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The Female Inheritance Movement in Hong Kong

Theorizing the Local/Global Interface¹

by Sally Engle Merry and
Rachel E. Stern

Human rights concepts dominate discussions about social justice at the global level, but how much local communities have adopted this language and what it means to them are far less clear. As individuals and local social movements take on human rights ideas, they transform the shape and meaning of rights to accommodate local understandings. At the same time, they retain aspects of the global framework as signs of a global modernity that they wish to share. How and when individuals in various social locations come to see themselves in terms of human rights is a complicated but critically important question for anthropologists of globalization as well as for human rights activists. Using the female inheritance movement in Hong Kong in the early 1990s as a case study, this article argues that the localization of global human rights ideas depends on a complicated set of activist groups with different ideological orientations along with translators who bridge the gaps. As it explores the local appropriation of global cultural products, it reveals the instabilities of global and local and the importance of tracing the processes of translation and collaboration that make communication across this continuum possible.

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In the spring of 1994, everyone in Hong Kong was talking about female inheritance. Women in the New Territories were subject to Chinese customary law and, under British colonialism, still unable to inherit land. That year, a group of rural indigenous women joined forces with Hong Kong women's groups to demand legal change. In the plaza in front of the Legislative Council building, amid shining office buildings, the indigenous women, dressed in the oversized hats of farm women, sang folk laments with new lyrics about injustice and inequality. Demonstrators from women's groups made speeches about gender equality and, at times, tore paper chains from their necks to symbolize liberation from Chinese customary law (Chan 1995:4). Across the plaza, a conservative group representing rural elite interests, the Heung Yee Kuk, gathered in large numbers to protest female inheritance on the grounds that it would undermine tradition. One banner held the plaintive message "Why are you killing our culture?" (p. 30).

The starting point for this research was the odd juxtaposition of rural women wearing farm hats and the transnational rhetoric of rights and gender equality that they employed to lobby for legal change. The majority of these women had never been in the central business district before. How did they become part of a movement that framed their grievances as a violation of their human rights when they needed directions even to find downtown? How did they recognize the potential of legislative change to solve their particular problems? In other words, how were human rights made local? To what extent were they indigenized, that is, translated into local terms that made sense to rural village women?

On a small scale, the 1993-94 female inheritance movement is a case study of globalization. There is a widespread assumption that the global circulation of ideas is increasing cultural homogeneity, but, as Appadurai (1996:7) suggests, global ideas circulated through the mass media also spark resistance, selectivity, and agency, creating vernacular forms of globalization.² Scholars emphasize the global circulation of ideas and images but rarely examine how transnational ideas and discourses become localized. The female inheritance movement offers an opportunity to examine a vernacular form of globalization and to think about how global ideas are reinterpreted in terms of local categories of meaning.

2. Some studies show that global ideas build on local referents to establish their meaning and value, as in transnational fashions and music (see, e.g., Feld 2001).

This process of localization is a high-stakes question in the universalism-versus-relativism debate. Although the idea of human rights creates universal standards (Donnelly 2003), proponents of Asian values, most famously Lee Kuan Yew of Singapore, argue that it is based on Western individualism and does not readily apply to more collectivist Asian societies (see Bauer and Bell 1999:3–23). Although support for Asian values has diminished, it is common for members of non-European societies to argue that the idea of human rights is an alien, Western concept which does not fit into their cultural framework. By focusing on how human rights are interpreted in local cultural terms and gain legitimacy within local communities, localization offers one way to bridge the divide between universalism and relativism. Anthropological research on human rights, for example, focuses on processes of appropriating rights and critiques the notion of an opposition between universalism and relativism (Wilson 1996, Cowan, Dembour, and Wilson 2001). Abdullahi An-Na'im also argues that "human rights are much more credible . . . if they are perceived to be legitimate within the various cultural traditions of the world" (1992a:3, see also An-Na'im 1992b, 2002). He advocates a cross-cultural approach in which rights are "conceived and articulated within the widest possible range of cultural traditions" as a way of increasing their credibility, legitimacy, and efficacy (1992a:2).

From another angle, there is a growing body of research on transnational social movements that blends social movement theory with transnational network analysis. This work asks how transnational movements and actors promote normative and political change at the global level (Keck and Sikkink 1998, Khagram, Ricker, and Sikkink 2002, Risse, Ropp, and Sikkink 1999). There is much discussion of norm creation because the political impact of transnational nongovernmental organizations (NGOs) often depends on the use of information, persuasion, and moral pressure (Khagram, Ricker, and Sikkink 2002:111). Framing, defined as "action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organization," is also an important ingredient in movement success as well as a way to push the creation of new norms (Snow and Benford 2000:614; see also Tarrow 1998). Work on framing, transnational networks, and norm creation generally explores interaction between domestic NGOs, transnational NGOs, movements, and states. Case studies often look at how coalitions both take advantage of existing international norms and institutions and create new ones. For example, Alison Brysk (2000) shows that Latin American indigenous people turned to international institutions only after efforts to frame their grievances in terms of rights had failed at home.

This scholarship on transnational movements, however, pays little attention to how local actors come to see their everyday grievances as violations of human rights or negotiate between their existing cultural frameworks and rights concepts. For those sympathetic to An-Na'im's argument, there is little detailed exploration of

what a dialogic approach to human rights means in practice. How do places like Hong Kong manage to employ rights language in a way that taps the power of universalism while responding to local conditions? Using an anthropological perspective, we examine the female inheritance movement in its historical, social, economic, and political context as an example of meaning-making at the grass roots in a rights-based movement. We develop a framework for thinking about process—charting how and why human rights ideas moved from their global sites of creation to local social movements. Two ideas are important here: *layers* and *translators*.

We see the female inheritance movement as a coalition of distinct layers. We call the different camps "layers" rather than "groups" as a way of conceptualizing their relationship to rights language and their relative distance from transnational ideas. Following the pioneering work of Stuart Scheingold (1974) and other socio-legal scholars (e.g., McCann 1994, Engel and Munger 2002), we see rights as a resource, albeit a limited one. The layers of the female inheritance movement formed a rough hierarchy in terms of the degree to which they tapped into this resource. For example, one layer emphasized the rights dimension of female inheritance while another framed the issue in terms of patriarchy and feudal thinking. The indigenous women themselves, whose stories formed the narrative core of the movement, generally saw themselves as the victims of unfeeling and rapacious male relatives, although they also came to see themselves as subject to gender discrimination. The movement was an amalgamation of the ways in which these different layers perceived the issue, incorporating both particularistic understandings of grievances and the more generalized framework of human rights.

Despite significant ideological differences, these layers were able to communicate through the services of people whom we term "translators." Translators were able to switch between different ways of framing the problem, facilitating collaboration between people in various layers who did not necessarily say the same thing or think about the issue in the same way. Translators, for example, helped the indigenous women recast their stories as violations of a right to protection from gender discrimination, something guaranteed by the Hong Kong government. These few intermediaries provided critical bridges between a human rights discourse connected to modernity and universalism and more particular and individualized ways of thinking about injuries.

This discussion of layers and translators shows that the human rights framework can play an important role even when rights talk only trickles down to protagonists through the mediation of translators. For a focus on human rights to be an effective political strategy, the idea of rights need not be adopted by participants at all levels of the movement and need not be culturally legitimate throughout the society. However, timing is critical. The Chinese crackdown at Tiananmen Square in 1989 and the anticipated handover to China in 1997 worried Hong Kong leaders and citizens concerned about protection for individual rights (Petersen 1996; Chan 1995:27). At this

historical juncture, human rights were an important source of what Kevin O'Brien terms "rightful resistance" (1996). By citing the gulf between international norms and the situation in Hong Kong, the women and their allies gained both legitimacy and public support.

Our research on the movement relies on ethnographic studies done at the time of the movement and subsequent field research in 2002–3, including interviews with many of the protagonists. These interviews took place nearly ten years after the movement. While they provided insight into how people saw the issue, we have relied heavily on secondary sources to reconstruct a timeline of events. Eliza Chan's (1995) master's thesis in anthropology at the Chinese University of Hong Kong was particularly valuable because Chan spent significant time with the indigenous women during the movement and placed emphasis on how they perceived events at the time. It was Chan's insightful analysis of the difference between the way indigenous women saw the movement and the way it was understood by others that started us on a further exploration of the female inheritance movement as a way of understanding the process of localizing human rights.

The Female Inheritance Movement

The central actors in the female inheritance movement are people labeled "indigenous," a term used in Hong Kong to describe the descendants of the population living in the New Territories at the time of the British colonial takeover in 1899. In anthropology, the term "indigenous" is usually used to refer to relatively homogeneous groups that were the initial inhabitants of a territory and have now been incorporated into larger national states. They often occupy a subordinate status within the state. In contrast, the New Territories is an ethnically diverse region that has experienced continuous immigration and settlement of various ethnic groups, largely Cantonese, Hakka, and Punti, over a long period of time (see Watson 1985). Groups typically claim indigenous identity on the basis of prior residence, custom, and community and use these claims as the basis for entitlements to land and resources. Thus, indigeneity is a political claim as well as a cultural status. In the Hong Kong context, "indigenous" was a label first imposed by the British and locally adopted to differentiate those with pre-1899 roots from more recent urban arrivals.

The catalyst for the movement was an indigenous woman, Lai-sheung Cheng, who became a key leader by tracking down other aggrieved women in the New Territories and contacting Hong Kong women's groups to push their claims. When Ms. Cheng's father died without a will (a common occurrence in the New Territories),³

3. Wills are considered bad luck in traditional Chinese culture because of their association with death. For this reason, wills detailing the division of property are rare. However, men occasionally leave "voice from the grave" wills that exhort family members to behave well or give a widow permission to remarry (Selby 1991:72–73; see also Wong 2000:173).

her two brothers inherited his house in Yuen Long. In May 1991 the brothers decided to sell the house to a developer. Ms. Cheng was still living on the second floor of the house, and she refused to leave unless she was given a share of the proceeds from the sale, citing a Qing-Dynasty custom allowing unmarried women to reside indefinitely in the family's home after a father's death (*South China Morning Post*, August 23, 1993, and Cheng interview, 2003). For the next two years she was harassed by the buyer of the house to force her to leave. The buyer routinely broke into the house, once smearing excrement and urine around the interior and on another occasion releasing mice (*Sunday Telegraph*, October 24, 1993, and Cheng interview, 2003). The harassment was so intense that Ms. Cheng said she had to call the police nearly every night.

Fed up, Ms. Cheng decided to make her story public. Her first step was to write a letter to Chris Patten, then governor of Hong Kong, saying, "I was persecuted because of the law" (Cheng interview, 2003). Not content with alerting Governor Patten, she wrote a letter to the Chinese newspaper *Oriental Daily* explaining her situation. The *Oriental Daily* did not publish the letter, but someone at the paper put Ms. Cheng in touch with Linda Wong, a social worker at the Hong Kong Federation of Women's Centres who was known to the staff because her organization was lobbying hard for a women's commission (Wong interview, 2003). Ms. Cheng told Linda Wong that she knew several other indigenous women in a similar situation, including Ying Tang, a patient at Ms. Cheng's Chinese-medicine clinic. She also said that several women had contacted her after they saw her name and story in a Chinese newspaper, the *Wah Kui Daily*. Ms. Wong asked Ms. Cheng to contact these women and bring them to a meeting, which she did in late 1993 (Wong interview, 2003). After this first meeting, the women began to publicize their stories. They met informally with various government officials, including members of the Hong Kong Legislative Council Anna Wu and Christine Loh, to explore their legal options. Their first formal step was a meeting at the Complaints Division of the Office of Members of the Legislative Council (Wong interview, 2003).

