

## **NEW DEVELOPMENT AREAS (NDAs) IN RURAL HONG KONG: WHOSE SPATIAL JUSTICE AND WHOSE RIGHT TO THE CITY?**

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Keywords (maximum 3): spatial justice, the right to the city, Hong Kong

### **Abstract**

Justice is a prerequisite for civil order (Rasmussen, 1999). To many Hong Kongers, the return to Chinese rule since 1997 has seen the further bias of the Government's policies towards the recent controversial plan that has triggered multiple protesting acts is to bulldoze farms and non-indigenous farmers in rural New Development Areas (NDAs) to make way for housing produced by ultra-expensive commodity fuelled by growing demand from local residents and Chinese investors. If justice means giving people what they deserve (Sandel, 2009, p.7), then the case is a difficult thought. Legally, justice is done when non-indigenous farmers who are also squatters, are cleared to make way for housing construction. Socio-economically, the move is to liberate the land value and provide homes for hundreds of thousands of urbanites. However, from a geographical equity point of view, these multi-generation farmers have played a significant role in securing local farm produces to the city. So whose right to the city should be protected: Farmers' rights to their farming production or the rights to be displaced? Or the claim rights of many urbanites to reasonable housing? Detailed examination of the evolution of the NDA plans reveals the importance of the right to voice out differences to prevent the complete transformation of spaces saturated with use values to exchange values. Nevertheless, the NDA plans can still be seen as a smokescreen to fatten the pockets of big developers who have accumulated huge land banks in the NDAs.

### **1. Introduction**

Lefebvre argues that the production of space has nothing incidental about it; it is a matter of life and death (1991, p.417). To Lefebvre (1991), plans made by the experts are often abstractions that cause destruction and so it is very important for the users in lived space to voice out their concerns and propose counter-plans to realise their rights to difference. This paper examines the recent planning and controversies surrounding rural new development areas in Hong Kong, a post-British colony best known for its capitalist mode of development under the One Country Two Systems since its return to Chinese rule. On the surface, the problems are related to the removal of multi-generation squatter-farmers and their rented farmland for housing development, the shortage of which has created much social debates and discussions. However, a deeper question that is not directly addressed by the Government but widely reported in the mass media is the accumulation of land banks by big and small developers who are keen to have a share in the NDAs. This paper traces the planning process and outcomes of the NDAs. It is interesting to note that the voices of the squatter-farmers were not heard until towards the end of the Study on the NDAs and the problem of land hoarding (and the displacement of farmers and following of fertile farmland) by big developers in the NDAs was not directly addressed in any of the planning documents.

The following section discusses what spatial justice is and how it is related to the right to the city. Then the origin and evolution of the NDA plans are discussed, focusing on the key changes that could be identified in the process. Section four tries to argue that social activism has been an important factor leading to key changes in the NDA plans though the plan remains a tool to privilege big developers who have accumulated land banks in the area. Section five concludes the paper by highlighting the lessons to be learned in this case.

## 2. What is Spatial Justice and What is the Right to the City?

What is justice? According to Aristotle, justice is to give people what they morally deserve. This can be discerned in several of his quotes<sup>1</sup>:

Man perfected by society is the best of all animals; he is the most terrible without law, and without justice; All virtue is summed up in dealing justly; Men acquire a particular quality by constantly acting a particular way... you become just by performing just actions, temperate by performing temperate actions, brave by performing brave actions.

There are several dimensions embedded in these quotes that define justice. First justice cannot be done by oneself, it has to be a collective societal endeavour and the aim is to perfect the collective. Second, it seems that the perfecting of members of this collective is through a process of dealing things justly so that virtue will emerge, hinting on the importance of procedural justice. The meaning of the last sentence is clear: justice cannot be rhetorical. Justice is done through actions. We cannot be just unless we carry out just actions. If we take Aristotle's quotes to be the reason to define justice as giving people what they morally deserve is because only then, can each member of the collective be perfected, virtuous and just and this can only be done by a group of people willing to adopt procedural justice in their interactions and when they act, they act justly to not just perfect themselves but to bring out the best potentials of their fellow human beings. This definition is very different from the liberal definition by frequently cited author such as Rawls' *A Theory of Justice* (1971) who defines justice as distributional justice and based on primarily material terms. To imagine the possibility of justice in a hugely polarized world, he asks us to imagine a position of ignorance, that is no one knows his place in society so that we can agree on providing equal basic liberties for all citizens and that social and economic inequalities should not be permitted unless they work to the advantage of the least well off members of society. Unlike Aristotle, Rawls does not engage in the conception of perfecting human beings or developing a virtuous society it is about the distribution of things, tangible and intangible.

