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# THE LEGAL APPROACH TO HISTORIC PRESERVATION: A COMPARATIVE STUDY OF HISTORIC PRESERVATION LAWS IN NEW YORK AND HONG KONG

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## ABSTRACT

To explore the significance of historic preservation in metropolitan cities and disparities in the legal system to preservation, this paper conducts a comparative study of Hong Kong and New York. To begin with, it provides an overview of the historic preservation legal system in New York and Hong Kong and outlines the major preservation laws respectively in two cities. It pinpoints the key difference of the two legal systems: historic preservation in New York is shaped by four tiers of laws on the federal, state, local and community levels whereas Hong Kong only has a handful of preservation laws on the level of the special administrative area. The latter is hence void of the legal procedure that stipulates governmental actions of assessment and intervention as well as incentives for preservation. This article proceeds to make Comparisons are made in the aspects of historic preservation goals and scope, historic preservation nomination procedure and criteria, administrative structure and institution, regulating governmental actions, regulating private actions and public participation, while a set of policy recommendations is proposed.

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**KEYWORDS:** *legal system of historic preservation, preservation law, historic property conservation, heritage preservation, building management, New York, Hong Kong*

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## 1. INTRODUCTION

The significance of historic preservation in city development has been argued from various theoretical perspectives, e.g., sustainable development, knowledge economy, and the cultural approach to urban dynamism and economy, and has thereby created wide awareness in local governments and the public. The legal system is the foundation and guard for effective historic preservation in contemporary societies. Disparities in legal approaches to historic preservation inform the various practice and outcome of historic preservation in different locales.

This paper compares historic preservation laws in New York and Hong Kong. Both are world-class metropolitan cities and face pressures of high land prices. This pressure often leads to the demolition of historic buildings and structures in order to make way for new development of high-performance buildings. This study has three objectives: first, it identifies the differences and similarities of historic preservation in the two cities; second, it uses historic preservation conventions to assess preservation laws in both cities; and third, it also aims to outline constructive lessons.

## 2. AN OVERVIEW OF THE HISTORIC PRESERVATION LEGAL SYSTEM AND MAJOR PRESERVATION LAWS IN NEW YORK AND HONG KONG

One major difference in the historic preservation legal systems in New York and Hong Kong is that historic preservation in New York is shaped by a multiple-tiered historic preservation legal system whereas Hong Kong is only regulated by a handful of laws within the city scope. As a city of the U.S., New York applies national and state laws in addition to its local preservation laws, while Hong Kong is considered a special administrative area of China that enjoys legal autonomy; it implements an independent legal system different from P.R.China under the policy of "one country two systems." Its colonial ties to the British government terminated when it was taken over by the P.R.China in 1997, and is thereby no longer influenced by U.K. preservation laws (which could otherwise have been operated on a higher tier of oversight). Currently, P.R.China's preservation laws are not in effect in Hong Kong except for those structures holding national emblematic or symbolic properties or issues. This difference renders historic preservation in Hong Kong void of regulatory influences from legal tiers other than at the municipal level, quite different from the multiple-tiered regulations in the U.S.

Historic preservation in New York is shaped by four tiers of laws. First, on the Federal level, there are three main laws: National Historic Preservation Act (NHPA), National Environmental Policy Act (NEPA), Section 4(f) of the Department of Transportation Act of 1966 (DOTA). Each of these laws was enacted by a federal agency<sup>1</sup> and was subsequently adopted by the state historic preservation agency<sup>2</sup>, and has created the entity that oversees the law's implementation (e.g., the Advisory Council on Historic Preservation (ACHP))<sup>3</sup>. Each law acts as an important role in stipulating nationwide preservation issues. More importantly, historic preservation laws provide the procedural requirements of governmental actions affecting historic resources; the focus or intent is not to completely bar harmful actions on historic structures, but to require governmental actions comply with formal procedures of historic preservation. Furthermore, federal preservation laws provide important federal incentives for the restoration of historic resources. The NHPA establishes a Historic Preservation Fund which is administered by the State Historic Preservation Office and is in turn available to help fund local New York city projects. Funds and resources available include the Rehabilitation Tax Credit as well as other preservation incentive programs, e.g., tax deduction for donations of a qualified interest in property offered by the Internal Revenue Service, or the "façade easements" donation. The Historic Preservation Grant Program administered by the New York Landmark Preservation Commission for example, is a federally funded program administered through New York City's Community Development Block Grant that provides grants for homeowners and non-profits to restore deteriorated facades (NYLPC, 2011). The Secretary of the Interior provides the standards for the treatment of historic properties which specifies correct procedures for preservation, rehabilitation, restoration, and reconstruction. These standards guide state and local governments to make funding decisions, review proposals and enact master plans and zoning ordinances (APA, 2006).