Framing the Issue

As the indigenous women were organizing, prohibition of female inheritance in the New Territories was gaining prominence as a political issue. On the most basic level, the conflict over female inheritance stemmed from Hong Kong's dual legal system regarding land. While Hong Kong Island and Kowloon, the two other regions of Hong Kong, are governed by laws and a legal system imported from Britain, the New Territories fall under the 1910 New Territories Ordinance, which recognizes Chinese customary law. Although the original legislation makes it sound as if courts had the option of using Chinese customary law to resolve land cases ("the courts have the power to enforce Chinese custom or customary

right"), the *Tang v Tang* decision (1970) established that application of Chinese custom to New Territories land cases was mandatory (Selby 1991:48; see also Loh 1997). As a result, there were two laws governing inheritance in Hong Kong in 1994: one in urban Hong Kong and another in the rural New Territories.

Discrimination against New Territories women had been on the radar screen of women's groups for a long time. When the Association for the Advancement of Feminism (AAF) was founded in 1984, abolishing discriminatory laws in the New Territories was mentioned in its position paper (Tong 1999:64). In addition, five women's groups asked the government to set up a working group to look into New Territories discrimination in July 1990 (Howarth et al. 1991:17). The issue of female inheritance took on increased importance after a 1991 shadow report by the Hong Kong Council of Women prepared in conjunction with Hong Kong's report to the Human Rights Committee in Geneva on compliance with the International Covenant on Civil and Political Rights (ICCPR).

NGO reports on UN treaties tend to vanish into the ether of documents surrounding UN work. However, this particular submission came at a high point of interest in human rights in Hong Kong. Hong Kong's Bill of Rights had been passed in July 1991,⁴ and in the wake of the events in Tiananmen Square Hong Kong was newly concerned with civil liberties and discrimination (Petersen 1996; see also Petersen and Samuels 2002: 47–48). Although the Heung Yee Kuk, a political organization representing rural villages, had lobbied to exempt "traditional rights" of male villagers from the Bill of Rights, it had failed to win an exemption (Petersen 1996:353–55).⁵ As a result, the Hong Kong Council of Women's report was able to claim that this was a form of gender discrimination that contravened the newly passed Bill of Rights (Howarth et al. 1991:16).

The shadow report was important because it framed the female inheritance issue in human rights terms. The four authors, all Western women with strong academic backgrounds, argued that male-only inheritance violated both the Convention on the Elimination of Discrimination Against Women (CEDAW) and the ICCPR (Ho-

warth et al. 1991:12).⁶ They further explained that Hong Kong's legislation governing succession—the Intestates' Estate Ordinance and the Probate and Administration Ordinance—did not apply to New Territories women (p. 14). The report included a well-reasoned argument as to why male-only inheritance was not protected by either the Joint Declaration or the Basic Law, the two documents outlining the terms of the handover (pp. 16–17). These legal arguments provided the critical intellectual framework for activists and legislators to push for equal inheritance. They also helped clear up confusion about the complicated dual legal system. The government could no longer claim, as the attorney general did in 1986, that they were "not aware of any provisions of [Hong Kong] law which discriminate against women" (quoted in Lui 1997: chap. 3, 5). The report called male-only inheritance a "feudal" result of a patriarchal Confucian social order and noted that it persisted in Hong Kong long after its abolition in China, Taiwan, and Singapore because the New Territories Ordinance had "led to a rigidification of customary law" (pp. 13, 15, 17).

The most important contribution of the report, however, was its discovery that the jurisdiction of the New Territories Ordinance was based on territory, not on indigenous identity, and therefore its prohibition of female inheritance applied to all residents of the New Territories. In 1994, 42% of the population of Hong Kong lived in the New Territories (Tong 1999:53). Most of the people lived in public housing estates or private flats that were not exempted from the New Territories Ordinance. As a result, women were ineligible to inherit property throughout most of the New Territories (Petersen 1996: 341; Jones interview, 2003).⁷ Amazingly, practically no one had realized this. The news of this discovery broke in the Chinese newspaper *Ming Pao* on September 6, 1993, and immediately created a crisis for the government (Wong 2000:299; see also Fischler 2000:215).⁸ The 340,000 owners of apartments and houses in urban parts of the New Territories suddenly discovered that Chinese customary law applied to them (Home Affairs Branch 1993). Clearly, the New Territories Ordinance would have to be amended to allow female urban residents to inherit property when the owner died intestate, following the laws in place in urban Hong Kong.

On November 19, 1993, the government introduced the New Territories Land (Exemption) Bill. The bill ex-

4. There were calls for a Bill of Rights prior to 1989, but the proposal was not endorsed by the government until after Tiananmen (Petersen 1996:350). In a tricky bit of legislation drafting, Hong Kong's Bill of Rights was modeled on the ICCPR to make it harder to repeal after the handover. China had already agreed in the Joint Declaration (the document outlining the terms of the handover) that the ICCPR would remain in force.

5. The Heung Yee Kuk, founded in 1926, has acted as a leader in protecting the interests of indigenous villagers, particularly with reference to land, and is the highest tier of the representative organization of the villagers (Chan 2003:67, 87). Kuk members consist of the chair and vice chair of each of 27 rural committees made up of representatives elected by their villages (Asian Television Network, February 27, 2001). These conservative clan leaders have in the past opposed development, but since the late 1950s they have stopped doing so and sought to increase compensation for land from the government (Chan 2003:71).

6. The Hong Kong Council of Women was formed in 1947. Because of an explosion in the number of local women's groups during the 1980s, membership in the early 1990s was limited to a small number of expatriate women.

7. The Hong Kong Council of Women also discovered that women had once been permitted to administer New Territories property after the death of a husband, father, or son, but 1971 changes to the laws governing inheritance had eliminated this possibility (Carol Jones, personal communication, October 14, 2003).

8. By the time the news broke, the Hong Kong Council of Women had already informed the government of the problem. In June 1993 the government started automatically exempting all new grants of lands (with the exception of land grants to indigenous villagers) from the New Territories Ordinance (*South China Morning Post*, March 11, 1994).

empted urban land, land generally inhabited by Hong Kong residents who had moved into the New Territories, from the New Territories Ordinance. This change was not contested by the rural political leaders or the government. It was only when a legislator proposed extending the right to inherit family land to rural indigenous women that a wave of protest erupted. Giving rural women the right to inherit family land was a dramatic departure from a practice dating back at least a hundred years. The first step in making this momentous change came with the creation of the Anti-Discrimination Female Indigenous Residents Committee.

The Anti-Discrimination Female Indigenous Residents Committee

On October 3, 1993, the indigenous women lodged their complaint with the Complaints Division of the Legislative Council. Less than a week later, the Legislative Council passed a nonbinding motion calling for female inheritance in the New Territories (*South China Morning Post*, October 14, 1993). Despite two hours of fierce debate, the motion passed easily, with 36 in favor and only 4 opposed. The Anti-Discrimination Female Indigenous Residents Committee was founded about the time of this debate (Wong 2000:299; Chan 1995:47). In addition to the indigenous women, it included Linda Wong, a representative of the AAF, a Radio Television Hong Kong reporter, an anthropology graduate student, and a labor organizer.⁹ With the help of these outsiders, the indigenous women began to tell their stories to a wider audience. Most important, they learned to tell these stories in a way that was politically effective.

In the beginning, the women saw their situations as personal wrongs perpetrated by particular relatives and stressed that they had been denied affection by their natal and marital relatives (Chan 1995:72). According to Linda Wong, the women were not thinking about changing the law until the first demonstration outside the Legislative Council. Rather, they were hoping that Legislative Council members would address their individual cases (interview, 2003).¹⁰ Chan (1995) argues that most of the women saw their claims in terms of kinship obligations, not equal rights. Most of the women did not criticize the patrilineal kinship system itself but blamed particular relatives who had reneged on their kinship obligations to provide them financial and emotional support in lieu of their fathers' land. One woman interviewed by Chan was most angry that her relatives had failed to keep in touch with her, forgetting that she was her fathers' "root and sprout" and "flesh and blood." If

she had inherited, she said, she would have allowed her relatives to live in her father's house as long as they maintained close ties with her (pp. 88–89).

When the women did make inheritance claims, they justified them on the basis of their filial ties to their father and sought to assert their membership in the lineage (Chan 1995:39). In telling their stories, several of the women emphasized the role they had played in their fathers' funerals to underscore their close ties to their fathers (pp. 82–85). Because they had been filial, affectionate daughters, they argued, they were entitled to inherit.¹¹ By using kinship ties to justify inheritance, they reinforced the patrilineal family system even as they asserted their rights (p. 97). Tellingly, only one of the women in the Anti-Discrimination Female Indigenous Residents Committee had a brother. The rest of the women were all "last-of-line" daughters (*juefangnu*) and, as a result, their fathers' land had been inherited by distant male relatives.¹² In Chan's interviews, most of the women said they would have been willing to give up their inheritance rights if they had had brothers (Chan 1995:72). Regardless, many villagers criticized them for behaving unreasonably in demanding a share of their natal family's property (p. 39). As the women began lobbying for a change in the law, they came under pressure for being "ungrateful" and for being "collaborators" with the Westernized "outsiders" (p. 126).

Through the Anti-Discrimination Female Indigenous Residents Committee, the indigenous women learned how to translate their kinship grievances into the language of rights and equality. This translation was critical because, in order to be politically persuasive, the women needed to phrase their needs in a language acceptable to those hearing their claims (Chan 1995:56). The Legislative Council and the media were interested not in family disputes over property but in stories that spoke to wider themes of gender equality and human rights. The women had to "learn" to put on an "elitist and rational pose," to present themselves as victims with a "detached" attitude, in language devoid of personal grievances and emotions (p. 100).

Although the Hong Kong Federation of Women's Centres claimed that the "women took all the initiatives by themselves while the Centre just concentrated on providing resources support," the process was more complicated (Hong Kong Federation of Women's Centres 1994):20; see also Lui 1997: chap. 4, 20). Chan describes how outsiders on the Residents Committee played an important role in framing the indigenous women's stories and, more generally, facilitating the transition to a more generalized, rights-based perspective (1995:119). The social workers drilled the women, teaching them

9. The exact number of members of the Residents Committee is unclear. Chan (1995:39) cites six active members, although one is a news reporter without a grievance. Wong and Chan (interview, 2003) list seven core members. Most likely, there was some flux over time.

10. This is a matter of dispute. In a 2003 interview Ms. Cheng claimed that the women knew that the law had to be changed from the start.

11. In some cases, affection and kinship were valid criteria for female inheritance. Chan (1997:155–59) discusses a case from the 1970s in which a village council ruled that a daughter could become trustee of her father's land because she was the person closest to her father.

12. All Chinese terms are in Mandarin. For a more extended discussion of what it means to be a "last-of-line" daughter, see Chan (1995:40, 60–63).

not to use slang and how to present themselves to the public (p. 120). They learned to ask for a broad change to an unfair law rather than mediation and a more equal division of property. On several occasions the outsiders in the group groomed the women in dealing with the media, particularly in how to respond to reporters. The emphasis, beyond avoiding slang and speaking with sufficient detachment, was on keeping the women's stories short and quotable. They wanted the women to reiterate a standard claim rather than telling their personal stories so that the movement did not appear to be motivated only by personal interest (p. 117). The women practiced responding to questions such as "There are some women in the New Territories who say that they do not need the rights of inheritance. Why do you still insist on it?" and "What experience of yours in the New Territories aroused you to speak out so boldly?" pp. 117-19; see also Chan interview, 2003, and Cheng interview, 2003). In one session, the social worker imitated the tone of the reporters in asking this question and taped the response given by one of the women. She then played the tape for the group to illustrate the power of placing an individual story in a wider context. For one woman, the principle of gender equality and human rights enabled her to claim inheritance even though her natal kin claimed that she was only an adopted, not a biological daughter (pp. 119-20). Under the human rights framework, she had rights regardless of her adopted status.

In addition, the Residents Committee helped the women branch out into different modes of expression, creating dramas and songs to illustrate the injustice of male-only inheritance. A labor organizer in the group became the "stage director" for the drama. As one interviewee put it, "She put together elements to strike those cameras," such as suggesting that the women dress in traditional clothes (Chan interview, 2003; see also Cheng interview, 2003). As part of this dramatization, the women needed to present a united front regardless of differences in age, ethnicity, and education. They had to negotiate a common identity as indigenous women, an identity forged through a series of small decisions within the group. When the women rewrote a traditional song to include new lyrics about injustice, for example, they had to find a song that everyone knew. In the end, they chose a Hakka mountain song (*shan ge*) even though the majority of the indigenous women were not Hakka (Cheng interview, 2003).