In Aristotle's quotes, there is a hint for procedural justice which according to Bladwin refers not only to the formal procedures of decision making and the quality of treatment as stipulated in the rules and regulations but also how they are treated by the authorities and the qualities of the decisions made by these authorities. This brings us back to the issue of HOW we can collectively live out justice in our everyday life. After all, perhaps as Sandel (2009, p.259) argues about the right way to distribute things. It is about the right way to value things.

Values are extremely important when it comes to the organization of space because all spatial locations are unique. Also [a]ll spaces embody power relations of some sort (Amin, Massey & Thrift, 2000, p.12) and spatial organization depends on who decides on what land uses will be allowed in space. Hence spatial justice is intertwined with the discussion of the right to the city: who has what right to the city, its planning, design and development? To Lefebvre (1991, pp.336-7), the problem with capitalism is that land must first be wrenched away from the traditional stability of patrimonial inheritance the entirety of space must be endowed with use value. However, use value constitutes the only real wealth (op cit., 1991, p.341). Table 1 shows the differences between exchange and use values.

Table 1. Exchange Value vs. Use Value

	Exchange value	Use value
Philosophy	Normative and rationalistic	Empirical and humanistic
Framework	Positivism	Emancipatory and post-structural pluralistic possibilities
Premise	Planning as reaction to socio-political-environmental contexts	Planning as intrinsic understanding of places and creative placemaking

<sup>1</sup> Quote extracted from <http://www.quotationspage.com/quotes/Aristotle/>, accessed on 8 Feb. 2015.

	Exchange value	Use value
Methodology	Imposition of orthodox modern design principles	Design recommendations based on resident experience and direct naturalistic observation
Boundaries	Exclusive and profession-based	Inclusive and people-oriented
Knowledge	Professional or expert knowledge	Situated knowledge expert knowledge merged with local knowledge

Source: Adhya, 2012, p.218.

Lefebvre's (1991) triadic spatial framework is instrumental in highlighting the importance of representational space (lived space) vis-a-vis representations of space (conceived space) and spatial practice (Figure 1). According to Lefebvre (1991, pp.38-39), *spatial practice* (perceived space) embodies a close association between daily reality (daily routine) and urban reality (the routes and networks which link up the places set aside from work, private life and leisure) *space* (conceived space) is the the space of scientists, planners, urbanists, technicians and social engineers all of whom identify what is lived and what is perceived with what is conceived. This is the dominant space in any society (or mode of production); representational space is directly lived the space of inhabitant and users This is the dominated here experienced space which the imagination seeks to change and appropriate . To Lefebvre [r]epresentational space is alive; it speaks. It embraces the loci of passion, situation, and thus immediately implies time (op cit., 1991, p.41). Predominant social relations reproduced through spatial practice and the representation of space, that is, plans made by planners and technocrats are often tied by technical knowledge and power and hence will have little room for representational space (op cit., 1991, p.50). Hence, the whole project for Lefebvre is to call for the reconstruction of spatial codes (p.64) through recognition of time , the most essential lived experience, the greatest good of all goods (p. 95). Hidden in any spatial order is a social order, determining who can benefit and who are excluded from it (op cit., 1991, p.289). This usually would not be revealed until spatial contradictions appear and this can only be overcome if those who lived in space struggle to fight for their right to difference, their right to the city (op cit., 1991, p.391).

