kong Family Court, Judgment No. FCMC457/1972 (7 April 1973).
could not satisfy Luk Chan Lai Wah’s monthly expenses ($1,600 per month: $600 for food, $100 for electricity, $300 for clothing and medicine, $100 for school fees, and $500 for rent). She therefore had to borrow money from her younger sister to pay for the expenses above her income.

After collecting this vital information, Registrar Jones reevaluated Luk Chi Man’s monthly income. Because Luk Chi Man’s income originated from rent payments and personal salaries, he had $3,500, with nearly $800 for mortgage. This left him with $2,700. In contrast, Luk Chan Lai Wah had no personal capital assets but relied on her husband’s voluntary payments. Registrar Jones therefore decided to rescue the petitioner and her child financially. He concluded that the “correct figure” to award the petitioner was “$750 per month” and “$350 for the child’s periodical payments.” Even though Luk Chi Man should have been punished for his attempt to gloss over his violations against the Matrimonial Proceedings and Property Ordinance—one of Hong Kong’s law codes independent from Chinese customary law—however, Registrar Jones decided to dilute his judgment by guaranteeing his readers that “it will be open to more severe scrutiny in later proceedings.”

1969 Jurisdiction about the Li Wah Fuk Tso

In 1908, Li Wah Fuk, a member of the Li clan in Hong Kong, died. He left his property to his young wife, Li Tang Shi. Conventionally, Li Tang Shi should have been given the right to manage the property until a suitable heir emerged; however, Li Wai Kwong, who claimed to be Li Wah Fuk’s heir, instigated the district officer and the elders in the clan to remove Li Tang Shi from the managership of the Li Wah Fuk Tso (Tso signifies that the owner of something is dead and his property belongs to the family) on November 8, 1967. This action infuriated Li Tang Shi and many others on her side, and they filed a petition to the court in 1969.

Many things happened before the district officer made his decision:

March 28, 1912—The district office authorized the plaintiff and two other men as temporary managers of Li Wah Fuk’s property. The property was transferred from personal land to family land.

February 24, 1959—The first defendant demanded involvement in the maintenance of the Li Wah Fuk Tso.

June 9, 1959—The first defendant was given the chance to restate his determination to become Li Wah Fuk’s successor.

June 20, 1959—Mr. Fraser, Chau Chi Chung, first defendant—The first defendant was the rightful heir to Li Wah Fuk’s property.

50 Ibid.
51 Ibid.
February 26, 1965—The plaintiff intended to transfer certain proportions of the Li Wah Fuk Tso to the first defendant but changed her mind soon after.

August 1, 1965—The first defendant was appointed as an additional manager of the Li Wah Fuk Tso.

April 26, 1967—The first defendant requested that District Officer Yuen Long cancel the plaintiff’s managership, claiming that the old lady had not been fulfilling her duties (paying respects to Li ancestors).

May 7, 1967—Yuen Long sent the plaintiff a letter asking her for an explanation but received no reply.

June 27, 1967—Objections to the removal of Li Tang Shi from managing the Li Wah Fuk Tso were prohibited.

October 20, 1967—The plaintiff’s solicitors asked for an extension for their client to reply to the charges against her. This was refused by District Officer Sweetman, who wanted to finish the case as soon as possible.

People who participated in the judgment expressed their ideas about different segments of the case. The first clash in the jurisdiction focused on the effect of adding Tso to Li Wah Fuk’s property. Mr. Aker-Jones, an administrative officer, believed that when the word is added to someone’s name, it not only signifies the death of the person but also prevents the property from being alienated by an individual like the plaintiff; however, Tang Pui King, the younger brother of the plaintiff, Li Tang Shi, disagreed. He emphasized his sister’s inviolable right to manage her husband’s property, especially when it came to the addition of Tso. In addition, Tang asserted that the appointment of the two trustees after the implementation of Tso on his brother-in-law’s property was simply a stratagem to restrict his sister from management because of her age when she lost her husband.

Compared to those of the previous two participants, the ideas of Hu Wa Yun, an expert in Qing law, sounded relatively abstruse. In fact, though he affirmed the power of Tso in determining whether someone had died, he disagreed with Mr. Aker-Jones, claiming, “The expression ‘Tso’ refers to a single person only, unlike the expression ‘Tong,’ which means a family group.”