In creating the dramas, the organizers were responding to the stereotypes that they knew the media wanted to see. The media had long seen the New Territories as a bastion of outdated tradition. In a documentary on New Territories life entitled *An Indigenous Village: A Case for Concern*, aired on Radio Television Hong Kong June 20 1986, the narrator closed with the thought that "traditional modes of thinking vastly out of step with the modern world are still deep-rooted in the hearts of indigenous villagers in the New Territories." During the female inheritance movement, the Kuk was portrayed as traditional, rural, and male while the female inheritance coalition was urban, modern, and female (Chan

1995:50). For the most part, the indigenous women were seen as victims of "tradition" and lineage hegemony (p. 100). One TV series broadcast during the movement depicted the lineage system as a "living fossil" of Chinese tradition (p. 107). Other reporters posed the women in front of ancestral halls staring into the distance, using the elegant Chinese calligraphy as a foil for the women's apparent helplessness (p. 103). The press encouraged the women to wear the loose-fitting black suits and large-brimmed hats traditionally associated with rural women, a departure from their normal attire (p. 53).

Indigenous women who failed to generalize their particular grievances into stories of rights violations were silenced (Chan 1995:131-32). In the middle of one Legislative Council debate, for example, an indigenous woman, the oldest participant in the movement, suddenly interrupted the chairperson and started shouting in Hakka about how badly her relatives had treated her. The chairperson cut the woman off, saying, "Your story is not related to our discussion." A representative of the Kuk then told her that her story was just a family dispute and should be filed with the Kuk (pp. 131-32). Portraying the women's stories as individual disputes without broader significance was an important way of discrediting the indigenous women (p. 5). During the debate over the passage of the land exemption bill, one legislator dismissed the indigenous women by saying, "As regards the case of Ms. Cheng Lai-Sheung . . . her family members have already clarified publicly that it was only a matter of dispute on fighting for legacy" (Hong Kong Hansard 1994:4553).

In contrast, the women's stories were very effective when filtered through the lens developed in the Anti-Discrimination Female Indigenous Residents Committee and presented as examples of gender inequality. Social movement scholars have noted the degree to which individual testimonials can help legitimate a cause and, by extension, rally support behind it (Keck and Sikkink 1998:19-20). In the female inheritance movement, the women's stories played a critical role in giving a human face to the problem and discrediting the Kuk's claim that it was the sole voice of indigenous villagers. During the October 1993 motion debate, several of the legislative councillors mentioned having met the indigenous women and having been moved by the women's stories. These women's stories also refuted Kuk claims that no one complained about male-only inheritance (Hong Kong Hansard 1993:249, 253, 256).

It would be easy to believe that the indigenous women lost control of their stories and were exploited for political change, as has occurred elsewhere (Keck and Sikkink 1998:20). The reality, however, is more nuanced. While the outsiders on the Residents Committee helped the women present themselves to the outside world, the women themselves played an active role in shaping the strategy. The idea of writing new lyrics for indigenous songs, for example, came from the women (Chan 1995: 108; see also Cheng interview, 2003). The idea was a public relations coup: the image of indigenous women singing traditional songs became an icon of the move-

ment. The women also had a voice in the wider women's movement through the chairperson of the Residents Committee, Ms. Cheng, who attended meetings of a coalition of women's groups. Perhaps most important, the women spoke for themselves. While the outside members of the Residents Committee coached the women, they also felt strongly that the women should have their own voice (Chan 1995:117; see also Wong interview, 2003).

As the indigenous women learned to tell their stories differently, they moved from framing their problems as kinship violations to presenting them as a product of discrimination and gender inequality. This shift in consciousness seems to have been an additive process. Although the women developed a new perception of the problem as gender discrimination, they retained their old sense of individual wrongs perpetrated by male relatives. Consciousness is slippery and unquantifiable, and it is difficult to know how completely the indigenous women assimilated the gender-equality framework. One woman told her story using terms such as "gender discrimination" and "injustice," for example, terms that she had not known before joining the Residents Committee (Chan 1995:146). The Hakka mountain song that the women developed also refers to injustice. The first two lines of the song show an awareness that the indigenous women stand together as an oppressed group with common concerns: "Female indigenous women are the most unfortunate people / This world is unfair to them" (p. 98). The second two lines go farther, asking the Legislative Council to address the problem and, by implication, change the law: "The Hong Kong society is unjust / I hope that the Legislative Councillors will uphold justice" (p. 98).

Yet the Hakka song does not mention rights, and there is little evidence that the indigenous women developed a sustained critique of their problems based on human rights. Despite one woman's statement that "now and after [the handover in] 1997, I will continue to bravely stand up and fight for the rights of indigenous women," the indigenous women dropped out of the women's movement after the land exemption ordinance was passed (Hong Kong Women Christian Council 1995:126; see also interviews). No doubt they were tired of fighting, but this may also be a sign that their concerns were rooted in their particular problems with uncooperative male relatives rather than a larger struggle for gender equality. The women's frustration with demonstrations that did not focus exclusively on them is another sign that the rights perspective never entirely replaced the kinship-violation frame. Moreover, Chan reports that some of the women were upset when their stories were subsumed by the larger themes of gender equality or antidiscrimination (1995:116, 146).

Passage of the Bill

After the initial debate and the formation of the Anti-Discrimination Female Indigenous Residents Commit-

tee, events began unfolding rapidly. Inside the Legislative Council, Christine Loh took up the female inheritance cause for the rural indigenous women. Loh, educated in both Hong Kong and England, says that the issue appealed to her because she thought it was "very odd" that indigenous women had "less rights" than everyone else in Hong Kong (interview, 2003). On January 31, 1994, she submitted an amendment to extend the land exemption ordinance to include rural land. If passed, it would have allowed female indigenous women to inherit family property, although not the ancestral trust lands held by lineages.

For a few months after Loh submitted her amendment, things were quiet. The Heung Yee Kuk, relying on old-style colonial politics, ignored the issue because it assumed that the amendment would never receive government support. But on March 10 the government announced that it would not oppose Loh's amendment. This was a turning point, particularly because it had initially seemed that extending female inheritance to indigenous women would be an uphill battle. While the outcome seems inevitable in retrospect, the colonial government had long courted the support of the Kuk to ensure that rural development was not met with serious resistance, and many thought the government would continue to back it on the inheritance issue. In fact, it is not clear why the colonial government had a change of heart. Some Kuk members felt that the government had sold them out because it no longer required Kuk support to develop the New Territories (*South China Morning Post*, March 27, 1993). The Kuk's pro-Beijing stance and opposition to Governor Patten's political reforms may also have played a role (*South China Morning Post*, March 27, 1993).

In response to the change in the government's position, the Kuk organized a rally on March 22 attended by over 1,200 supporters (*South China Morning Post*, March 23, 1993). At 3:50 p.m., 20 incensed indigenous villagers broke through security barriers during a protest outside the Legislative Council building. They attacked people demonstrating for equal inheritance rights, ripped up banners, threw water bottles, and shouted curses (*South China Morning Post*, March 23, 1994; see also Tse interview, 2003). Lee Wing-tat, a legislative councillor caught in the fray, fell to the ground after a punch to the back. After March 22, both sides realized the strength of the opposition and the scale of the fight ahead of them. At that point, 12 women's groups formed the Coalition for Equal Inheritance Rights to fight for rural women's inheritance rights in the New Territories (Tong 1999: 55-56).¹³ Three days later, the Kuk formed the Head-

13. The Coalition included the following groups: Anti-Discrimination Female Residents Committee, Hong Kong Federation of Women's Centres, Association for the Advancement of Feminism, Hong Kong Women Christian Council, Women's Rights Concern Group of the Chan Hing Social Service Centre, Hong Kong Women Workers Association, AWARE, Hong Kong Council of Women, Business and Professional Women, the Hong Kong Federation of Women, and two other community groups (Tong 1999:64-65; see also Wong 2000:62).

quarters for the Protection for the Village and Defense of the Clan (p. 58). For the next three months, these two groups worked hard to gain support, holding frequent demonstrations and facing off dozens of times.

In both the March 22 rally and subsequent demonstrations, the Kuk positioned itself as the defender of tradition and culture.¹⁴ Traditionally, women left their home village and became part of their husbands' lineages. Allowing female inheritance, the Kuk argued, would lead to a disintegration of clan identity because land would eventually be owned by nonlineage members (Chan 1998:45). To buttress its claim, it appealed to the authority of the ancestors. Male-only inheritance is "in accordance with the wishes of [the] ancestors" and, as a result, "any outsider tampering with these customs shall not be tolerated" (Heung Yee Kuk Proclamation, quoted in Chan 1998:45). In order for this claim to be seen as legitimate, the male-dominated Kuk realized that it would need the support of indigenous women. It found women who agreed with Angela Li York-lan: "[We] do not think we are discriminated against. We love our traditions. We have the right not to accept any change" (*South China Morning Post*, April 4, 1994). At one demonstration, the Kuk vice chairman, Daniel Lam, said, "We have shown the community that villagers are able to demonstrate endurance, calm and reason in the fight against the destruction of our customs" (*Hong Kong Standard*, April 12, 1994).

As defenders of tradition, the Kuk placed emphasis on being Chinese. One song often sung at demonstrations was "The Brave Chinese," renamed "The Brave New Territories People" (Chan 1998:47). Being Chinese meant renewing attention to the anticolonial strands of indigenous history. In April 1994, 1,000 villagers gathered to commemorate an 1899 uprising against the British at Tai Po (p. 45; see also *South China Morning Post*, April 18, 1994). Ironically, it was the first time the uprising had ever been publicly commemorated (p. 46). Kuk demonstrations lent themselves to dramatic media coverage. The inheritance issue remained in the public eye from October 1993 (the motion debate) through June 1994 (the passage of the bill) because Kuk members did things such as beheading a doll representing Governor Patten (*South China Morning Post*, April 18, 1994). On another occasion, angry villagers threatened to rape Loh if she dared set foot in the New Territories (*South China Morning Post*, March 26, 1994). When it came to media attention, Loh said, "One couldn't have better opponents than the Heung Yee Kuk" (interview, 2003).

Although there were times when the outcome of Loh's amendment was unclear, the issue was pretty much settled by May 1994. The public overwhelmingly supported female inheritance rights, by a margin of 77% in favor to 9% opposed (*South China Morning Post*, May 9,

1994).¹⁵ There was little sympathy for the Heung Yee Kuk both because people generally believed in gender equality and because they were resentful of what they saw as the special privileges granted to indigenous villagers. Recognizing the extent of public support for extending female inheritance rights from urban women in the New Territories to indigenous women, the government incorporated Loh's amendment into its own bill, along with suggestions from several other legislative councillors (Tsang and Wan 1994:13). On May 24, 1994, the Bills Committee of the Legislative Council accepted the government's amended bill and voted down Heung Yee Kuk Chairman Lau Wong-fat's suggestion of a referendum in the New Territories to settle the issue (Tsang and Wan 1994:12). By the time of the actual vote on June 22, the result was a foregone conclusion. The New Territories Land (Exemption) Ordinance passed easily, with 36 votes in favor, 2 against, and 3 abstentions (Hong Kong Hansard 1994:4656).

Creating Custom: The History Behind the Debate

The female inheritance movement is full of deep ironies about the meanings of tradition and modernity. Most basically, it was a struggle over land rights and political power in which powerful male leaders claimed to be defending culture, tradition, and the lineage while poor indigenous women and their elite urban allies claimed to speak for gender equality and universal human rights. Yet this dichotomy between tradition and modernity was a constructed truth, created both by the protagonists and by the historical legacy of colonialism.