Second, state and local governments are responsible for identifying and nominating properties to be

<sup>1</sup> For example, National Historic Preservation Act of 1966 expands the U.S. Department of Interior's role in maintaining a "national register of historic places" (Rizzo, 2009).

<sup>2</sup> National Historic Preservation Act of 1966 encourages states to designate a "state historic preservation officer" to implement NHPA, plan for historic preservation on the state level or coordinate relevant state governmental actions with NHPA (Rizzo, 2009).

<sup>3</sup> ACHP created a useful guide to NHPA, *An Overview of Federal Historic Preservation Case Law, 1966-1996 and federal Historic Preservation Case Law Update, 1996-2000*. It acts as an independent agency to determine whether governmental actions adversely harm National-registered or eligible historic resources.

considered for the National Register of Historic Places; after acceptance the state and local governments are responsible for implementing Section 106. At the New York state level, New York's State Historic Preservation Act (SHPA) and State Environmental Quality Review Act (SEQRA) provide similar procedural statutes within the state. Additionally, in 2006, New York State created a state law counterpart to the federal tax credit in the form of a state rehabilitation tax credit for projects already receiving the federal credit. These two tax credits can be used concurrently to allow more resources to be allocated to any one project.

Third, historic resources are most often protected at the local level. New York City's Landmarks Law (created in 1965) acts as the key legal source that implements historic preservation policies of the city. The law was established by the New York Landmark Preservation Commission allows for reviews and permits decisions that are not considered formal "actions" for SEQRA purposes. The same law also stipulates two kinds of landmark actions that are excluded from SEQRA's purview. The two actions are "designation of local landmarks or their inclusion within historic districts" and "official acts of a ministerial nature involving no exercise of discretion" (6 New York Codes, Rules and Regulations (N.Y.C.R.R.) § 617.5(c)). Preservation laws on different tiers regulate historic preservation in various forms and aspects and were created to either require or encourage preservation.

Fourth, the governing body of designated communities is authorized to establish community preservation funds to implement a plan for the preservation of community character (New York General Municipal (N.Y. GMU.) LAW § 6-s).

Historic preservation laws in Hong Kong do not have these multiple tiers of laws at the federal, state and community levels, and thus are missing: procedural statutes to regulate governmental actions, multiple incentive tools to support preservation, the creation of independent supervisory agencies, and community level funding. Hong Kong's preservation laws are equivalent to the New York local level preservation laws. The most relevant law is the Hong Kong Antiquities and Monuments Ordinance. Other relevant laws include Environmental Impact Assessment Ordinance, Town Planning Ordinance and Urban Renewal Ordinances. Environmental Impact Assessment Ordinance is to provide for assessing the impact on the environment of certain projects and proposals, for the purpose of protecting the environment and for incidental matters. "Environmental impact" for a designated project includes an effect of the change on a structure, site or other thing that is of historical or archaeological signifi-

cance. Town Planning Ordinance is to promote the health, safety, convenience and general welfare of the community by laying out areas, zoning land uses and planning for the types of buildings with permissions for development. Urban Renewal Ordinances is to carry out urban renewal and part of the purposes related to historic preservation is "to preserve buildings, sites and structures of historical, cultural or architectural interest" (Chapter 563, Urban Renewal Authority Ordinance, 2001, p.3, [http://www.legislation.gov.hk/blis\\_pdf.nsf/6799165D2FEE3FA94825755E0033E532/9BA494475B1AC8E8482575EF001B97BF/\\$FILE/CAP\\_563\\_e\\_b5.pdf](http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/9BA494475B1AC8E8482575EF001B97BF/$FILE/CAP_563_e_b5.pdf)).