The second clash, a minor one, was about Li Wai Kwong’s role as Li Wah Fuk’s heir. Several elders in the Li clan, as well as the district officer, Mr. Sweetman, supported Li Wai Kwong as the heir of Li Wah Fuk. The elders created a family tree of the clan, in which they discovered that the first defendant, Li Wai Kwong, was the great-great-grandson of Li Tim Sau, the great-grandfather of Li Wah Fuk. Though this piece of physical evidence increased the pro side’s possibility of winning, Chau

Chi Chun, solicitor of the second defendant, Lily Wong, blurred the relationship between Li Wah Fuk and the first defendant. In fact, Chau distanced Li Tim Sau from the first defendant: “But in a family tree contained in a file included as an exhibit, he appears as of the nineteenth generation.” Eventually, Chau’s actions implicitly restricted Li Wai Kwong from achieving his goals.

In contrast, Mr. Sweetman did not provide any evidence to support his position. In fact, he neglected to consider the plaintiff’s vulnerable health during the time of jurisdiction. He believed that the first defendant, Li Wai Kwong, should be given priority to restate and achieve his goal of becoming the heir of Li Wah Fuk, since Li Tang Shi was absent from the 1959 interviews. When he failed to receive any reply from Li Tang Shi when people, including the second defendant, sued her for not fulfilling filial duties such as sweeping the graves of the Li ancestors, he assumed that the plaintiff admitted her misdeeds and that it was fitting to remove her from the managership of her husband’s property and place Li Wai Kwong in her place. Such decisions were criticized by Mr. Litton, a solicitor on the side of the plaintiff. He believed that Mr. Sweetman’s judgments violated the law of natural justice.

Coram Briggs, the judge for this case, based his opinions on his recognition of Chinese customs and the New Territories Ordinance, a law code that supported Chinese customary law. He made his most vital agreement with the first defendant’s side by claiming that the interview on June 15, 1959, did not threaten the plaintiff’s right as the sole trustee of the Li Wah Fuk Tso. The only notable thing accomplished by the interview was the certification of Li Wai Kwong’s rights as heir, and such certification did not violate the plaintiff’s desires, for she had not adopted a suitable heir before the appearance of Li Wai Kwong. Tang Pui King’s second assertion could not stand, because he failed to provide any supportive evidence.

Briggs disagreed with several of the arguments on the side of the first defendant, however. He argued that it was not necessary to appoint additional trustees for the purpose mentioned by Mr. Aker-Jones. The clan should be aware that the plaintiff could not be the heir by custom; thus, nobody should be there to restrict her rights because she should give up her managership when a credible heir appeared. Also, the nomination of the first defendant as the rightful heir did not stand, for those who had made the decision had not asked the plaintiff for approval. Plus, Briggs believed that the plaintiff had certain obligations toward the Lis but that the first defendant’s side could not use that as an excuse to remove her because it “was a serious matter and affected not only her dignity but perhaps her pocket also.” Based on the major arguments made by the participants, Briggs concluded that the first defendant and his supporters had mainly used the plaintiff’s advanced age as a pretext and therefore, the dictum that attempted to remove the plaintiff from

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53 Ibid.
54 Ibid.
managing the Li Wah Fuk Tso was indefensible and the lady should remain as the sole trustee before the selection of an heir.

Reevaluations of Coram Briggs and Registrar Jones

The Judges in General

Though the two proceedings were judged approximately in the same decade, they are differentiated in the law codes on which they relied and in the judges’ mistakes. First, the law codes on which the two judges based their judgments were different. Registrar Jones relied on the Matrimonial Proceedings and Property Ordinance, a law code independent of Chinese customs. Because of his affirmation of such attitudes toward women, Registrar Jones did not judge the divorce jurisdiction between Luk Chi Man and Luk Chan Lai Wah fairly, especially for the latter, who experienced consciousness-raising before the proceedings. Instead of relying on the Matrimonial Proceedings and Property Ordinance, the case between Li Tang Shi and Li Wai Kwong was judged on the basis of the New Territories Ordinance, which supported Chinese customs.