COLONIAL ROOTS

Hong Kong's dual legal system was the result of the unusual circumstances under which the British gained control of the New Territories. In contrast to Hong Kong Island and Kowloon, which were ceded to Britain in perpetuity, the terms of the 1899 Convention of Peking specified that the New Territories would be leased to Britain for 99 years. This was the lease that expired on July 1, 1997, when Hong Kong (including Hong Kong Island and Kowloon) was handed back to China. The limited scope of Britain's right to rule was one reason to preserve local custom as much as possible (Petersen 1996:339; Jones 1995:167-70). After gaining control of the New Territories, the British issued a number of proclamations assuring New Territories villagers that the New Territories would be "governed . . . according to the laws, customs and usages of the Chinese by the elders of villages, subject to the control of the British magistrate" (quoted in Chan 1999:234). The 1899 Blake Proclamation, often cited as the grounds for deference to Chinese custom, further reassured villagers that "your

14. This appeal to tradition is an old argument. Defenders of the practice of keeping concubines argued that it was "an institution . . . sanctioned by immemorial Chinese law and customs; it has been preserved by the Colony's Charter; it has received the highest judicial recognition" (quoted in Lee 2000:232).

15. This was a survey of all of Hong Kong.

usages and good customs will not in any way be interfered with" (Lockhart 1900:appendix no. 9). Before World War II, villagers were governed by local elders according to Chinese custom and law with a British district officer to resolve disputes.

This strategy was dictated by economics and a desire to avoid conflict. Remembering the expensive and bloody 1857 Sepoy Rebellion in India, British colonial administrators decided that adherence to Chinese customary law in the New Territories was the best way to ensure local support for colonialism at minimal cost (Chiu and Hung 2000:226; see also Jones 1995:168). Because the British never believed that the New Territories would be particularly profitable (Chun 2000:48), they saw the New Territories villagers in terms of culture and kinship, not as potential laborers. In contrast to Hong Kong Island, which saw rapid change, the New Territories villages were treated as bearers of tradition, isolated and expected not to change. For many colonial administrators, preserving village life became a romantic goal (Jones 1995:180). Until urbanization and industrialization hit the New Territories in the 1970s and 1980s, the area was seen as "a virtual laboratory for the study of rural Chinese society" (Watson 1983:486).

The New Territories were dominated by powerful patrilineages, corporate groups that traced membership through male descent. While multilineage villages did exist, most males in a community could trace their family back to a common ancestor. The members of the patrilineage had common land, held celebrations to worship common ancestors, and cooperated for political purposes (Watson 1983:486). In contrast to the situation in the rest of Hong Kong, it was permissible in the New Territories to make gifts of land to ancestral trusts in perpetuity. In 1948 about one-third of the land was held in such ancestral trusts, with sale permitted only by all beneficiaries (Strickland Report 1953:62). The female inheritance dispute focused not on lands held in ancestral trusts but on family lands.

Despite a common belief that patrilineages were unified corporate groups, there was considerable inequality in the villages and within lineages. Watson's (1985) careful ethnographic study from the 1970s reveals that smallholder tenants were heavily dependent on their wealthy agnates.¹⁶ These two classes were quite distinct, with different forms of marriage, levels of education, kinds of houses, and social lives for wives and daughters. Although it was important for the lineage to present itself as a unified corporation to the outside world and to its members, it existed in a highly stratified society. More-

16. In a New Territories region that Watson studied, a small merchant and landowning elite headed lineages made up of tenant farmers (1985:54). The landlord-merchants controlled crucial resources such as land, ancestral estates, markets, pawnshops, boats for cargo, and factories. They employed fellow lineage members as well as outsiders in their many enterprises (p. 81). James Hayes notes that "Watson mainly worked with the oldest, biggest lineages and class divisions were less marked in the majority of New Territories lineages, many of which were quite small" (personal communication, October 2003).

over, during the last quarter of the twentieth century, inheritance patterns slowly started changing. Local lawyers sometimes found ways around the ban on women's inheritance of family land, particularly if the village head was supportive. In the absence of a male heir, widows or daughters occasionally inherited land or acquired the cash after the properties were sold (Chan 1997:169). Sometimes a woman could keep land if she did not remarry. Her position was, in essence, "trustee for life" (Selby 1991:73).

DEFINING CUSTOM

Since Chinese custom was not codified, it was typically interpreted by British magistrates serving in the New Territories and the courts (see, e.g., Coates 1956, Wesley-Smith 1994). For colonial administrators, preserving local customs meant identifying them, a problematic process. Despite references to homogeneous "Chinese customs," there was variation in customs among lineages, villages, and districts (Wesley-Smith 1994:218; Strickland Report 1953:13). No doubt overwhelmed by this diversity, the British began an effort to record Chinese customs in 1899. The result was a particularly idealized version of Chinese custom because their informants were mostly village elders and scholars, men—they were all men—with an interest in preserving the status quo (Chan 1999:236). District officers developed a "bible" of points of custom, which they passed on to others. Coupled with testimony from expert witnesses alive in 1899, these notes were used by British district officers to resolve land disputes according to traditional Chinese law until they were lost in the 1941–44 Japanese occupation (Wesley-Smith 1994:206).

This was an ironic situation. Despite their confessed ignorance, British district officers functioned as upholders of Chinese tradition.¹⁷ Perhaps as a result of uncertainty, district officers tended to be conservative, with the result that adherence to Chinese law and custom was reinforced and solidified (Wesley-Smith 1994:206, 222–23). The additional irony is that other Chinese societies, such as Taiwan and Mainland China, reformed Chinese law and custom to allow equal inheritance. By refusing to allow this kind of change, the British froze New Territories life in a mythic, imagined past. This model of colonial administration worked in the prewar era because the New Territories were still largely rural. In 1931 the population of the New Territories was 98,000. Most residents were still farmers, and district officers could hear most disputes (Watson 1983:484). Most important, the New Territories were isolated enough from urban Hong Kong to maintain a different

17. On the bench there was a minority view that custom should be allowed to change with the times. In a 1956 decision (*Wong Ying-kuen v Wong Yi-shi and Ors*) J. Briggs held that "the correct law to apply is the Qing law and custom as it existed in 1842 with such modifications in custom and in the interpretation in the law as have taken place in Hong Kong since that period" (quoted in Selby 1991:50).

legal system and set of rights. This isolation ended in the postwar era.

POSTWAR CHANGES: THE END OF VILLAGE LIFE

The end of World War II brought a wave of migrants from China. Residents who had fled Hong Kong during the Japanese occupation returned, accompanied by refugees from the Chinese civil war. Between 1945 and 1950 the population of Hong Kong jumped from 600,000 to between 2 and 2.5 million, an increase of roughly 400% (Bray 2001:16; see also Chun 2000:111). This jump in population created an intense need for new public housing. After a 1953 fire in the Shek Kip Mei squatter community, the Hong Kong government decided to build public housing on a massive scale. Urban Hong Kong was already overcrowded, so the new public housing estates had to be built in the New Territories. The government built seven New Towns in the New Territories, each of which included industry, public housing, community services, and infrastructure (Scott 1982:660).

This development was tremendously disruptive to rural life. In the most direct measure of disruption, about 50 villages were physically moved to make room for the New Towns and another 25 villages were moved in order to create reservoirs to meet the water needs of the expanding urban population (Hayes 2001:72). Not surprisingly, the old district officer system could not keep up with population growth and the new burdens of New Town administration. Starting in 1961, land dispute cases were resolved by the courts; the district officers were no longer "father mother officials" (*fu mu guan*) but pure administrators.

Most important, development changed the economy of the New Territories by creating new sources of wealth. Land for the New Towns was largely purchased from New Territories villagers, either with cash or through a land swap (Nissim 1998:102). Between 1984 and 1997, the period just before reunification with China, there was a rapid increase in wealth based in part on the skyrocketing value of real estate (Smart and Lee 2003:167; see also Chan 2001:272). In 1993 one legislative councilor said, "When I was small, people were still talking about 'country people' with 'feet covered with cow dung' and 'illiterate.' But today we see that the members of the Heung Yee Kuk are all tycoons in smart suits and traveling in Rolls Royces" (Hong Kong Hansard 1993:240). The development value of land was part of a larger move away from an agricultural economy. Cheap rice imports from Thailand flooded Hong Kong in the 1950s. Rice farming, the traditional occupation in the New Territories, was suddenly unprofitable (Watson 1983:483). Some farmers switched to vegetables, but many others decided to emigrate. Suddenly, villages were transformed from physical communities based on a shared physical space to transnational communities based on shared traditions and birthplace (Chan 2001:280).¹⁸ As the rural

wealthy became absentee landlords, a group of new entrepreneurs, distinct from the old elite of wealthy landlord-merchants, emerged. The new entrepreneurs were supported and nurtured by colonial officials because they were more willing to cooperate with Hong Kong officials in their development plans than the old elite (Watson 1985:147–48). In addition, they tended to be less concerned with lineage unity (p. 148).

It was against this backdrop of urbanization, industrialization, and dislocation that the rural women stepped forward to protest their inability to inherit land.

Layers and Translators: Theorizing the Movement

The story of how indigenous women came to demand a change in inheritance shows how international human rights can be used to address local grievances. Yet this is not a simple story of elite outsiders introducing or imposing rights language. Rather, rights language, mediated through translators, was adopted, modified, supplemented, and ignored by the various participants. Here, we introduce four layers as a way of thinking about the degree to which actors were tied to international rights language. These four layers—expatriates, the Legislative Council, women's groups, and indigenous women—differed significantly from each other in ideology, level of education, extent of international travel, degree of international rights consciousness, and language.

EXPATRIATES

Expatriates played a critical role in bringing the female inheritance issue to prominence and framing it in rights terms. Although it is difficult to remember in hindsight, there was no reason male-only inheritance had to be addressed through legislative change. In 1993, five indigenous women had applied for legal aid to sue for equal inheritance. They were denied legal aid, but their efforts show that the inheritance issue could have been settled on a case-by-case basis by the courts instead of by legislative change (*South China Morning Post*, October 23, 1993). Inheritance was resolved through legislation because, in the course of preparing its ICCPR report, the Hong Kong Council of Women discovered that female inheritance was illegal throughout the New Territories, not just in the villages (Jones interview, 2003).

After securing the necessity of changes to the New Territories Ordinance, expatriates lobbied for female inheritance as a question of international law. The Hong Kong Council of Women's report clearly stated that male-only inheritance "should have been declared *unlawful* long ago, as [it is] contrary to Article 26 of the ICCPR" and is "in conflict with the principle of equality between sexes contained in the internationally accepted Declaration of Elimination of Discrimination Against Women" (Howarth et al. 1991:16, 12). These expatriates were primarily academics and lawyers, several of whom

18. In a study of two villages, Watson (1985:150) found that one-third of the households had one or more members living abroad.

dealt with international law professionally. They were mostly from the United States, Britain, or Australia and spoke English fluently, if not as a first language. On a local-global continuum they were undeniably global, and they saw denying women inheritance rights as a violation of women's right to protection from gender discrimination.

THE LEGISLATIVE COUNCIL

The Legislative Council, Hong Kong's national elite, saw female inheritance primarily as a choice between tradition and modernity. In the final debate over the land exemption ordinance, opponents of the bill claimed that it would "attack the age-old fine tradition of the clan system" and "disturb the peace in the countryside" (Hong Kong Hansard 1994:4579).¹⁹ Others sympathetic to the Kuk complained about the pace of change.²⁰ In the words of one legislator, "This is an attempt to change the social customs of the indigenous population. Such thinking will gradually be overtaken by newer concepts. In view of this, should we take the hasty move of enforcing the changes through the legislative process?" (p. 4544). Not even Kuk supporters, however, dared question the tenet of gender equality (Lee 2000:248). Chairman Lau Wong-fat maintained that the indigenous women "are not actually treated unequally. In fact, they are equal in other respects. Many of them may even often bully their husbands" (Hong Kong Hansard 1994:4559).