### 3. HISTORIC PRESERVATION GOALS AND SCOPE

Historic preservation laws in both cities reflect the public policy considerations that attempt to balance historic conservation with a development oriented pro-growth initiative. The laws created do not require governments to preserve historic resources where other competing governmental interests may be at stake. Rather, they provide a process to evaluate the impact of governmental actions and allow a certain scope of demolition or alteration during development. In this way, these laws attempt to balance preservation concerns with other governmental interests. Both systems aim to balance the goals of preservation for public interest and individual property owners' rights.

Since historic preservation in New York is shaped by historic preservation laws on various tiers (federal, state and local levels), disparities of various legal tools are observable. Some laws aim to restrict changes to preserved historic resources, whereas others place preservation on equal footing with alternative courses of actions. Those alternatives may be demolition or reconstruction regulated by means of governmental actions to historical resources (Miller, 2008). Only those designated by the New York Landmark Preservation Commission as "landmarks" are strictly preserved, whereas federally and state registered historic resources held by private owners are not fully exempted from harmful actions such as demolition and alteration as long as the owners deem appropriate and no other discretionary approvals are required (American Planning Association, 2006).

In Hong Kong, a combination of rapid economic growth against an inherent shortage of land has resulted in relatively weak historic preservation ordinances; listed historic structures and buildings are classified to four grades: Monument, Grade I, Grade II and Grade III. Only those holding the Monument classification are required to be strictly preserved.

Grade I refers to "buildings of outstanding merit, which every effort should be made to preserve if possible." Grade II are the "buildings of special merit; efforts should be made to selectively preserve." Grade III includes the "buildings of some merit; preservation in some form would be desirable and alternative means could be considered if preservation is not practicable." As of 27 December 2013, 105 historic buildings and structures were given Monument status in Hong Kong<sup>4</sup>, and as of February 2013, there were 917 graded historic buildings (153 Grade I, 322 Grade II, 442 Grade III), of which 203 were owned by the Government and 714 held privately.<sup>5</sup>

In terms of preservation scope, a high portion of preservation resources are present in both cities, ranging from buildings, structures, and objects, to historic sites and districts. The most obvious disparity is that historic preservation in New York includes historic districts, and Hong Kong does not include a district classification. In Hong Kong all classifications belong to singular structures; districts are not included in the legal scope of historic conservation. If there would be a historic district in Hong Kong, each structure within that district would need to receive a classification from the city of Hong Kong.

#### 4. HISTORIC PROPERTY NOMINATION PROCEDURE AND CRITERIA

Both cities have similar criteria in determining specific buildings and structures to be listed, which are consistent with their respective underlying policy goals. As noted by scholars, historic preservation has value as providing a continuity of cultural memory/heritage value and visible evidence of the past. Historic preservation is constantly used as a pedagogical and educational instrument to build up cultural identity and memory of a defined community. Listing historic artifacts, however, often reflects elitist concerns and sometimes results in cultural continuity being manipulated as a politically charged "heritage" site (Tiesdell, et al., 1996).

In New York, the emphasis of preservation is placed on objects, buildings and structures with historical significance in the specific U.S. national or local N.Y. city context. The law stresses the quality of significance in American history, architecture, archeology, engineering, and culture that represents an integrated process of location, design, setting, materials, workmanship, or feeling (36 Code of Federal Regulations, § 60.4). Nominated properties are en-

couraged to be those associated with significant U.S. historical events, American people's lives in the past, or embody the distinctive characteristics of a type, period, or method of construction, or represent high artistic values or a significant and distinguishable entity.