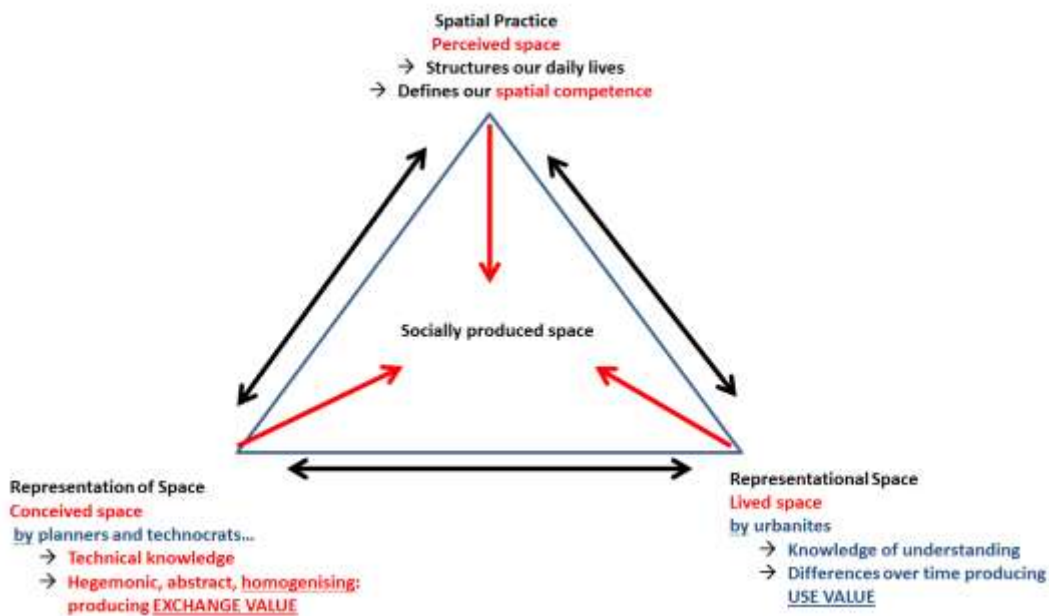


Figure 1. Lefebvre's Triadic Spatial Framework (Source: synthesized from Lefebvre, 1991)

### 3. New Development Areas (NDAs) in Hong Kong

Hong Kong, a former British colony, did not flourish into a multi-million city until after the Second World War and the setting up of the People's Republic of China and the consequent industrialization (Ng, 1995). Figure 2 shows the growth of Hong Kong over the years and it can be seen that reclamation plays a large role in accommodating urban growth. However, since the 1990s, rising concerns for natural and heritage conservation and people's rights to plan development decision making have led to the birth of the Protection of the Harbour Ordinance as well as many protests against demolition of heritage sites and historical communities (Ku, 2012; Ng, 2008; 2011 and 2014). On the other hand, population growth has slowed down in recent decades and instead of developing new towns, the Planning Department and the Territorial Development Department jointly commissioned the Planning and Development Studies on North East and North West New Territories (henceforth NENT and NWNT Studies) in 1998 to identify new development areas to accommodate the then estimated population growth from about 6.8 million to 8.3 million by the year 2011 (LegCo, 1999).

The selection criteria for the new development areas were as follows (LegCo, 1999, p.2):

- easy access to existing and planned railway networks;
- should avoid as far as possible areas of high ecological and landscape value;
- should be of a sufficient size, preferably with a capacity of at least 50,000 persons, for optimization and efficient provision of infrastructure;
- should preferably be undivided by physical obstacles to enable the development of a coherent urban area;
- should contain as few constraints on development and implementation (including capital, environmental and social costs and programming requirements) as possible; and
- should preferably tap into the dynamics of the increasing cross-boundary interactions between Shenzhen and Hong Kong.