On the British Mainland

A significant number of parliamentarians in the British Isles considered married women’s rights in property management a vital issue. Propelled by such a mindset, the topic was raised in Parliament in 1868, and the solicitor general already considered women’s inequality in property rights a “question of justice” rather than a problem that affected women only. Although the solicitor general was the only person who made this argument, the power of his ideas should not be denied, as he was the one who summed up the debate. Fortunately, the advocacy of parliamentarians such as the solicitor general paid off. In 1870, the British Parliament finally passed the Married Women’s Property Act, which allowed women to “keep their wages and investments independent of their husbands, inherit small sums, hold property either rented or inherited from close family, and make both parents liable for children.” This was only a preliminary step in the emancipation of British women, however. In 1882, the British Parliament amended the act by extending women’s rights:

A married woman shall, in accordance with the provisions of this Act, be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal

55 Russell Gurney et al., Married Women’s Property Bill (18 May 1870).
property as her separate property, in the same manner as if she were a feme sole, without the intervention of any trustee. . . .

A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract. 57

If Li Tang Shi had lived in Britain during the 1880s, her rights as a suitable candidate for property ownership might not have been neglected. Specifically, she could have managed her husband’s property permanently instead of facing pressure to adopt a male relative whose relationship to her husband was of questionable proximity. Besides, with these policies in effect, Li Wai Kwong would not have had the chance to demand his rights to manage Li Wah Fuk Tso as a trustee, especially by encouraging the Hong Kong court to abolish the plaintiff’s rights of managing the tso with the excuse of not paying respect to the ancestors in the clan. Thus, considering the Married Women’s Property Act issued in 1882, British women attained “female jurisprudence,” whereas until the handover of Hong Kong to the PRC in July 1997, Hong Kong women were treated as objects who hardly deserved human rights.

To extend the Married Women’s Property Act in 1882, a judicial amendment that did not provide sufficient details for solutions to matters like the case between Luk Chan Lai Wah and Luk Chi Man, the British legislation issued the Matrimonial Proceedings and Property Act in 1970. The first two articles in the third section of this amendment clearly state:

Section 3: Financial provision for child of the family in cases of divorce, etc.

(1) Subject to the provisions of section 8 of this Act, in proceedings for divorce, nullity of marriage or judicial separation, the court may make any one or more of the orders mentioned in subsection (2) below—

(a) before or on granting the decree of divorce, of nullity of marriage or of judicial separation, as the case may be, or at any time thereafter;

(b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal.

(2) The orders referred to in subsection (1) above are—

(a) an order that a party to the marriage shall make to such person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments and for such term as may be so specified;

(b) an order that a party to the marriage shall secure to such person as may be so specified for the benefit of such a child, or to such a child, to

57 Married Women’s Property Act, 1882, 45 & 46 Vict.
the satisfaction of the court, such periodical payments and for such term as may be so specified;

(c) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of such a child, or to such a child, such lump sum as may be so specified. 58

If these articles had been in effect in Hong Kong, it would have been obvious that Luk Chi Man had not fulfilled his financial responsibility as a father under this article, and Registrar Jones would have further elevated the petitioner's financial assets to a value that was at least similar to that of the first respondent's assets.

Though the first respondent and Luk Chan Lai Wah had been divorced for a year (in March 1972), he was never emancipated from the role of father. As a parent, he should ensure that his child had a pleasant life. Unfortunately, Registrar Jones's decision did not provide the first respondent with the chance to fulfill this paternal obligation. According to the petition, Registrar Jones made only the decision that “[i]n all the circumstances I am of the opinion that the correct figure to award the petitioner for maintenance pending suit is the sum of $750 per month and for the child a periodical payments order of $350 per month, payments to commence on 1 April 1973.” 59 Under the Matrimonial Proceedings and Property Ordinance, such a decision was still deficient in supporting Luk Chi Man's child with his wife. Because the court had given the petitioner custody of the child, she required substantial assets to ensure that her child had a pleasant life. Having no capital assets of her own would make Luk Chan Lai Wah's life more difficult because she needed money to pay for her child's education (not urgent during the year she filed the petition but potentially crucial in the future) and other daily demands. She could not rely on her husband or relatives forever, for these people could benefit her only temporarily. After spending what they had lent to her, Luk Chan Lai Wah would have to figure out how to repay her benefactors, which was another challenge in her life.