In Hong Kong, classification for historic preservation is based on the government dominated value system of Hong Kong history<sup>6</sup>, reflecting a state-led hegemonic view of historic preservation. For instance, Sun Yatsen and the historic buildings and relics related to Sun's activities have been well preserved in Central. The Kom Tong Hall Sun Yatsen Museum is one example. Its preservation and restoration techniques have reached an international standard. Historic structures and buildings associated with grass-root collective memories are not well-valued as international heritage preservation charters require (Amended 38 of 1982 s.7).<sup>7</sup> In terms of the nomination procedure, the "Antiquities and Monuments Ordinance" in Hong Kong provides that for the purpose of considering the appropriateness of declaring a place, building, site or structure as a monument, the authority (i.e., the Secretary for Development) should consult the Antiquities Advisory Board, and declare it to be a proposed monument, proposed historical building, or proposed archaeological or paleontological site or structure. This declaration is made by publishing a notice in the Gazette. A declaration may include the land, structures and objects surrounding the proposed monument for providing or facilitating access thereto. A reference to the plan should be included (Chapter 53, Antiquities and Monuments Ordinance, 1976).

#### 5. ADMINISTRATIVE STRUCTURE AND INSTITUTION

In both locales, local preservation commissions or design review boards administer most local ordinances. Preservation commissions are administrative bodies of local governments (Miller, 2008). The New York Landmark Preservation Commission is the administrative entity in the New York City government. It is a governmental agency that grants or denies a permit to change a historic property designation, and identifies and designates both landmarks and historic districts. The New York Landmark Preservation Commission has hitherto designated

<sup>4</sup> List of declared monuments on Leisure and Culture Services Department website.

<sup>5</sup> Report No. 60 of the Director of Audit, Chapter 1: "conservation of monuments and historic buildings," 28 March 2013. [http://www.amo.gov.hk/en/teachingkit/download/teaching\\_kit\\_03.pdf](http://www.amo.gov.hk/en/teachingkit/download/teaching_kit_03.pdf)

<sup>6</sup> This project, together with seven other heritage sites, has been awarded cultural heritage prizes by the UNESCO Asia-Pacific Area. This shows that Hong Kong's heritage conservation techniques have been accredited by international professional organizations.

<sup>7</sup> A number of historic buildings were completely demolished, including those having historical significance and distinctive local architectural styles (e.g., Queen's Ferry, Star Ferry, Lee Tong Street, parrot street, and King Yin Lane).

1000 landmarks and 800 historic districts in the city of New York.

The Hong Kong historic preservation authority refers to the Antiquities and Monuments Office, which is an office level institution affiliated to the Leisure and Cultural Services Department. The process of designating historic sites involves the Antiquities and Monuments Advisory Board (under the Home Affairs Bureau) of Consultation. The Advisory Board of Consultation has the majority of its members appointed by the government (Yeh, 2009).<sup>8</sup> However, historic preservation entails overarching cooperation of a variety of other government departments and agencies. The Antiquities and Monuments Office and the Advisory Board have limited power intervening into the administrative scope of other departments on historic preservation (Kan, 2007). In the process of urban development, the Housing and Planning Bureau executes decisions of the City Planning Board without engaging the Antiquities and Monument Office and the Advisory Board, resulting in the incoherent implementation of historic preservation policy. For instance, transportation planning rarely encounters concerns of historic preservation. In consequence, the Office and the Board are usually not consulted in the planning process.<sup>9</sup>

## 6. REGULATING GOVERNMENTAL ACTIONS AND UNDERTAKINGS ON HISTORIC RESOURCES

One significant difference in historic preservation laws between the two cities is that New York's system regulates governmental actions on historic preservation by providing a consultation and evaluation procedure and a supervisory agency, but Hong Kong does not.