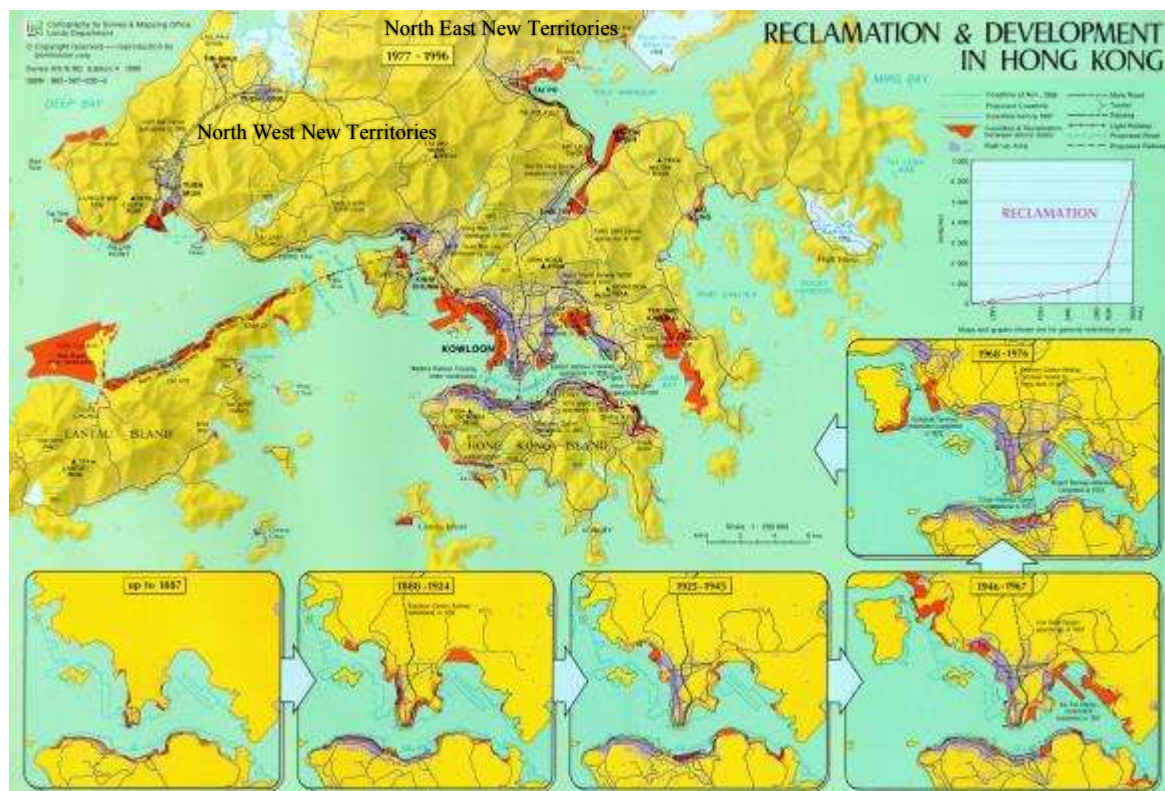


Figure 2. Growth of Hong Kong through Reclamation  
 (source: <http://www.urbanphoto.net/blog/wp-content/uploads/2011/10/landreclamation.jpg>)

And the recommended new development areas include three sites, two in Northeast New Territories and one in Northwest New Territories (op cit., 1999, p.3) (Figure 2), basically because they are next to existing new town development, with access to mass transit or strategic road networks, close to China and possess substantial development areas. It is interesting to take note of the selection criteria and the outcomes because as argued by Lefebvre (1991), time has been murdered by society (p.96) and there was no concern about the lived space or use value alone the people living there. In other words, the whole process had been done technically, devoid of a thorough understanding of the history, heritage and culture of the place. Its use values accumulated over the years by generations of residents, the real wealth, has been neglected and ignored in this site identification process (Lefebvre, 1999, p.341).

The situation in these rural new development areas is complicated by the fact that there are two different types of villagers in rural Hong Kong. New Territories villagers are considered indigenous if their settlement existed before 1898, the year when the Second Convention of Peking was signed and the New Territories was leased to the British colonial government for 99 years. However, those villages formed after that year are called non-indigenous villagers or simply squatters and they have no right to the government land they illegally occupied even though their existence might have been tolerated for decades. The difference between these two groups of villagers marked material implications when the Government introduced the small house policy in 1972 entitling indigenous male villager from a recognised village who is 18 years old to build a small house (3 storeys not exceeding 8.23m in height and 65m<sup>2</sup> in area, by no means small by Hong Kong standard) in his life time. The original objective was to improve the housing conditions of rural dwellers in the New Territories but then it became a very convenient policy during the 1970s and 1980s when the Government implemented the 10-year Housing Strategy through the development of new towns after the riots in 1966 and 1967<sup>2</sup>. In the course of developing new towns in rural Hong Kong, new villages consisting of small houses were developed for the male descendants of the displaced indigenous villages. This privilege, however, is not extended to the non-indigenous villagers. This administratively defined right for male indigenous villagers to build a small house has been written into the Basic Law, a mini-constitution of the Hong Kong Special Administrative Region when China resumed sovereign rights over the city in 1997. Until recent years, few people have attempted to challenge this differentiation and some even mistakes this administrative policy as one that respects indigenous rights.

So, when one of the planning principles for the new development areas stated that all existing villages, burial grounds and buildings and features of historical and/or cultural significance are retained as far as possible (LegCo, 1999, p.5), the Government was actually referring to indigenous villages. Other planning principles include: rail-based development, maximization of development potential, balanced community, network of open space and pedestrian walkways and provision of cross-boundary supporting facilities (op cit., 1999, pp.4-6). Put otherwise, nonindigenous farmers were invisible in the eyes of the planners when the NDAs were identified.

Table 2. Planned development scale of Kwu Tung North and Fanling North

Land Use Zone	Kwu Tung North		Fanling North	
	Area (ha)		Area (ha)	
Land area	498.5		202.7	
Population capacity	100,000		80,000	
Employment	17,000		1,600	
<b>Land use budget</b>	<b>ha</b>	<b>%</b>	<b>ha</b>	<b>%</b>
Residential	55.0	11.0%	42.2	20.8%
Village type	14.5	2.9%	6.4	3.2%

<sup>2</sup> Because of the Cultural Revolution that started in China in 1966, there had been riots in Hong Kong too. To pacify the grudging public, the colonial government launched a 10-year housing programme. Given the shortage of land in the old urban areas, the Government had no easy choice but to have reclamation in the New Territories to build new towns to provide necessary housing sites.