In the PRC

The Chinese Mainland court had a different law system regarding the issue around the time the case took place. In the 1950s, supported by domestic statutes, Chinese women's position in society rose to an unprecedentedly high extent. This phenomenon is reiterated in Articles 7, 8, 10, and 12 of the 1950 amendment of the Marriage Law of the People's Republic of China:

Article 7: Husband and wife are companions living together and enjoy equal status in the home.

59 Luk Chan Lai Wah v. Luk Chi Man and Another.
Article 8: Husband and wife are in duty bound to love, respect, assist and look after each other, to live in harmony, to engage in productive work, to care for their children and strive jointly for the welfare of the family and for the building up [of] the new society.

Article 10: Husband and wife have equal rights in the possession and management of the family property.

Article 12: Husband and wife have the right to inherit each other’s property.\(^6\)

Article 7 broadly stated the eradication of women’s subordination to their husbands, and this assertion was gradually specified in the articles that followed. If we view these exemplary statutes from a synthesized viewpoint, we can see that the government of the PRC treated women as human beings rather than as objects they could easily trick and put restrictions on.

Though Coram Briggs disapproved of the first defendant’s excuses, he evidently did not claim that Li Tang Shi, wife of Li Wah Fuk, had either an equal status with her husband at home or the congenital right to manage and possess the Li Wah Fuk Tso, according to what was stated in Articles 7 and 10 of the PRC’s New Marriage Law (1950). Coram Briggs’s true position in the matter thus remains implicit. If another male member from the Li family had been in Li Wai Kwong’s place with excuses that correlated with ancient Chinese customs, Coram Briggs might not have offered strong disagreements. In fact, he might even have declared that the first defendant had won the petition. If these articles had been applied to matrimonial cases in Hong Kong during the 1950s, Coram Briggs would likely have been determined to view Li Tang Shi’s gender as a natural trait rather than a disadvantageous characteristic. In that case, he would have declared the plaintiff, Li Tang Shi, triumphant when she used this petition to fight for what she deserved as a married woman.

As for Luk Chan Lai Wah and Luk Chi Man, the Chinese legislature made a clear statement in Article 23 of the New Marriage Law of the People’s Republic of China (1950) that emphasized the ex-husband’s obligation to ensure a fair property division between him and his ex-wife:

In case of divorce, the wife retains such property as belonged to her prior to her marriage. The disposal of other family property is subject to agreement between the two parties. In cases where agreement cannot be reached, the people’s court should render a decision after taking into consideration the actual state of the family property, the interests of the wife and the child or children, and the principle of benefiting the development of production. In cases where the property allocated to the wife and her child or children is

\(^6\) People’s Republic of China, New Marriage Law, 1950.
sufficient for the maintenance and education of the child or children, the husband may be exempted from bearing further maintenance and education costs.\textsuperscript{61}

Additionally, Article 21 emphasized the unbreakable relationship between a father and a child despite divorce with the child’s mother:

If, after divorce, the mother is given custody of a child, the father is responsible for the whole or part of the necessary cost of the maintenance and education of the child. Both parties should reach an agreement regarding the amount and the duration of such maintenance and education. Lacking such an agreement, the people’s court should render a decision.\textsuperscript{62}

In Luk Chan Lai Wah’s petition, it was obvious that the first respondent had not only allocated most of the family’s financial property but also failed to bear certain proportions of the financial costs in maintenance and education for the petitioner and their child. Such an action in Communist China would have been a violation of the articles above.

Under articles relevant to divorce in the Marriage Law of the People’s Republic of China (1950), officials like Registrar Jones would first have allowed the petitioner and the first respondent to reach a consensus on how much each side should pay for maintenance and education. Since there would be a possibility of the two not reaching an agreement, Registrar Jones would have made the ultimate judgment, wherein the first respondent would have been forced either to balance the amount of property he and the petitioner owned or to numerically increase his financial assistance of Luk Chan Lai Wah each month.

\textit{In Colonial Singapore}

Singapore was once a colony under the British Empire. The Singaporean legislature issued the Women’s Charter (Chapter 353), which protected women’s rights, in September 1961. Article 51 of this charter states:

Subject to the provisions of this Act, a married woman shall—

(a) be capable of acquiring, holding and disposing of, any property;

(b) be capable of rendering herself, and being rendered, liable in respect of any tort, contract, debt or obligation;

(c) be capable of suing and being sued in her own name either in tort or in contract or otherwise and shall be entitled to all remedies and redress for all purposes; and

\textsuperscript{61} Ibid.