On the other side of the debate, supporters of the bill argued that Hong Kong could not be an international city as long as it had laws that discriminated against women. As one legislator put it, "Hong Kong is a prosperous and progressive metropolis. The fact that the indigenous women of the New Territories are still openly discriminated against is a disgrace for the people of Hong Kong" (Hong Kong Hansard 1994:4565). Others made an explicit connection between the Kuk's rowdy behavior and support for the land exemption ordinance: "When the 20th century is coming to a close, that someone should so shamelessly and overtly threaten to rape is indeed a shame on this modern international city of Hong Kong. Today members of this Council must use their vote to remove such a stigma on Hong Kong" (p. 4542).

Christine Loh, originally attracted to the issue because she saw it in rights terms, continued to talk about equality and human rights: "The idea of human rights is that we have to protect every individual's basic right. Not to mention that there are 200 indigenous women complaining, even if there were only two of them, we as legislators still have the responsibility of ensuring their equal right

before the law" (quoted in Lee 2000:250). Some legislators also referred to international rights, echoing the rhetoric used by the expatriate layer. Legislative Councillor Anna Wu, herself a lawyer, was one of the first to pick up the connection between female inheritance and international law. In a December 1993 letter to members of the Bills Committee, she wrote: "The 1976 extension of the ICCPR to Hong Kong and the 1991 enactment of the Bill of Rights Ordinance should have cast serious doubt on the continuing validity of the system established by the NTO (New Territories Ordinance)" (1994: 1).

For legislators, there were two appealing aspects of international law. First, international law could be used to shame the government into action. In question-and-answer sessions with government representatives, Legislative Council members occasionally inquired about international covenants as a way of holding the government responsible to the ideals expressed in UN documents (Hong Kong Hansard 1993:156-57, 159-60). The other appealing aspect of international law was its perceived connection to modernity. In the debate over the passage of the land exemption ordinance, Legislative Councillor Fung called it "both out of date and inappropriate to deprive women of their land rights," particularly because the Bill of Rights, the ICCPR, and CEDAW all stated that all citizens should be equal before the law (Hong Kong Hansard 1994:4547).

Most supporters of the bill were not much concerned about the abolition of custom, perhaps because neither they nor their constituencies would be affected by the change in law. "Outdated customs are a burden," declared one legislator (Hong Kong Hansard 1993:139; see also 1994:4542). However, Anna Wu was concerned that the ordinance would inadvertently abolish a positive tradition: women's rights under Chinese customary law to maintenance from the estate (see also Loh 1997:6). Although these customary rights were never enforced by the courts, male relatives were traditionally responsible for the ongoing maintenance of widows and unmarried daughters. Ms. Cheng's original complaint, for example, was that her brothers had violated Chinese custom by refusing to allow her to stay in her father's house. In a March 1993 letter to the members of the Bills Committee, Wu expressed her concern that the bill would be "placing in jeopardy the welfare" of women "dependent on the residual customary obligations of the landowner" (1993:2). While not widely shared, her apprehension showed sensitivity to the strengths of the old system. It suggests that her vision of the problem bridged the perspectives of the expatriate, national, and local groups.

WOMEN'S GROUPS

In 1989, 20 women's groups formed a coalition to lobby for a women's commission and the extension of CEDAW to Hong Kong (Wong 2000:60-61). Until the Coalition for Equal Inheritance Rights was founded in March 1994, the women's groups shared information and coordinated action on female inheritance through regular meetings

19. This debate took place in both English and Cantonese, the two official languages of Hong Kong.

20. The Hong Kong Federation of Women, a conservative women's group founded in 1993, also favored a more gradual approach: "We aim at progress without upsetting stability" (Hong Kong Federation of Women 1994). Peggy Lam, a founding member of the federation as well as a legislative councillor, argued that haste to pass the amended land exemption ordinance had caused anxiety and conflict that could have been avoided (Hong Kong Hansard 1994:4548-49).

of this coalition. In contrast to the Legislative Council or the expatriates, the coalition functioned entirely in Cantonese. Like the wider women's movement, it consisted primarily of middle-class, educated women, including students and social workers (see Tong n.d.:648).

The women's groups conceptualized the female inheritance issue mainly in terms of gender equality. T-shirts and banners from the movement often carried the logo "♀ = ♂." In keeping with this theme, one women's group issued a statement that "based on the principle of equality, land inheritance right is the right of every indigenous inhabitant. If women inhabitants are not entitled to it because of their gender, it is blatant discrimination, something we cannot accept" (quoted in Lee 2000:250). The women's groups treated gender equality as a self-evident tenet and, for the most part, saw no need to justify it in terms of law. When they did talk about the law, women's groups borrowed their arguments and even their language from the ICCPR report. One AAF publication directly quoted the report, saying that male-only inheritance rights "should have been declared *unlawful* long ago" (Association for the Advancement of Feminism 1993:14). Like the legislative councillors, the women's groups made an explicit connection between gender equality and modernity. Male-only inheritance was "archaic and out of step with society's development." The Hong Women Christian Council went so far as to say, "Gender equality is a shared goal of the modern world" (quoted in Wong 2000:192). Along with the legislative councillors, the women's groups focused on changing the law, not on providing solutions for individual women.

However, there were some important differences in perspective between the women's groups and the legislative councillors. The women's groups saw male-only inheritance as a product of patriarchy, a strand of thought that never emerged in the Legislative Council.²¹ One group accused the Heung Yee Kuk of "patriarchal hegemony" (Wong 2000:192). Another suggested that the majority of indigenous women were not aware of their oppression because of "patriarchal socialization. . . . A harmony that conceals injustice is not one to be applauded" (quoted in Lee 2000:250–51). This critique of patriarchy was closely mixed with antifeudalism, a term associated with postrevolutionary thought in China. The term "feudalism" functioned as a kind of shorthand to connote backward customs in need of change. During the rally outside the Legislative Council in connection with the October motion debate, demonstrators shouted "Down with feudal traditions!" (*Hong Kong Standard*, October 14, 1993). Antifeudalism was the theme of the May 4, 1994, demonstration outside the Legislative Council in honor of China's May 4th movement (Cheung 1994:7). By "feudal traditions" the women's groups generally meant gender inequality, usually stemming from patriarchy. Male-only succession was said to reinforce "the feudalistic idea that

women are inferior to men" (Association for the Advancement of Feminism 1993:7). One women's group wrote that "depending on fathers, husbands and children is exactly what the 'three subordinations' teaches in feudal society" and is in opposition "to the principle of independence for women" (quoted in Lee 2000:250).

In striving toward modernity and renouncing "backward" customs, women's groups and legislative councillors were drawing on themes familiar from twentieth-century Chinese history. Both May 4th reformers and Cultural Revolution zealots fought against custom and feudalism in the name of progress. Nevertheless, many of the concepts used by the women's groups—gender equality, human rights, and patriarchy—were appropriated from Western thought. Gender inequality based on the critique of patriarchy is a standard feminist message, as familiar to the U.S. National Organization of Women as to Hong Kong's AAF. The women's groups' techniques of activism—demonstrations, T-shirts, and banners—are also familiar from Western feminism, as is the ♀ = ♂ logo. While the broader themes were appropriated from abroad, local symbols were used to express international ideas. Singing their modified Hakka songs, the women wore traditional hats colloquially known as "Hakka hats"—an ironic choice of symbols given that Hakkas are a denigrated group in the New Territories. Even the slogans about feudalism were a way to put gender equality in a regional historical context.

The overarching appropriation of Western feminist concepts and activist techniques is interesting because many of Hong Kong's women's groups were founded specifically to indigenize Western feminism. AAF, for example, was founded "to bring together people who speak our language and share a similar background" and "work within our own culture" (AAF founder quoted in Choi 1995:95).²² Still, even if ideas and tactics were borrowed from abroad, the women's groups were indigenized in the sense that the leaders were Hong Kong women and discussions were conducted primarily in Cantonese. In discussing the role of the Hong Kong Women Christian Council, one of the founding members emphasized the importance of local leadership: "[We are] a local Christian women's group, not the expatriates. If they join us, then they may play a supporter's role . . . but we have a local basis" (quoted in Choi 1995:97).

INDIGENOUS WOMEN

The indigenous women's were the only lower-class voices in the female inheritance movement. While 200 indigenous women signed petitions supporting the movement, only 6 had high-profile roles (Chan 1995:17). Of these 5 were relatively poor, 4 had very limited education, 3 were Hakka, and 1 spoke only Hakka (pp.

21. Some later criticized the female inheritance movement because it failed to offer a fundamental challenge to patriarchy (Lui 1997: chap. 4, 22).

22. Fanny Cheung, the founder of the Hong Kong Federation of Women's Centres, says that it takes a "community approach" that differs from Western feminism; in addition to mobilizing community resources, it seeks to avoid confrontation and militancy (Lee 2000:253).

42–46).²³ One spoke fluent English and had been educated at a local university, traveled widely, and worked as a reporter (pp. 46, 95); while the other women hoped to recover their parents' property and assert their identities as lineage members, this woman participated in the movement to support gender equality and human rights (pp. 40, 42, 46). Comparing these six women with the Kuk elite, it is clear that there was a class-struggle aspect to the movement. One of the indigenous women remarked, "Before, when all the villagers were poor, we helped each other out. Now we are enemies" (pp. 30–32). However, the movement focused on gender, not class. One of the few references to class came from Ms. Cheng: "Before we had nothing while the male villagers had everything. There was a wide gap between rich and poor, and women were inferior at that time" (interview, Asia Television News, February 27, 2001). In her mind, class and gender were intertwined. Women were inferior not just because they were women but because they were poor.

The indigenous women slowly shifted from seeing their stories as individual kinship violations to broader examples of discrimination. The theme of rights and gender equality was prominent in documents collectively written by the Residents Committee. In an article published in the Hong Kong Federation of Women's Centres annual report, the committee called the denial of female inheritance "a century-long discriminatory barrier to the indigenous women's basic rights" (Hong Kong Federation of Women's Centres 1994:88). A submission to the Legislative Council talked about the "inherent right" to succession and mentioned "the protection to women that has been laid down in the United Nations Universal Declaration of Human Rights" (Anti-Discrimination Female Indigenous Residents Committee 1994). Because the majority of the indigenous women were illiterate, it is probable that such articles and statements were guided, if not written, by Linda Wong or the other outsiders on the Residents Committee.

On an individual level, Ms. Cheng was both the person most comfortable talking about female inheritance in terms of equality and rights and the person most comfortable talking to the press. In one interview she said, "What I am fighting for is sexual equality" (*Sunday Telegraph*, October 24, 1993). At another point she said that if the government refused to change the law it "would be violating the Bill of Rights" (*Hong Kong Standard*, October 14, 1993). In contrast, another indigenous woman's critique of the New Territories Ordinance was limited to the fact that "the legislation does not take care of situations where families do not have any sons, which is my case" (*South China Morning Post*, February 25, 1993). Because she spoke rights language, Ms. Cheng could bring the women's concerns to a wider public.

23. According to interviews with Wong and Chan in 2003, of the seven indigenous women who formed the core of the Residents Committee, four were illiterate. None were educated beyond secondary school.

TRANSLATORS

There were relatively few points of contact between the four layers. After their initial work framing the issue, the expatriates attended rallies but rarely went to coalition meetings. The fact that coalition meetings were held in Cantonese was an important barrier. The women's groups informed Christine Loh about upcoming demonstrations, but there was little dialogue with Loh or her office. And the indigenous women had little contact with any of the other layers except to attend formal Legislative Council hearings and rallies. Nevertheless, these four layers formed a coalition that made the female inheritance movement possible. Each layer was aware that it had to work with the others for the movement to succeed. For example, when the head of the Kuk, Lau Wong-fat, claimed that respect for the traditions of indigenous people helped promote harmony in society, a supporter of the movement in the Legislative Council retorted that they had received complaints from female indigenous residents that they were "oppressed by the sexist traditions" (*South China Morning Post*, October 14, 1993). The legislator was able to call on indigenous women's voices to refute the Kuk's call for respecting tradition.