Land Use Zone	Kwu Tung North		Fanling North	
	Area (ha)		Area (ha)	
development				
GIC	36.2	7.3%	17.0	8.4%
Business use	20.0	4.0%	0.0	0.0%
Industrial (Gp.D)	2.4	0.5%	8.4	4.1%
Open Space/Amenity	17.2	3.5%	26.2	12.9%
Other specified uses	0.8	0.2%	35.8	17.7%
Green Belt	161.1	32.3%	0.0	0.0%
Agriculture	75.0	15.0%	0.0	0.0%
Roads, railway & drainage	116.4	23.3%	66.8	33.0%
<b>TOTAL</b>	<b>498.5</b>	<b>100.0%</b>	<b>202.7</b>	<b>100.0%</b>

Source: Extracted from LegCo, 1999, pp.6 and 7.

#### 4. NENT NDAs

##### *Representation of Space (Conceived Spaces the Evolving Plans)*

In 2003, the NENT NDAs proposal was shelved pending a comprehensive review of H overall planning under the Study on Hong Kong 2030: Planning Vision and Strategy (the HK2030 Study) (Development Bureau, 2012a, p.1). The HK2030 Study aimed to formulate a broad land use planning framework to guide the development of Hong Kong up to 2030 and it eventually followed the recommendations of the NENT and NWNT Studies. NDAs then were defined as small-scale new towns to provide housing, to meet other land use requirements and to offer an a living through the development of lower-density buildings in quality living environment, with convenient access to mass transportation and community facilities (Development Bureau, 2007, p.2). In the Chief Executive s 2007-2008 Policy Address, the planning for NDAs was identified as one of the ten major infrastructure projects for economic growth (LegCo, 2009, p.1). As can be seen from the planning principles, the existing communities and their lived space were again neglected (Table 3) though the same paper outlined the Development Bureau s promise to carry out comprehensive pub engagement programmes to consult relevant parties including the LegCo, the District Councils, local communities, environmental groups and other stakeholders.

Table 3: Planning Principles of the NDAs (2007)

NENT and NWNT Studies	HK2030
<ul style="list-style-type: none"> <li>• Rail-based development</li> </ul>	<ul style="list-style-type: none"> <li>• Sustainable development</li> </ul>
<ul style="list-style-type: none"> <li>• Maximization of development potential</li> </ul>	<ul style="list-style-type: none"> <li>• Rail-based development</li> </ul>
<ul style="list-style-type: none"> <li>• Balanced community</li> </ul>	<ul style="list-style-type: none"> <li>• Effective and efficient provision of infrastructure and facilities</li> </ul>
<ul style="list-style-type: none"> <li>• Networks of open space and pedestrian walkways</li> </ul>	<ul style="list-style-type: none"> <li>• Environmentally friendly planning and urban design</li> </ul>
<ul style="list-style-type: none"> <li>• Existing villages and burial grounds</li> </ul>	<ul style="list-style-type: none"> <li>• Environmentally friendly transport measures such as building major roads at the periphery of the NDAs and providing sunken roads and environmentally friendly modes of transport</li> </ul>
<ul style="list-style-type: none"> <li>• Provision of cross-boundary supporting facilities</li> </ul>	<ul style="list-style-type: none"> <li>• Energy efficient measures such as encouraging non-fossil-fuel-based transportation and facilitating the use of renewable energy and recycled water for new developments</li> </ul>

Source: LegCo, 1999 and Development Bureau, 2007.

A new NENT NDAs Study began in June 2008 to formulate a planning and development framework for the NDAs through a three-stage public engagement programme to facilitate public discussions and consensus building (Development Bureau, 2012a, p.2). In the Stage One Public Engagement Digest (2008), only two short pages provide a sketchy picture of the existing population and land uses of the

NENT NDAs. Less than 10,000 people currently live in the three NDAs identified where mixed land users exist: small scale residential developments, scattered village settlements, wetlands, open storages and rural industries (ARUP, 2008, p.2) (Figure 3). There is no information on how many of them are indigenous and how many of them are non-indigenous population. It is interesting to note that in one of the PowerPoints shown in the engagement process, aspirations of major stakeholders were listed and the aspiration of the non-indigenous villages was not even mentioned (Figure 4).



This NDA was taken out in the final stage of the Study. So this paper only focuses on the other two NDAs.