The regulatory approach to protecting historic resources from harmful governmental actions in New York City embodies the goal of historic preservation in U.S. It only requires governmental actions to adhere to specific decision-making procedures to ensure effects are sufficiently contemplated. The important tool created by NHPA is the "Section 106" consultation process, according to which, federal

agencies must consider the effect of their actions and undertakings on any National Register-listed<sup>10</sup> or eligible historic properties. The "Section 106" review is initiated with an evaluation of the impact of the federal agency's actions on historic properties. If the harm of the undertaking is determined, federal agencies must consult with the State Historic Preservation Officer and other relevant agencies to identify historic properties, assess the impact, and work with consulting parties to eliminate or ameliorate them. On the state level, New York's SHPA and SEQRA require all state agencies to consider the impact of their actions on historic resources and follow a similar evaluation and consultation procedure while working with the State Historic Preservation Officer.<sup>11</sup> The New York City government is delegated to certain federal agency responsibilities under Section 106 of the NHPA. Section 106 responsibilities are also carried out by city agencies receiving federal funds from the Department of Housing and Urban Development (HUD). New York governmental actions are governed by state environmental or preservation laws, such as New York's State Environmental Quality Review Act and N.Y. Environmental Conservation Law, 8-0101 et. seq. (SEQRA), which affect a wide range of municipal actions, including zoning changes.

More importantly, there is an independent agency, the ACHP. It functions to determine whether any properties listed or eligible for listing in the National Register will be adversely harmed by governmental actions. When the agreement cannot be reached between the ACHP and the government regarding the measures to mitigate the harm on historic resources, the ACHP is authorized to issue formal comments. This mechanism however, is missing from the Hong Kong system. The most controversial governmental actions in recent years that demolished Grade I historic structures and buildings, i.e., Star Ferry and the Queen's Pier, were not constrained and the government did not exhort alternative plans that may have mitigated harm. Here, the problem is not that the government failed to state the reasons for its actions and show how other alternative measures were weighed, but when these justifications were challenged by the public, they were exempted from final formal comments by a third-party independent organization equivalent of ACHP.

Federal level preservation laws also regulate governmental actions in various aspects. NEPA applies to "major federal actions" and NHPA applies to fed-

<sup>8</sup> In 2007, the Home Affairs Bureau reformed the Antiquities and Monuments Advisory Board and increased the number of board members from 21 to 28, diversified members' backgrounds and changed the mode of operation (Heritage Hong Kong: Heritage Conservation Position Paper, LC Paper No. CB(2)1646/06-07(01), Legislative Council Home Affairs Board, 2007, <http://www.legco.gov.hk/yr06-07/english/panels/ha/papers/ha0420cb2-1646-1-e.pdf>).

<sup>9</sup> Also, land policies are issued with limited concerns about historic conservation and the Office and the Board fail to influence that procedure either. Moreover, when the government leases lands to developers, it does not consult the Offices and the Board for advice either. Thus, the relatively low level of the two agencies has restrained the influence of the historic conservation authority in conservation.

<sup>10</sup> Historic resources can be listed in three types of registers in U.S.: the National Register of Historic Places, a state register of historic places, or a local listing of historic landmarks and districts (APA, 2006).

<sup>11</sup> SHPA does not apply to projects subject to the more extensive requirements of Section 106.

eral undertakings. Also, NEPA requires federal agencies to evaluate significant adverse impacts, and NEPA requires federal agencies to consult if there are any adverse effects by preparing an environmental impact statement. Section 4(f) of the Department of Transportation Act applies to actions of the U.S. Department of Transportation. It will approve a transportation project that has adverse impact on historic properties only when this action represents the most prudent and the only feasible action to use that land.

Designated landmarks in New York City enjoy flexible application of land-use laws which, in some cases, may waive the use and bulk restrictions or benefit by transferable development rights programs (Miller, 2008).