\textsuperscript{62} Ibid.
(d) be subject to the law relating to bankruptcy and to the enforcement of judgments and orders, in all respects as if she were a feme sole.63

Regarding possession of family property, Article 60 of the Women’s Charter states:

A married woman who is an executrix or administratrix, alone or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly as aforesaid of property subject to any trust, may sue or be sued, and may transfer or join in transferring any movable or immovable property belonging to the estate or trust without her husband as if she were a feme sole.64

Based on the articles above, Li Tang Shi would not have been disadvantaged in her petition, because her actions (such as filing a petition) would have been verified by Article 60 of the charter. Specifically, not only could she have sued Li Wai Kwong for his cunning stratagems, but she also could have legally transferred property to other people; yet, looking only at Article 60 seems to limit Li Tang Shi’s rights because the article would not validate her right to possess the Li Wah Fuk Tso. If we synthesize these two articles, however, we can see that, compared to colonial Hong Kong, the Singaporean legislature was significantly fairer to married women in their right to possess property. In fact, as the wife of Li Wah Fuk, Li Tang Shi could have either possessed the Li Wah Fuk Tso or transferred the ownership to someone she trusted.

The male participants in this case, such as Mr. Sweetman, would not have placed the first defendant immediately after Li Tang Shi intended to transfer some of the Li Wah Fuk Tso to the first defendant. Because the senior possessor had not concretely made Li Wai Kwong the heir, the judicial authorities in Hong Kong would have confirmed the concreteness of the matter before moving further. In fact, if Li Tang Shi had been a married woman under the effects of the Singapore Women’s Charter, she would have had the right to acquire the transferred property (back), according to Article 51. This means that she would still potentially have been a possessor of the Li Wah Fuk Tso and that abolishing her from the management of the Li Wah Fuk Tso would therefore have been denied judicially. If the courts in Hong Kong had relied on this charter to make judicial judgments, Li Tang Shi would have at least been given the opportunity to respond to the charges against her and she could have clarified her decision on managing her husband’s property as a legal candidate for acquiring and holding the Li Wah Fuk Tso. Specifically, if she no longer had the intention to withdraw her decision to transfer certain proportions of the Li Wah Fuk Tso to the first defendant, Li Tang Shi could have emphasized her decision to

64 Ibid.
continue as manager in her responses to the first defendant’s stratagems. Such an opportunity would have greatly mitigated the disadvantages that Li Tang Shi encountered from her absence in meetings between the first defendant’s side and governmental officials in Hong Kong.

For jurisdiction between Luk Chan Lai Wah and Luk Chi Man, the Singaporean Women’s Charter would have ensured that women had more rights. The first three parts of Article 114 of the charter clearly state:

Article 114: (1) In determining the amount of any maintenance to be paid by a man to his wife or former wife, the court shall have regard to all the circumstances of the case including the following matters:

(a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the family before the breakdown of the marriage.65

In her petition, Luk Chan Lai Wah was significantly disadvantaged in the first two parts, even though she and the first respondent’s conditions in the third part were not introduced in detail by Registrar Jones. Under the effects of this article, Registrar Jones would have mediated the case in a way similar to what he might have done under British law. Specifically, he would have paid more attention to part (b) in the article above, an aspect that he neglected under the Matrimonial Proceedings and Property Ordinance. According to the petition, Luk Chan Lai Wah had an extra obligation that her ex-husband did not have, which was to take custody of her 10-year-old child. By realizing such a situation, Registrar Jones might have elevated the monthly payments that the first respondent provided to the petitioner and her child, to a value that correlated with her future responsibilities.

Validations of the Participants’ Actions from a Feminist Perspective

Luk Chan Lai Wah’s reactions were rational and suitable as she went through the process of consciousness-raising. She filed the petition because of her reevaluation of self. She not only discovered her identity as her husband’s subject but also realized her unfair position in society. As a matter of fact, Luk Chan Lai Wah found that she was a woman incapable of managing her livelihood individually who must condescend to ask her ex-husband for periodic assistance ($600 a month).