Figure 3. NENT NDAs (Source: ARUP, 2013, p.9)

4 Your Vision – IMPLEMENTATION MECHANISM 您的願景 – 落實計劃安排	
Aspirations from Major Stakeholders 主要持份者的訴求	
Major Stakeholders 主要持份人	Aspirations on Desirable Features 期望
General public 一般市民	<ul style="list-style-type: none"> <li>Fair and transparent approaches 公平及高透明度的態度</li> <li>No favouritism 不偏不倚</li> <li>No Government subsidization for private development 政府不資助私人發展</li> </ul>
Major landowners with consolidation of large parcel of land 大業主 (擁有大多土地者)	<ul style="list-style-type: none"> <li>Respect private property right 尊重私有產權</li> <li>High degree of direct participation in the implementation 可高度直接參與發展</li> <li>Government to assist in land resumption on problematic land 遇有收地困難，政府能夠協助</li> </ul>
Individual landowners without consolidation of large parcel of land 個別地主 (只有少許土地者)	<ul style="list-style-type: none"> <li>Respect private property right 尊重私有產權</li> <li>Have choice of compensation or participation 可選擇賠償或參與權</li> <li>No favouritism to major landowners 不要偏袒大發展商</li> </ul>
Indigenous villagers 原居民	<ul style="list-style-type: none"> <li>Respect the rights of indigenous villagers enshrined in the Basic Law including the small house policy 維護原居民利益，包括基本法所標示的小型屋宇政策</li> </ul>
Existing residents/ tenants 現住的居民/ 租戶	<ul style="list-style-type: none"> <li>Satisfy their relocation/compensation needs 須滿足搬遷及補償的需要</li> </ul>
Existing business operators 現存的營商者	<ul style="list-style-type: none"> <li>Satisfy their re-provisioning/compensation needs 須滿足遷舖及補償的需要</li> </ul>

Figure 4. Aspirations of Major Stakeholders (Source: ARUP, 2008b)

Nevertheless, as the engagement process advanced and with the mobilization of non-indigenous farmers and social activists, their voices were eventually heard. However, as can be seen in the following section, this does not mean that their right to farming is guaranteed. Instead, they face a two-front battle: they are constantly under the threat of being driven away by big developers who have

bought land from the indigenous population and accumulated land banks in the New Territories; and the farmers are often described as selfish individuals who are squatters and barriers to satisfying dire housing needs of the urbanites. Yet, as reflected in the changes of the planning principles and the planning parameters (Tables 4 and 5), social activism had indeed produced some impacts:

- While the public and private housing split was originally favourable towards the private sector, the portion of public housing has increased dramatically in the final Report.
- While the farmers and the non-indigenous population were invisible when the Study their concerns and needs were at least rhetorically addressed towards the completion of the Study.
- However, the implementation operation remains controversial as the Government continues to be seen as privileging the big developers in the development process.

Let us further examine these twists and turns of events.

Table 4. Planning Principles of the NDAs (2007)

Stage 1 Public Engagement (2008)	Stage 2 Public Engagement (2009)	Stage 3 Public Engagement (2012)	FINAL (2013)
<b>Regional</b>			
Capturing cross-boundary opportunities	Coordinate with regional development and capitalise on the opportunities provided by border development	Industries that support regional development and integration with the Pearl River Delta	
			Form part of Fanling/Sheung Shui/Kwu Tung New Town
<b>Economic</b>			
	Reserve land for special industries etc.	Reserve land for special industries	
	A mix of land uses to provide diversified employment opportunities	Diversified employment opportunities	Meeting Hong Kong's economic needs and generate employment
Implementing infrastructure and development projects in a timely manner		Adopt appropriate development approach to ensure timely provision of infrastructure	
	Explore arrangements for resumption, compensation and rehousing	Explore appropriate arrangements to rehouse the affected residents	A special ex-gratia compensation package for affected qualified households & one site in each of the NDAs is reserved for public housing for local rehousing purpose
	Feasibility of introducing private sector participation	Adopt appropriate development approach to ensure timely completion of development	Modification of land lease and in-situ land exchange
<b>Social</b>			
Promoting sustainable development by giving due regard to social, economic and environmental needs of the community	Review the boundary and coverage of the NDAs to accommodate existing indigenous villages & burial grounds	Respect existing and surrounding communities	
Ensuring balanced and integrated community by means of mixed and coordinated land use	New community facilities to benefit new and existing residents	Timely provision of community facilities	
Engaging the community in an open, continuous, inclusive and participatory fashion	Listen to and consider public views		
	The overall ratio of public and private housing: 35-45% to 55-65%	A balanced mix of public and private housing	Meeting medium- to long-term housing demand