## 7. HISTORIC PRESERVATION ON PRIVATE-OWNED PROPERTIES AND REGULATING PRIVATE ACTIONS

Private actions affecting historic properties are regulated at the local level through historic preservation ordinances. New York Landmark Preservation Law specifically focuses on regulating private historic properties. It thereby is comparable to the Hong Kong Antiquities Law. Differences rest in the application procedure for demolition/alternation permits, landmark/monument designation and tools for regulating private owners' actions to their landmark properties. In general, both cities have revealed concerns about the rights of private owners in the context of historic preservation, but Hong Kong has a much weaker legal intervention into private actions: the government takes up a larger part of responsibility which would otherwise have been levied on the private owners. The government can purchase key properties from private owners and thus take care of conservation. King Yin Lane is one example: it is a privately owned estate with prominent architectural merits. The owner planned to sell the estate and conducted partial demolition. In 2008, the government reached an understanding with the owner on a possible preservation option for the mansion. The owner surrendered King Yin Lane's entire site to the government after restoration and the government granted an adjacent man-made slope site of a size similar to King Yin Lane to the owner for development with certain limits of plot ratio and height control. Except for such exceptional cases that involve a change in property ownership, the Hong Kong government fails to provide sufficient incentives or services to assist private owners.

Both New York Landmark Preservation Law and Antiquities and Monument Ordinance require private owners to apply for permits from the authority for changing architectural characteristics of their es-

tates and impose penalties on violations, but differ in the procedure of review. In New York, locally designated individual landmarks or contributing structures within a historic district are pursuant to a local historic preservation ordinance and private owners are not authorized to change the property in ways that would harm its historic or architecturally significant characters, but the owners are entitled to apply for special permits if they intend to do so (Miller, 2008).<sup>12</sup> In Hong Kong, according to the Antiquities and Monument Ordinance, no one should "excavate, carry on building or other works, plant or fell trees or deposit earth or refuse on or in a proposed monument or monument; or (b) demolish, remove, obstruct, deface or interfere with a proposed monument or monument, except in accordance with a permit granted by the Authority" (Antiquities and Monuments Ordinance, 1976, Section 6). Anyone who is denied the permit can appeal within 14 days (Antiquities and Monuments Ordinance, 1976, Section 6). The difference in this procedure is that in New York, a property owner's application for a demolition permit will not be issued until after a specific waiting period during which the commission works with the private owner to explore alternative plans to save the building. The Hong Kong council however, does not provide this type of service.

Another significant disparity is that the Hong Kong Antiquities Law does not require private owners to carry out the minimum maintenance of their monumental or graded properties. In other words, graded properties owned privately are not required to be kept under routine maintenance by their owners. The maintenance work for monumental buildings is undertaken by the government. By contrast, the New York's Landmark Preservation Law encourages property owners to consult commission staff and requires routine maintenance. In New York City, serious deterioration caused by property owners' negligence will result in penalties; in Hong Kong the same behavior will not.

During the process of designating landmarks or monuments, both ordinances allow property owners to express objections which have limited impact on the determination of designation. But, there are slight differences in processing the objections in this process. In New York, a property owner may prevent the inclusion of his/her property in the National Register by formally objecting to the listing, but this does not prevent the application of laws, e.g.,

<sup>12</sup> In addition to New York Landmark Preservation Law, a few laws contain enforcement provisions and authorize the imposition of civil and/or criminal penalties for violations, such as Archaeological Resources Protection Act, the Native American Graves and Repatriation Act, the Antiquities Act.

Section 106 review, on eligible properties. The New York Landmark Preservation Commission is authorized to designate any appropriate structure or site as a landmark disregarding the hardships that landmark designation may impose on the property owner. The owner has the right to appeal the Commission's designation on the ground that he/she is not receiving a fair return. If this is proved to be true, the Commission then works with the owner to devise a plan for preservation that ensures the required fair return (at six percent of the assessed valuation of the building and its site) by granting partial or complete tax remission (§ 207-8.0). In Hong Kong, the objection can lead to cancelation of the declaration intention. According to the Antiquities and Monuments Ordinance, the Chief Executive in Council, upon considering an objection, may direct that the intended declaration as referred by the Authority should be implemented, or the intended declaration should be made subject to variations as he thinks to fit, or should not be made (Chapter 53, Antiquities and Monuments Ordinance, 1976, Section 4).