65 Ibid.
Additionally, though she worked humbly in a career parallel to that of Luk Chi Man from a social perspective, her monthly salary was only $450, while her husband (a canvasser) received $1,450 per month. That was the preliminary step in consciousness-raising.

Luk Chan Lai Wah had considered her life and found that she had gradually become accustomed to a certain quality of life. She had been satisfied with being her husband’s wife, pleased with having Luk Chi Man as a benefactor, and complacent in her minute amount of property because of her gender. Overall, Luk Chan Lai Wah realized that she had implicitly admitted the validity of the stereotypical opinions imposed by men on women. Fortunately, she sensed the erroneousness of such a mindset, realized that she had the right to live in a style equivalent to that of her husband, and understood that her continued condescension to males would only make them more triumphant. Luk Chan Lai Wah also reconsidered masculine privileges in society and connected them with herself. In fact, she found that she not only had accepted her subordination to Luk Chi Man but had also affirmed other men’s claims that their rights were naturally given and did not require support by legal statutes. When sensing that men like her husband used these values as excuses for involvement in misdeeds such as adultery, however, she had realized that she, someone silenced by Chinese customary law and ignored even though “no law silences women,” had made a mistake in accepting patriarchal dominance. After undergoing the core segment of consciousness-raising, Luk Chan Lai Wah therefore found it necessary to file the petition and argue for female jurisprudence, gender equality, and feminine emancipation in the long term.

Li Tang Shi also went through consciousness-raising, reevaluating her status in society and her reactions to it. After reflection, Li Tang Shi found herself stuck in a separate class for her gender, a place used by the first defendant’s side as an excuse for alienating her from the Li Wah Fuk Tso.

Li Tang Shi had married Li Wah Fuk, a man who was approximately midway between a proletarian and a bourgeois, a little to the latter side. According to Engels’s theories, it was natural for a woman in such a family to be oppressed, especially in her relationship with her husband. The reasons for oppression could not stand in these proceedings, however, because they basically included only one excuse: The plaintiff was a woman weakened by advancing age and sickness. Such an excuse is weak in both quantity and quality. As a matter of fact, the plaintiff or defendant of a case can be permitted absences only when he/she has insurmountable excuses such as those of health. Li Tang Shi did not violate this requirement with her excuses, which means that the judges and officials engaged in hearing this case should have made decisions with her representatives’ consent; therefore, it was useless for the first defendant and

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66 MacKinnon.
his supporters to relate the plaintiff’s current status to her responsibilities for the Li ancestors and to instigate Mr. Sweetman, an official unwilling to be involved, to remove Li Tang Shi from managing the Li Wah Fuk Tso. Luk Chan Lai Wah should have received fair treatment mainly for her deficiency in property, and Li Tang Shi should have received fair treatment for her rights of management.

Though Coram Briggs was right to reject the removal of the plaintiff, he was mistaken in his judgment relevant to Chinese customary law. According to Chinese custom, women could not inherit family property, so what should the family do when there were no males to succeed? On this occasion, the mother had to adopt a son in the clan to be the heir, just like the plaintiff. From a broad perspective, this action could restrict the further development of the family, especially in the line of the deceased male. In addition, banning women from property inheritance is a priority of the patriarchy to deprive women of their rights. When men are given additional chances to do something women cannot, they receive support from women; however, the biggest benefit men receive is that “their interest itself is enforced and perpetuated and sustained: power.” After sensing such an imbalance in power, women need to promote change—“a new jurisprudence, a new relation between life and law,” and this is what the plaintiff did as a pioneer in the movement for gender equality. Such a movement would enable those like the first defendant to rise from the depression caused by their failure to obtain additional power.

The primary person to blame was not Coram Briggs but Mr. Sweetman, who convinced the first defendant to continue his impertinent actions and also neglected Li Tang Shi’s basic rights, yet the ultimate peacebreaker in these proceedings was Chinese customary law because of its unfair attitude toward women.

As for Registrar Jones, he made mistakes in judging both sides of the jurisdiction. Although he “awarded” Luk Chan Lai Wah more money, he did not allow her to be financially equal to her ex-husband, because he viewed her demands as pitiful requirements for extra support rather than a demand for basic human rights. Specifically, Luk Chi Man could still receive at least $1,450 each month, while the petitioner could only have $1,100. Such judgments reflected the registrar’s unwillingness to promote gender equality, yet Registrar Jones was not the primary peacebreaker to blame. His actions were guided by the Matrimonial Proceedings and Property Ordinance, a law code native to Hong Kong that opposes fairness between the sexes.