Stage 1 Public Engagement (2008)	Stage 2 Public Engagement (2009)	Stage 3 Public Engagement (2012)	FINAL (2013)
<b>Environmental (natural and built)</b>			
			Compact city form: mixed uses around railway station and public transport nodes
	Reduce reliance on road transport by introducing cycling tracks and comfortable pedestrian walkways		Environmentally friendly transport network, main roads on the periphery and car free living environment
Providing quality living environment and ample open space with high quality public amenities	Restrict development density with plot ratio: 0.75 to 5; building height: not more than 35 storeys Protect ridgelines, green and wind corridors		Quality urban design: ridgelines & watercourses, stepped building height, open space network and greening
Creating an environmentally friendly and people-oriented community to meet territorial development needs	Green buildings, district cooling systems, water-saving strategies and re-use of treated effluent	Green and energy-saving initiatives	Green building design, planning and design to minimise changes to micro-climate Renewable energy, effluent reuse, waste reduction, efficient use of water resources
Respecting, conserving and embracing existing natural and cultural heritage resources	Preserve existing villages, Fung Shui woodland and cultural heritage	Respect, preserve and optimise the use of the existing natural and cultural resources	Integrating old and new areas
	Conserve Long Valley with high ecological value, integrating ecological environment through private sector participation		Designating Long Valley as Nature Park (about 37ha)
			Two pieces of land (about 45ha) north and south of the Nature Park and a piece of land in FLN NDA (about 12 ha) are designated as Agriculture zone to accommodate the needs of the affected farmers

Source: ARUP, 2008, 2009, 2012 and 2013.

Table 5. Development Parameters of the NENT NDAs

Development Parameters	Kwu Tung North NDA	Fanling NDA
<b>Stage One Public Engagement (2008)</b>		
Total land area (ha)	500	260
Total developable area (ha) (excluding hills and river)	Government: 170 (49%) Private: 180 (51%)	Government: 95 (47%) Private: 105 (53%)
<b>Stage Two Public Engagement (2009): Preliminary Outline Development Plan</b>		
Development theme	Mixed development node	Riverside township
Major land uses	Residential, commercial, R&D and Long Valley Ecological Area	Residential, government facilities
Population	Approx. 65,000	Approx. 48,000
Number of residential units (public: private housing)	Approx. 22,000 (54 : 46)	Approx. 17,500 (41 : 59)
Employment opportunities	Approx. 26,000	Approx. 6,200
Plot ratio	1-5	1-5
Building height	Max. height of 35 storeys	Max. height of 35 storeys

<b>Stage Three Public Engagement (2012): Recommended Outline Development Plan</b>		
Development theme	Mixed development node	Riverside township
Major land uses	Residential, commercial, R&D and Nature Park	Residential, government facilities
Population	Approx. 81,900	Approx. 52,100
Number of residential units (public: private housing)	Approx. 28,700 (55 : 45)	Approx. 18,600 (39:61)
Employment opportunities	Approx. 31,200	Approx. 6,000
Plot ratio	PRH: 5 Private housing: 2-5 OU(CRD): 3 OU(R&D in support of border development): 1.5-3 CDA: 3-5	PRH:5 Private housing: 2-5
Building height	Max. height of 35 storeys	Max. height of 35 storeys
<b>Final Report (2013)</b>		
Development theme	Mixed development node	Riverside township
Major land uses	Residential, commercial, R&D and Long Valley Ecological Area	Residential, government facilities
Population	Approx. 101,600	Approx. 73,300
Number of residential units (public: private housing)	Approx. 35,400 (58:42)	Approx. 25,300 (64:36)
Employment opportunities	Approx. 35,400	Approx. 6,500
Plot ratio	3-5.6	2-6
Building height	Max. height of 35 storeys	Max. height of 35 storeys

Source: ARUP, 2008, p.6; 2009, pp.6 and 12; 2012, pp.11,15; 2013

**Striving for Spatial Justice and the Right to Differences**

The final stage of the planning of the NDAs coincided with perceived tightening of the Central Government's policy on Hong Kong and one indication was the election of a new Chief Executive seen as having very close relationship with China. And China has been identified as the strong underlying force that privileges the developers and capitalists in Hong Kong after the political handover in 1997. Developers have been seen as the ruling class (Poon, 2005) and they have built a land bank in the city. In NENT NDAs, farmers, many are non-indigenous villagers, were forced to leave their land and fertile farmland was then fenced off, left vacant and declared private property (Figure 5). While many mainlanders invested in Hong Kong's property market thus inflating an already ultra-expensive sector, the multiple entry permits for non-residents in Shenzhen have led to the booming of parallel goods trading, worsening the over-saturated use of the railway-related infrastructure between the two cities. Against all these background, the NENT NDAs were therefore seen as a plan to facilitate Hong Kong-Shenzhen Unification, a tool to sell out the land (2012, p.4), a plan to further fatten the hegemonic development sector.