More importantly, New York has provided a wider variety of incentives to encourage private owners or private sector investment to either protect historic resources or drive the rehabilitation of historic buildings. For example, a rehabilitation tax credit that could be one of two types: either a 20 percent credit of the qualified rehabilitation expenditures incurred in rehabilitating certified historic structures or a 10 percent credit of the tax in rehabilitating non-certified structures. A tax break for easement donation contributes 11 percent of the values of their homes. The transfer of development rights was first enacted for a specific class of privately owned structures by the New York City Planning Commission; it was later extended to publicly owned properties. In Hong Kong the Antiquities and Monuments Ordinance does not provide the same type of tax incentives to encourage rehabilitation.

## 8. PUBLIC PARTICIPATION

Both systems engage the public in the process of historic preservation, but public involvement is different at various stages of the process between the two, and the depth of their involvement varies. Historic preservation in New York has a public participation system more matured than the public participation system in Hong Kong.

New York engages the public in all the stages throughout the preservation process. The property owners are entitled to propose the designation of their properties and their preservation is encouraged by various financial incentives. In fact, a large section of designations are initiated by the property

owners. Also, landmark designation by the New York Landmark Preservation Commission is followed by public hearings. Property owners' requests for change are also evaluated at a public hearing based on standards for review (Miller, 2008). More importantly, public participation is essential to the enforcement of laws protecting historic resources from governmental actions. The New York statute gives individuals and organizations the right to sue and the ability to recover attorneys' fees. In Hong Kong, monuments are designated by the Antiquities and Monuments Office. The commission's designation and owners' application for alteration or demolition do not trigger public hearing. Furthermore, individuals and organizations are not entitled the right to sue the government's actions nor is there any forum for public discussion. In recent years, several cases in Hong Kong incurring severe confrontation between the public and the government were related to governmental actions that demolished publicly owned historic structures, which was detrimental to the inheritance of Hong Kong people's collective memories. If a public forum for discussion would have been present, confrontation could have been minimized. In Hong Kong an independent third party able to provide professional formal comments on the government's actions is missing. Another problem is the community is not sufficiently entitled to oversee the public designation and renewal methods in historic preservation for the sake of preserving their collective memories.

## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

New York and Hong Kong, as comparable metropolitan cities, are employed as cases for comparative research in urban studies from time to time. This article examines the legal system of historic preservation in the two cities. Both cities are confronted with economic pressure that pushes up land prices and property values which creates a menace to historic preservation in both cities. One significant difference in the two is that the historic preservation legal system of New York is shaped by multiple-tiered laws, including the federal, state, New York City, and the designated community groups. In Hong Kong, the historic preservation system is controlled by one local entity. The federal level of historic preservation laws provides the procedural requirements of governmental actions as well as incentives for restoration. State and local laws are responsible for designation and protection. Hong Kong is a special administrative area independent from the legal systems of P.R.China and U.K. It is lacking in complexity for regulating the procedure of governmental actions, and also lacks an involvement of a

third party for professional assessment of governmental actions, incentives for protection and intervening mechanisms for controlling private actions and affording technical assistance. Accordingly, the administrative authority in Hong Kong dwells on a relatively low level within the bureaucratic structure. What follows is a set of policy recommendations designed to strengthen public intervention in private actions for historic preservation.

Based on the lessons learned from the experience of New York, this research advises the Hong Kong government considering issuing new regulations requiring private owners to take responsibility to minimally maintain heritage sites. This regulation

would make private owners' duties clear. As an additional measure, governmental agencies could provide more professional technological guidance and assist owners in creating viable means of structuring revitalization or creating alternative methods to maintain building structures and architectural characteristics. Moreover, considering the social value of any historic material work, historic preservation law in Hong Kong may include incentives to encourage private owners to increase the accessibility of their properties to the public. The government might consider setting up a foundation devoted to support the efforts of historic preservation and heritage education for the community.

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