A few translators connected the layers. Translators can move between layers because they conceptualize the issue in more than one way and can translate one set of principles and terms into another. They created a movement in which rights language and indigenous women's stories could come together to create political change. Although the women did acquire some consciousness of rights through participation in the Residents Committee, rights language was mainly promoted by others. Through translators, the indigenous women joined their stories to a larger movement concerned with human rights and discrimination.

Our research uncovered at least three people who acted as translators: Lai-sheung Cheng, Linda Wong, and Anna Wu. Ms. Cheng, in essence, created the Residents Committee by finding other women with similar stories who were ready to step forward. Through her participation in coalition meetings and her contacts with the media, she brought the women's concerns to a wider audience. She was able to generalize individual kinship grievances and lobby for a change in the law. By having a voice in the coalition's strategy, she was also able to shape how the women's stories were used in the movement.

Although she did not have a formal leadership title, Linda Wong was a critical link between the indigenous women and the broader world. The women were able to tell their stories in the Legislative Council because Linda Wong created the opportunity and showed them how to do it. With the help of other outsiders, she helped frame the women's stories in terms of equality and rights so that they were politically viable. In contrast to the indigenous women, who rarely traveled outside of the New Territories, Wong had experience in activism and had a good idea what the media and the public would find appealing. The carefully orchestrated dramas and songs

had, in the words of one participant, a “symbolic meeting” that “became an icon for the whole movement” (Chan interview, 2003). Wong also literally translated the Cantonese and Hakka used by the indigenous women into English. Using English ensured that the women’s stories reached a wider audience and were taken seriously by elites. In a sense, both Linda Wong and Lai-sheung Cheng translated “up”; they took stories anchored in a local kinship idiom and talked about them in global rights language.

In the Legislative Council, Anna Wu was a translator of quite a different kind. With help from other legislative councillors, Wu brought international law, a concern mainly expressed by the expatriate layer, into the Legislative Council debate. However, it is clear from her attempt to codify indigenous women’s customary rights that she also understood and appreciated the kinship system.²⁴ By bringing the kinship system into a dialogue about rights, she helped to localize the debate. This localization could have gone farther if other legislative councillors had been sensitive to the kinship dimension. The issue died quietly because the discussion was dominated by the tradition-versus-rights debate.

LOCAL AS A MATTER OF DEGREE?

Talking about the female inheritance movement in terms of layers is implicitly a discussion about what it means to be local and global. As an international import, rights talk is, by definition, global. More global layers tended to see female inheritance as an international human rights issue, more local layers as a kinship violation. However, the terms “global” and “local” are not particularly useful. They are often a stand-in for social class. To say that the indigenous women are local while the expatriates are global is to say that the expatriates are educated, mobile, and rich while the indigenous women are illiterate, fixed, and poor. In an international city like Hong Kong, it is not even clear that there is any “local.” Global influences are so pervasive that “local” is a matter of degree.

“Local” is a particularly slippery word because no one in the female inheritance movement is a truly local actor. The indigenous women seem local, for example, but one of the core members of the Residents Committee lived in Holland; she had found out about the inheritance debate during a visit home (Wong and Chan interview, 2003). The Heung Yee Kuk is actually a transnational group because so many villagers have emigrated but retain their New Territories identity. They help pay for celebrations, and many come back to reconnect with their villages during yearly rituals (Chan 2001:276). They feel strongly about preserving the past, and, as a result, indigenous tradition is largely financed, protected, and

24. In an early meeting with the indigenous women, Wu suggested that the women might be able to sue male relatives for failing to live up to their responsibilities. Compared with other legislative councillors, Wu left the indigenous women with a sense that her view of the issue was closest to theirs (Wong interview, 2003).

promulgated by people who no longer live in Hong Kong. Overseas villagers were encouraged to participate in demonstrations against the female inheritance movement, and the Headquarters for the Protection for the Village and Defense of the Clan even established a U.K. branch (Tong 1999:58).

As a transnational actor, the Kuk was attuned to the persuasiveness of human rights language. In the late 1960s it had closely watched Britain’s behavior in Gibraltar and learned that indigenous people were entitled to certain rights (Chan 1998:41). In a 1994 proclamation, the Kuk appealed to international norms to protect local tradition: “The indigenous inhabitants of any country in the world all have their legitimate traditions and customs well protected by law. . . . Therefore the existing provisions in the legislation to safeguard the traditional customs of New Territories indigenous inhabitants are . . . a primary obligation of the Hong Kong government” (quoted in Chan 1998:42). It was a stretch, but during the October 1993 motion debate one legislative councillor argued that female inheritance would violate the human rights of ancestors. “There should not be a double standard in human rights,” he said. “As we have to respect the human rights of our contemporaries, we have also to respect the human rights of our ancient ancestors” (Hong Kong Hansard 1993:268).

“Global” and “local” become particularly meaningless in the context of international politics. Against the backdrop of the 1997 handover and the larger question of Sino-British relations, every issue in Hong Kong had a global dimension. The Kuk lobbied hard for China’s support as a way of putting pressure on individual legislators to vote down the land exemption ordinance.²⁵ Although China’s top leaders did not comment on the inheritance question, China was initially supportive of the Kuk. Both the Xinhua news agency, China’s de facto embassy in Hong Kong, and the Hong Kong and Macau Affairs office released statements in March 1994 warning the Hong Kong government that the amended ordinance violated the Basic Law (Lui 1997:chap. 4, 13; Wong 2000:187). Following up on this, Kuk representatives met China’s ambassador in England on April 5 (Tsang and Wan 1994: 10) and found the ambassador supportive. China’s support noticeably waned, however, as the vote on the ordinance drew closer. The internal workings of the Chinese Communist Party (CCP) are opaque, but it must have decided that international bad press about lack of support for gender equality was not worth the support of the Kuk.²⁶

25. The tactic of appealing to China continued even after the ordinance was passed. In 1997, the Kuk lobbied the Preparatory Committee, the body reviewing Hong Kong’s laws in preparation for the handover, to repeal female inheritance in the rural New Territories. When the Preparatory Committee let the land exemption ordinance stand, the Kuk appealed to the National People’s Congress. Ultimately, this tactic also failed.

26. At the time, China was under substantial international pressure because of its human rights record. In contrast, China had a relatively good record on gender equality, and this must have been something that the CCP wanted to preserve (Petersen interview, 2003).

Moreover, the “local” problem of female inheritance was created by the world’s ultimate global system—colonialism. The root of the problem was, of course, the preservation of Chinese customary land law under the British, but this was not the root cause of the Kuk’s opposition to the land exemption ordinance. Customs were slowly changing in the New Territories, and it was becoming more and more common for women to inherit money, if not land (Chan 1997:169). The Kuk was not horrified by the idea of female inheritance per se; it wanted to protect the profits guaranteed under another colonial policy, the 1972 small-house policy. The small-house policy allowed any male villager who could trace his lineage back to 1898 to obtain a 700-square-foot piece of land, free of land premium, to build a house for himself within the borders of the village (Chan 2003:72).²⁷ All New Territories men, even those overseas, are eligible for this once-in-lifetime land grant. The original aim of the policy was to replace temporary housing and allow for natural growth in the New Territories, but a glut of small houses has led to rapid development (Hopkinson and Lei 2003:2). Although the small-house policy was originally considered a privilege that would be abolished if abused, it has come to be seen as a right (Hopkinson and Lei 2003:4, 31), and because of rising land values it is a very valuable one. Although the Kuk cites clan continuity as the primary justification for the policy, houses are often sold or rented to outsiders for a profit (Chan 1999:238–40). During the female inheritance movement it was an open secret that the Kuk was concerned that female inheritance would lead to the repeal of other indigenous rights, particularly the small-house policy (see Chan 2003). The village elder Bruce Kan even said publicly, “The next thing the government would do is cancel our rights on applying for land” (*South China Morning Post*, March 27, 1993).

But the zeitgeist was simply against the Kuk. The years 1989–97 were the high tide of human rights consciousness in Hong Kong (Petersen interview, 2003). The 1991 passage of the Bill of Rights, based on the ICCPR, encouraged everyone, including women, to think in terms of human rights (Petersen and Samuels 2002:24). Greater awareness of human rights coincided with Patten’s democratic reforms, particularly the 1992 reform package and the 1991 introduction of direct elections to the Legislative Council. Democratization led to increased attention to local problems.²⁸ As Christine Loh said, “It was the golden age of democracy in Hong Kong, and I was honored to be the salad tosser” (Loh interview, 2003).

27. In 1995 the UN Committee on Economic and Social Rights complained that the small-house policy discriminated against women (Hopkinson and Lei 2003:23). Although the policy has been under review since 1996, extending it to include women is not seen as an option because there is simply not enough land.

28. A great deal of attention has been given to the connection between democratization and increased support for women’s rights (see Fischler 2000; Lui 1997; Tong 1999, n.d.).

Conclusion

The female inheritance movement illustrates the localization of global ideas. Gender equality, feminism, and human rights are ideas borrowed from another cultural context, spread through the UN system of treaties and major world conferences which draw government and nongovernmental activists together from all parts of the globe. This language was clearly critical to this movement at all levels, although to varying degrees. Much has been written about the importance of technology, particularly the Internet, as a force behind the globalization of ideas, but the female inheritance movement underscores the importance of people. Much of the rights discourse was introduced by expatriates. It was subsequently picked up by Hong Kong residents who had either spent time abroad, like Christine Loh and Anna Wu, or been exposed to this kind of language by others. As people flow across borders in search of jobs or education, they carry ideas with them. Cultural translators reinterpret these ideas in ways that make sense in more particular and local terms.

Success is important to the spread of traveling theories such as that of human rights. During the campaign, the indigenous women expected that the new law would allow them to inherit their fathers’ property, although some also filed lawsuits (Chan 1995:48). However, the land exemption ordinance was not retroactive, so the original claimants whose fathers had already died did not benefit. They had to file lawsuits under Chinese customary law and could only sue for compensation for male relatives’ failure to fulfill their kinship obligations (pp. 18, 50, 134). Lack of success probably contributed to these women’s disappearance from rights-based movements. Yet some of the indigenous women in the movement continued to talk about their misfortunes in terms of gender discrimination, injustice, and the land exemption ordinance. They still articulated their grievances in rights terms, even if they did not regain their property or become recognized as daughters in the lineage system (p. 146). In contrast, the passage of the law gave the women’s groups, some legislators, and the expatriates a dramatic victory. And it is these groups rather than the indigenous women who sustained a long-term commitment to a rights framework.

The female inheritance movement shows that the power of rights discourse lies in its flexibility and contingency. As the recent literature on rights suggests, the broad umbrella of rights language can allow people with very different conceptions of the issue to work together (see Milner 1986, McCann 1994, Gilliom 2001, Goldberg-Hiller 2002, Goldberg-Hiller and Milner 2003). Through a system of layers and translators, women at the grass roots used rights language in a far more contingent and limited way than elites. Moreover, the rights frame was layered over the kinship frame, producing a kind of double consciousness. The female inheritance movement shows that rights mobilization does not require a deep and abiding commitment. Rather, it can be

adopted in a more transitory and tentative way contingent on success. Although framing rights in local terms may increase their legitimacy and effectiveness, this analysis shows that not all participants in a movement need to be deeply committed to this framework.

The female inheritance movement also shows that rights language is appropriated because it is politically useful, not because it is imposed. In 1994 Hong Kong, rights had political currency precisely because they were associated with the international world and modernity. Both citizens and the government were concerned about losing Hong Kong's liberal traditions after the 1997 handover. Allegiance to gender equality and human rights was a sign, both to the people in Hong Kong and to the outside world, that things in Hong Kong were not going to change—that Hong Kong deserved a place in the “civilized” community of nations.