67 Ibid., 94.
68 Ibid., 249.
Conclusions

The two cases discussed were both judged in colonial Hong Kong, with foreigners appointed as juries, but there were differences in these two cases. First, the case in 1973 was judged under the Matrimonial Proceedings and Property Ordinance, a law code independent from ancient customs in China. In contrast, the 1969 case was judged under the New Territories Ordinance, a legal system that not only was domestic to Hong Kong but also supported Chinese customs: “Section 13 of that Ordinance states that the Court shall have power to recognize and enforce any custom or right affecting land in the New Territories.”

Additionally, the two judges were obviously different in their judgments. Registrar Jones underestimated the importance of the issue and soothed the petitioner by giving her “awards”—but not by punishing Luk Chi Man for his misdeeds—without directly basing his judgments on an ordinance independent from ancient Chinese customs. In contrast, Briggs affirmed the basic rights of the plaintiff but still supported Chinese customs, in which women could not inherit family properties.

The plaintiffs/petitioners of both cases would have received fairer judgments in Britain, the PRC, or colonial Singapore at the time they initiated proceedings. The judicial authorities in Britain and Singapore would have followed the specified versions of fathers’ and widows’ responsibilities and rights during their judgments; Chinese legislation gave women like Li Tang Shi and Luk Chan Lai Wah opportunities to express their opinions during adjudication, the same as male participants.

This research gave way to more efficient research, for it proves the crucial perspectives for studies in this discipline to follow. From the following differentiations, we can see that women’s status in colonial Hong Kong was incomparably more subordinated than that of women in Britain, the PRC, and colonial Singapore, and their positions gradually worsened during the second half of the twentieth century because the guarantee of female rights was considered inconsequential when the local legal system abolished the utilization of Ta Ching Lu Li in 1972.

Apart from the findings above, there are several ways to improve this research. First, the effectiveness of this study would be elevated to a significantly higher level if I were to reference sources from multiple scholars. These scholars can be either experts in other perspectives relevant to my study or historical figures who have contributed extensively to my research topic. Also, it would be better if I were to document more primary sources in this study, which could help increase the

Briggs.
credibility of my study because primary sources reflect historical scenarios with maximum accuracy. I thus believe that case studies explicated by feminism and additional disciplines such as economy can be conducted in the future.

My future research can be conducted in a better way. For one thing, I can choose a topic closer to the forefront of the academic community. If I continue with a topic that few scholars have laid their hands on, I may face great challenges in obtaining credible sources to support my research. Additionally, although I can continue with cross-national comparisons in matrimonial jurisdictions, my methodologies can be more diverse. Specifically, I can reference additional academic disciplines along with feminism. The most important thing for me to solve in future studies is to associate my analyses with Chinese customs directly.

Background and Reasons for Study

Throughout this study, it is undeniably true that the reasons for me to select 1960 through approximately 1975 as the time frame for analysis and that the stimulation for me to pick the two cases above are quite abstruse. I thus provide clarifications in these aspects. First, I chose this time frame for my study because I found this period of high practicality in my research’s discipline. Given that Hong Kong was connected to Britain because of colonization, China because of history, and colonial Singapore because of similar experiences, any of these regions for comparison should depict social traits similar to those in Hong Kong. Roughly before the 1960s, China was in the middle of political and economic turmoil (communists vs. nationalists and socialist reformations), which means that gender issues did not receive much attention in Chinese society. As for periods later than the 1970s, the handover of Hong Kong to the PRC was already on the front pages of the schedules of both the Chinese and British governments, which meant that Hong Kong was not substantially a foreign colony. Thus, it turned out that only the midpoint between these two eras (1960 to approximately 1975) was the most suitable for this topic.

Additionally, I selected the cases discussed for their comprehensiveness. On the website that documents the cases judged in colonial Hong Kong and a few cases judged in modern Hong Kong, the documentation for these cases contains the most detailed descriptions and diverse references to statutes in matrimony and property inheritance. As for the other cases in the same era, though most of them were based on the same statutes, their recordings were so generalized that it would be harder to understand the details.