Comments

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Merry and Stern are right to reject as oversimple the assumption that rights discourse is culturally exogenous to indigenous societies and the dichotomies that sustain it: tradition versus modernity, local versus global, relativism versus universalism. Their exploration of how rights talk was “indigenized,” translated, and appropriated by the female inheritance movement in Hong Kong's New Territories in the early 1990s is an excellent illustration of the fungible, flexible character of rights. As such, it helps to debunk dogmatic and surely false claims to the effect that where rights are invoked by, say, indigenous peoples, it is only because this normative framework has been imposed.

Having said that, it is remarkable how much of the evidence Merry and Stern assemble to show how indigenous women came to use human rights language to articulate and defend their demands actually *reinforces* this view of rights as external artifice. The strategic and ultimately temporary character of their appropriation of rights is readily acknowledged. Coached by urban gender-equality activists, those active in the women's inheritance movement learned to protest unjust customary laws in the language of rights and equality; those who did not, we learn, were silenced or ignored. While this attests to the political purchase of rights—the unfair inheritance rules were, after all, overturned—it also reveals the unsurprising conclusion that rights remained external to the self-understandings of many people, including rural, indigenous women in the New Territories. That they needed to learn to translate their demands is a function of the national and transnational political institutions and frameworks that bear directly on the legal

status of discriminatory inheritance laws and does not necessarily attest to the inherent appropriateness of rights discourse to their particular struggle.

Clearly it is not Merry and Stern's aim to *evaluate* the use of rights in this case in normative terms; their interest is to investigate in practical and analytical terms the “local appropriation of global cultural products,” namely, human rights. But surely it is worth asking about the fit of rights language and about the power relations—both local and global—that made the adoption of rights language the only viable political option. Merry and Stern note that “there is little evidence that the indigenous women developed a sustained critique of their problems based on human rights”; one cannot help but wonder whether this language was not, despite their conclusion to the contrary, an imposition on the way rural women think about their lives and entitlements. The requirement that they frame their concerns in the language of rights is perfectly understandable from the standpoint of political strategy, but this does not mean that we should not ask hard questions about the troubling power relationships (e.g., between urban political elites and rural indigenous women, between indigenous justice narratives and transnational political frameworks) that make it necessary.

Why ask these questions at all? Rights discourse is the preeminent language for demanding justice in our time, but rights have occupied a fraught place in struggles by indigenous peoples, including indigenous women's quests for sexual justice. As Merry and Stern argue, however, rights discourse can be taken up even by those who are ambivalent about their content; “rights mobilization does not require a deep and abiding commitment.” Certainly aboriginal peoples, including women, have appealed widely to rights in the context of national social, legal, and political frameworks, as well as to human rights, in asserting collective aboriginal entitlements and demanding recognition and protections from states (Barsh 1995, Bell 1992). From land claims to indigenous group rights, both the jargon and the legal reality of rights are difficult to avoid.

At the same time, however, rights discourse has been denounced by some indigenous scholars and activists alike as reflecting colonial, European conceptions of the individual and of individuals' relation to the broader community (Alfred 1999, Turpel and Monture 1990, Tully 2000). Indeed, in the case of indigenous women's movements, the ideal of gender equality has been criticized as “inappropriate conceptually and culturally” and as “not an important political or social concept” for aboriginal communities, in the words of one First Nations woman scholar (Turpel 1993:179). Aboriginal ideals of community harmony, healing, and gender complementarity are frequently cited as alternatives to European concepts of justice and equality, while oral history, storytelling, and life narratives are readily defended by indigenous peoples as legitimate discursive strategies in political life (Lake 2003), ones that can even supplant legal rights talk. While Merry and Stern—no doubt wisely—do not seek to enter the fray of this particular

debate, it is nevertheless the missing normative context of their argument. Indigenous women, as the female inheritance movement example shows, can readily couch their justice struggles in the framework of rights, and their political success may depend upon it; but do they want to, and should they have to?

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31 X 04

Merry and Stern's engaged and nuanced analysis of the female inheritance movement in Hong Kong helps us pose critical questions concerning contemporary social movements, local identity, and globalization in a new theoretical perspective. As an anthropologist working on a similar set of questions in Okinawa (e.g., Inoue 2004), I find their concepts of "layers" and "translators" particularly interesting, informative, and thought-provoking. By placing these ideas in critical conversation with Talal Asad's notion of the concept of cultural translation, the significance—in spite of certain problems—of their article will come into even sharper focus.

Asad (1986) explored anthropological (i.e., cultural) translation as "a process of power" (p. 148) and noted that "because the languages of Third World societies—including, of course, the societies that social anthropologists have traditionally studied—are 'weaker' in relation to Western languages (and today, especially to English), they are more likely to submit to forcible transformation in the translation process than the other way around" (pp. 157–58). Merry and Stern's article both refutes and reinforces Asad's observation.

It refutes or at least complicates the notion that the languages of Third World societies are being subjected to "forcible transformation in the translation process" in three interrelated ways. First, Merry and Stern demonstrate that the female inheritance movement actively modified, redefined, and appropriated international rights language instead of being simply translated by that language. Second, they show that the language mobilized by this movement was not monolithic but differentiated—sometimes fragmented—into multiple layers whose potencies were not equal. In other words, layers significantly differing from each other in social class, ideological orientation, education, and so forth, were not all "weak" in relation to Western languages/English in the same way. Third, Merry and Stern themselves function as excellent "translators." They move across different layers of the women's struggle and different moments of Hong Kong history to present a comprehensive and complex picture of the female inheritance movement to the international audience of *CURRENT ANTHROPOLOGY* and, in so doing, contribute to empowering a specific Third World language.

Yet Merry and Stern inadvertently reinforce what Asad

calls "the inequality of languages" (1986:156) in the very act of complicating it, because the direction of their translation seems to be primarily from the lower layers (the indigenous women) to the upper ones (supranational expatriates, elite national legislators, and local middle-class activists, students, and social workers) and not the other way around. Put differently, in the midst of exploring the female inheritance movement in terms of global metropolitan rights language, there is a general inattention to the particular forms that cultural meanings and social identities of these indigenous women took in the process and aftermath of the movement. For example, why did indigenous women drop out of the movement after the land exemption ordinance was passed? What did the indigenous women feel and think when the elite women disciplined them to take the local out of their stories? What did the oldest participant (an indigenous woman) in the movement experience, in her own words, when she was suddenly interrupted by the chairperson of a Legislative Council session? The indigenous women's frustration with the rights language is briefly mentioned and surmised, but the nature, thrust, and intensity of this "frustration" is not fully explored in spite of the indigenous women's status as the protagonists of this social drama. In sum, while we see clearly the ways in which stories grounded in a local kinship idiom came to be framed "up" within international rights language through the efforts of various participants in the movement, we are not entirely clear about the ways in which rights language was anchored, interpreted, and framed "down" in kinship and other specific local idioms by the lower layer of the movement.

Merry and Stern's work implies that anthropologists are an integral part of "layers" of various political and social struggles in the world. It also reinforces Asad's idea that anthropologists can potentially function as cultural "translators" who make a difference by fully exploring the experiences of local subjects and, perhaps, also by writing and speaking in Third World languages as well as in English. It has not yet fully delivered what it has promised. I wonder what Merry and Stern think about such potentialities and about the responsibilities of anthropologists in this age of globalization.

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The way in which localization and globalization interact has been an important issue for anthropologists, and Merry and Stern's analysis of the female inheritance rights movement in Hong Kong offers a very good case study. Proposing a framework of "layers" and "translators" for understanding the players and action that constituted the movement, they have demonstrated effectively how the indigenous women gradually adopted the international language of rights because it was found to be more efficacious than the language of mistreatment by male kin.

They have also illustrated how changes in the social environment in Hong Kong—the increase in urbanites living in the New Territories (making inheritance an issue that went beyond the indigenous population), the Hong Kong government's eagerness to uphold the image of a Westernized metropolis, and a post-1989 Beijing taking care to avoid accusations of gender discrimination, of being "uncivilized" and "feudal"—contributed to a political ecology that favored the passage of the ordinance amendment. This timeliness of the movement—with memories of the 1989 Tiananmen incident fresh and the 1997 handover impending—made human rights language a most appropriate strategy for participants.

While I appreciate the delineation of the four "layers" of the movement, namely, the expatriates, the Legislative Council, the women's groups, and the indigenous women themselves, I find it difficult to agree that these were hierarchically related in terms of their closeness to rights language as a resource. In addition, while the four were no doubt major players in the movement, Merry and Stern might also have noted the roles of other important players without which the rights language could not have been utilized so effectively. The media, men, and the Heung Yee Kuk itself were in a very real sense as much the bridge between the local and the global as the four groups discussed. This points to the need for further contextualization of the movement to appreciate the complexity of the process. In this connection, my questions are as follows:

1. What was the role of men, particularly the profeminists, the kinsmen of the protagonists, and the new residents of the New Territories whose daughters' inheritance rights were affected—complicated by their degrees of affinity with a "global" idea of gender equality and a "Chinese" concept of male superiority?

2. How did the local media contribute to the movement at different stages? The local Chinese press was the first to publicize the issue, and as the movement went on it became quite clear that the media were on the side of "progress" and "rights" as universal values and generally portrayed village men in a negative light.

3. Why is the Heung Yee Kuk, itself a transnational organization, as Merry and Stern argue, and employing rights language (such as ancestors', family, and kinship rights) and at one point portraying itself as a victim, not one of the "layers" and "translators" (albeit on the other side of the interests being fought over)?

4. In some important ways the researchers depart from local understandings of the role of certain key "translators" such as Christine Loh, who was almost the personal face of the Legislative Council's sympathy to the movement. The AAF (and very often the legislators as well) respected village traditions (however defined) and put the blame on (male) village heads for either not clarifying the nature of the amendment to villagers or misleading them. Thus, like Anna Wu, these other players understood the potential advantage of a male-centered kinship system for the welfare of the women, as well as the strategic importance of not demonizing all men and the patriarchal village structure. The role of "traditional"

Chinese culture and the way in which individuals were seen to be related to it deserve more in-depth discussion.

These questions might have been more readily answered if the researchers had had the benefit of participant observation at the time of the movement. The series of happenings in 1993–94 could have been interpreted as a triumph of women's rights, but this has not generalized into gender equality. As a number of feminists in Hong Kong have argued, this is because in most of the local "women's rights" movements women's rights have been interpreted as women's welfare, leaving the patriarchal system unchallenged.

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Much has been written about the development of the human rights canon through the United Nations. Yet, human rights treaties adopted in an international forum face obstacles to their implementation in local contexts. The promotion of women's human rights is a case in point. While advocates believe that women's oppression and discrimination can be overcome by international law, it remains doubtful whether the overarching human rights framework can be effectively used to champion the cause of disadvantaged women in national/local contexts. Many analysts continue to question whether international formulations of rights are useful for women. Acknowledging that transnational rights ideas cannot be scrutinized apart from the local movements, current research has shifted towards studying the intersection between local movements and global processes. Theorizing of such an interface is critically important and ought to be empirically grounded.

In light of these considerations, Merry and Stern offer an eloquent and perceptive theorizing of local translation of global rights. Essentially, they examine how gender equality and human rights could be used to deal with discrimination against women by traditional cultures. Using the female inheritance movement in Hong Kong as a case study, they suggest that the localization of women's human rights hinges on activist groups ("layers") and "translators" who bring about collaboration between layers. Among the numerous obstacles encountered, the important gap between women's experiences and the indeterminacy of statements of human rights (Cook 1994) remains to be bridged. The translators play a pivotal role here. "Cultural translators" interpret global ideas in the form that is intelligible to local people. They help indigenous women to reframe their stories as violations of a right to protection from gender discrimination.

Overall, the characterization of the layers is apt, but one particular layer may be undergoing transformation over time. Four layers, distinguished by "their relationships to rights language and their relative distance from transnational ideas," are identified: expatriates, legislative councillors, women's groups, and indigenous

women. Yet, the layer of legislative councillors is not a homogeneous entity. In fact, the Legislative Council has been noted for constant tugs-of-war among members, particularly between those who hold ultra-conservative ideas and those who embrace global rights ideas.

The researchers allude to the importance of timing. It is true that it worked in favor of the women's groups, since the female inheritance movement took place in the "age of democracy" right after the Tiananmen Square crackdown of 1989. However, the role of the state and its relationships with key actors merit closer scrutiny. The colonial state, ready to give up its control in 1997, was still in a powerful position to determine the outcome of the movement. The arrival in 1992 of Chris Patten, the last governor and an astute professional politician championing democratic rights for the people, made a real difference.

Another direction involves the study of inhibiting factors in the politics of protest: actors that resist global ideas and limit human rights discourses to protect their interests. As the researchers contend, the weakening of the previously strong alliance between the Heung Yee Kuk (ultimately outmaneuvered by the women's movement) and the colonial elites mattered. But the paper offers only a glimpse of the Kuk's ideologies, interests, and strategies and misses the subtle changes in its relationship with the state as it became more and more pro-Beijing in outlook. Unsurprisingly, the Kuk is now viewed by many as a strong voice opposing international law and local policy on women's rights should these undermine its economic interests. It is a much more powerful group, as the post-colonial state has been its strong ally since the transition. One wonders whether the success of the female inheritance movement could be "replicated" under these changed conditions.

While Merry and Stern see human rights as a resource for local movements, there are complex dimensions to the interface between global ideas and local processes. In particular, their analysis of the local/global interface would have been more illuminating had the impacts of local processes on global rights discourse been analyzed. Nevertheless, they rightly observe that the potency of rights discourses is contingent and flexible. Paradoxically, its very strength is its weakness. Strategically, while global human rights discourse offers a focus for women's groups, local movements have not been enduring. A deep and sustainable commitment to women's human rights may be lacking among the activists and indigenous women. Despite the success of the female inheritance movement, similar actions to promote women's human rights remain few and far between. In fact, key developments in women's human rights go unheeded. Concerns regarding continued discrimination against women have recently resulted in the UN's adoption (in 1999) of the Optional Protocol, giving women the right to complain to the UN about violations of the Convention and providing for a remedy for victims (Tang 2004). While women's groups in other countries have actively pursued its ratification, the Optional Protocol is glossed over by the post-colonial state, the newly es-

tablished Women's Commission, and, to the surprise of many, some of the women's groups that were involved in the female inheritance movement.

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Merry and Stern's study of the female inheritance movement in Hong Kong is an important empirically grounded contribution to the debate on globalization and human rights. Rather than looking at local interpretations of human rights themselves, often labeled vernacularized or hybrid, the authors look into the processes through which this "local appropriation" takes place. It involves chains of groups of actors operating at different levels and with distinct ideological orientations through which the human rights ideas are communicated. The main theoretical problem they address is how it is possible for these groups, with their distinct ideological orientations, to cooperate and to gain political influence. They show that it requires "translators," people who are able to translate a problem from one vernacular to another. This mechanism of translation between "layers" is crucial to the success of the movement. They argue convincingly that it is not necessary that human rights language be regarded as legitimate by all members of a society or even adopted by all the layers of the movement to be effective. They explain how the debate about female inheritance is caught up in a wider range of political issues, among them the privileges in housing policies of the indigenous population of the New Territories.

The paper discusses two fundamental problems entailed in the translating process: the problem of alienation and the tension between individual and structural approaches. Some of the participants in the lowest layer of the movement see their stories and worries disappear in the translation process, to be replaced by formulations to which they cannot relate. There is a class issue here, as the layers are hierarchically ordered and those in the top layer set the agenda and determine the idiom in which stories are to be told. Similar processes of alienation and dispossession have been known since the 1970s from research in the sociology and anthropology of law in Europe and the U.S.A.: the disputing parties often no longer recognize their dispute once it has been reformulated by lawyers to make it acceptable to the courts.

Secondly, research in the 1970s on legal clinics and social advocates' practices in a country like the Netherlands showed the deep contradictions between protagonists of structural change and clients wanting to resolve individual problems. The female inheritance movement in Hong Kong shows similar internal contradictions among the layers within the movement. Here, too, participants in the lowest layer, seeking redress for their individual grievances without challenging the inheritance rules as such, withdraw from a movement that has

no interest in individual problems but aims at structural change, the main interest of the upper layers.

The lowest layer of the movement has some intriguing characteristics. Most participants are not purely local actors. Merry and Stern attribute this to the fact that Hong Kong is an international city whose citizens generally have connections beyond its borders, though the extent of globalized connections differs. This may be the case, but one wonders whether involvement in the movement might be skewed towards women with such connections. This is all the more likely if one considers another feature that Merry and Stern mention but do not discuss in great detail. Almost all members of the lowest layer of the movement are women without male siblings. In fact, several mentioned that they would have no objection to their brothers' inheriting everything; they just think that in the absence of brothers women should be allowed to inherit and should not be made dependent on the whims of cousins or uncles. Women suffering under patriarchal brothers apparently do not dare to speak up in public. The participants in the movement, then, are atypical. Interestingly, they are atypical for Hong Kong but not for China, where the one-child policy must have left many women without brothers. But then, China has long made female inheritance the legal norm, though it is not clear to what extent this has replaced customary law in practice. Paradoxically, Hong Kong remains in this respect in isolation, despite its many connections with the outside world.

The paper does not allow us to judge whether the participants involved in the movement are indeed atypical. If they are, the question is how the results of the movement relate to women who do have brothers and who have few contacts beyond the borders of Hong Kong. Do the creative translation techniques of songs and plays reach these women, and how do they respond? While the paper discusses the conditions for political success at the top, it is less specific about the bottom. This calls for further research.

Reply

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It is a pleasure to hear readers' thoughts and to begin a dialogue about both the details of the female inheritance movement and its wider meaning. As many of the readers point out, there are limitations on research conducted ten years after an event took place. They express a desire for more information about how the indigenous women themselves saw the use of rights language. Did they feel that rights language was imposed from above? How, if at all, was rights language "framed down," or anchored in claims about kinship? And how did indigenous women outside the movement respond to rights language? Was rights language a temporary strategic choice,

or did it change the way participants—or the wider Hong Kong public—thought about gender? These are interesting and important questions that are difficult to answer without the benefit of watching the events of 1993–94 unfold firsthand. Although we interviewed many of the key participants later, we would love to have observed the nuances of indigenous women's balancing of two sets of justice ideologies, one based on rights and one based on kinship obligations.

But it is also the case that we were particularly interested in the use of the idea of rights as a political strategy and in how rights language is introduced and interacts with alternative understandings of a problem. While we speculate on the effect of rights language on consciousness, it is a separate project to consider how rights are *understood* locally and how that understanding changes through activism. As in McCann's research on the pay equity movement (1994), Gilliom's study of welfare recipients (2001), and McAdam's treatment of the civil rights movement (1989), answers to these questions require sustained contact with movement participants to document how activism transforms understandings. We are now both exploring rights consciousness in other contexts, as are other researchers.

Deveaux begins with the issue that animated this project in the first place: is using a human-rights frame for the political struggle of indigenous women a "good thing"? The question has several dimensions. Does this individualistic way of framing a grievance do violence to the women's own understanding of their situation? Is it imposed or voluntarily adopted? Is it politically effective? Deveaux is right to pose these questions, and we are aware that our article answers only some of them. This is largely because we recognize that answers depend heavily on what standards one adopts for a "good thing." Instead, we focused on the complicated linkages between indigenous women and a global human-rights discourse. We wanted to unpack the idea of imposition in order to see the indigenous women themselves as strategic actors, regardless of whether they maintained a long-term normative commitment to a rights framework.

Inoue calls translation a "process of power" and suggests that our analysis reinforces the "inequality of languages" by focusing on translation in only one direction. Instead, she asks for more attention to the consciousness of the indigenous women and the way in which their perspectives were incorporated into rights language. This is a valuable point and one that warrants further research. Piecing together the information we did gather, it appears that the inequality in translation, while significant, was not absolute and that the indigenous women, to various degrees, were engaged in reinterpretation and translation. Yet even as we look at multiple processes of translation, it is important to recognize that translators differ in terms of power and capacity to translate. And when power comes into play, languages are not necessarily treated equally.

Von Benda-Beckmann also points to the power dynamics of translation when she observes that the indigenous women, at the bottom of the class hierarchy, watched

their stories disappear in the translation process. She shows important parallels with the legal process, in which conflicts are transformed by lawyers and courts. Her further point about the tension between helping individuals and promoting structural change—present in both the female inheritance movement and activist legal clinics in the Netherlands—is well taken.

Thus, Deveaux, Inoue, and Von Benda-Beckmann are all concerned with translation as a form of power. Inoue sees the female inheritance case study, at least as we have written it, as reinforcing a zero-sum view of power which pits indigenous understandings against rights language with the idea that some discourses are more valid and powerful than others. In a similar vein, Deveaux and Von Benda-Beckmann push us to ask hard questions about how indigenous women's voices may have been steamrollered. These commentators point out that language can be exclusive and discourse hegemonic. It is problematic that rights language was the only legitimate way to talk about inheritance in the public sphere and that the indigenous women's complementary understandings of their grievances were, of necessity, private. As Deveaux points out, questions about the inadequacy of rights language and frustration over its limitations have already emerged in the area of indigenous rights, as they have in the sphere of women's rights. Further research on the translation process could explore what is lost when this kind of language is used.

Yet this is not a simple story of coercion in which rights language is imposed from above. The indigenous women had choice and agency. There was a lot of pressure from neighbors and friends for them to drop their claims, and they could easily have dropped out of the movement. The fact that they did not indicates that, at a minimum, they understood the efficacy of rights language. For the indigenous women and, in fact, for the broader inheritance movement, the idea of rights was a tool for overturning a deeply entrenched status quo. As Martha Minow puts it, rights are the "possessions of the dispossessed," the refuge of the powerless (quoted in McCann 1993:773).

We think that the female inheritance case study moves us toward a more additive view of power in which rights language and indigenous understandings coexist and, by coexisting, become more than the sum of their parts. In the female inheritance movement, rights language was significantly strengthened by the addition of the indigenous women's individual stories. While the indigenous women would not have won the right to inheritance without framing their claims in terms of rights, the wider women's movement would not have been able to amend the New Territories Ordinance without recourse to the women's individual stories. Power moves in both directions here. Rights language craves specificity just as specific stories benefit from a wider frame.

Another strand of commentary either requests more detail about other players in the movement or suggests slightly different ways of aligning them. Tam, Tang, and Von Benda-Beckmann would like to know more about men, the media, other indigenous women in the New

Territories, and the Heung Yee Kuk. They are particularly interested in how these other actors either used rights language or responded to it.

While we are also quite interested in other actors, our four layers are a deconstruction of the female inheritance movement, not an exhaustive list of everyone involved in the debate. We inevitably simplified in order to develop a schematic description and analyze the translation processes. In addition, we were specifically interested in the coalition of people who came together to pursue female inheritance and the different ways in which international rights language was used within this coalition to advocate change. Our hope is that scholars will fill in gaps and add nuance, as Tang and Tam do in their comments. Tang offers a particularly interesting postscript, noting that even the women's groups have not sustained their focus on women's human rights.

Inoue calls on us to speculate about the "responsibilities of anthropologists in this age of globalization." In contrast to the image of isolated academics holed up in an ivory tower, our research shows that academics can have great influence. Expatriate academics in Hong Kong played a major role in introducing rights language to the discussion over female inheritance, especially rights language anchored in international law. And, as Inoue points out, we also played a role as translators by bringing these different frames to an international audience. We raised the profile of rights language by simply showing up and asking questions about it.

With influence comes responsibility. Anthropologists have engaged in considerable debates over the power of the author to shape stories and represent other people's lives. We agree that academics need to be self-reflective and aware of the impact of their research. We, of course, brought the female inheritance movement a wider academic audience and put our own spin on it. Because our work implicitly addresses the normative question that Deveaux poses—is this a "good thing"?—it may be ducking responsibility not to have addressed that question directly. We preferred, however, to offer our translation and allow readers to draw their own conclusions according to their own values.

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