Figure 5. Private Land, No Trespass land bank of the developer (Source: author)

One of the justifications for the Government in developing the NDAs is to satisfy rising housing needs in the public as well as the private sectors, due to escalating housing prices. According to the Housing Authority, as at end of March 2015, there were about 137,000 general applications for public rental housing and about 140,600 non-elderly one-person applications<sup>3</sup>. However, as can be seen from Table 5, the ratio of public housing was relatively small when compared to private housing and developing 760 ha of land to satisfy only 8% of the waiting list demand was totally not acceptable to the general public. As reflected in their comments in the Public Engagement process, many worried that the NENT NDAs will become the back garden of rich Mainlanders. To ensure that the new development will benefit local Hong Kongers, many suggested boosting the provision of public rental housing and urged the government to re-introduce the then suspended Home Ownership Schemes and move forward the policy of Hong Kong property for Hong Kong residents (op cit., 2012, p.9). These concerns perhaps explained the dramatic change of the ratio between public and private housing in especially the Fanling NDA from 39:61 to 64:36 (Table 5). This will meet at least 13% of the waiting list demand.

With the launching of many protests and varieties of activities (Figure 6), the voices of the farmer-squatters were finally heard in the third Public Engagement exercise though they would be described as unlawful (op. cit., p.9). The concerns about existing agricultural activities and the adverse impacts on the livelihood of existing farmers as well as the lack of effective policy for sustaining and promoting local agriculture were also summarized in the engagement reports. And for a change, agricultural land was identified and reserved as Agricultural zone to support farming practice (op cit., 2012, p.10). However while this seem to have addressed the concerns of existing farmers, there are at least two problems. On one hand, zoning land for agricultural use means very little. In fact, one identified agricultural zone consists of fish ponds and squatter huts and would not be useful for agricultural activities. Also the so called agricultural rehabilitation policy exists only in name because farmers have to talk to landowners to either buy or rent land and take care of all the related infrastructure needs, not to mention the expenses involved in developing a new farm and rebuilding their squatters, even when a short term waiver for building would be granted (Development Bureau, 2012b, p.2). Hence, although the struggles by the farmers to fight for their rights to farm have yielded some results, the results are far from satisfactory.



Figure 6. Withdraw the Plan; We Want Our Farms and Fields  
(Source: <https://hklawblog.files.wordpress.com/2012/10/blog-photo-cheung-oi-nei-21.jpg>)

<sup>3</sup> Information obtained from: Hong Kong Housing Authority website: <http://www.housingauthority.gov.hk/en/about-us/publications-and-statistics/prh-applications-average-waiting-time/>.

While public housing supply and farmlands represent the genuine needs of many urban households who are living in substandard or subdivided flats and squatter-farmers respectively, the conceived plans, to many, continue to be a plan that attempts to privilege the developers. The Real Estate Developers Association, Heung Yee Kuk (the most powerful body representing the indigenous population in the New Territories) and some developers objected to the Conventional New Town Approach (CNTA) proposed by the Government, that is, government would resume, clear, form all private land planned for public works and private developments before releasing it to the market. On the other hand, the public and some Legislative Councillors had expressed concern that the implementation of the NDAs under a Public-private Partnership approach led by developers would compromise fairness and transparency in the implementation process (LegCo, 2012). The Development Bureau seemed to first concur:

Upon careful consideration of the public comments received from the previous two PE exercises and balancing all relevant considerations, we consider the CNTA more desirable as it will enable synchronisation of various developments with provision of supporting infrastructure and public facilities. The CNTA will also ensure balanced development with appropriate mix of public and private housing, commercial and business uses, open spaces and G/IC facilities. We therefore proposed to implement the NDAs proposal by the CNTA during the PE3 exercise (LegCo, 2012, p.8).

However it is interesting to note that according to the news media, the Government, since early 2013, had decided to give up comprehensive implementation of CNTA and allow conditional participation of land owners in the development of NENT NDAs. One such policy is for those who owned 4,000m<sup>2</sup> or more of land in areas zoned for residential uses could negotiate for land exchange and it was reported that this would shorten the development period by one to two years (Apple Daily, 2013). Figures 7 and 8 and Table 6 list where and how much such land the big developers own in NENT NDAs. Figure 9 shows the worsening trade of housing affordability in Hong Kong. As the housing market has been monopolised by the big developers (Poon, 2005), this planning exercise is seen by many as another proof of the Government's biased policy towards the interests of the landed class sector.



Figure 7. Who Owns What in NENT NDAs

(Source: <http://www.scmp.com/print/news/hong-kong/article/1275542/new-world-henderson-land-be-major-winners-nt-new-towns>)

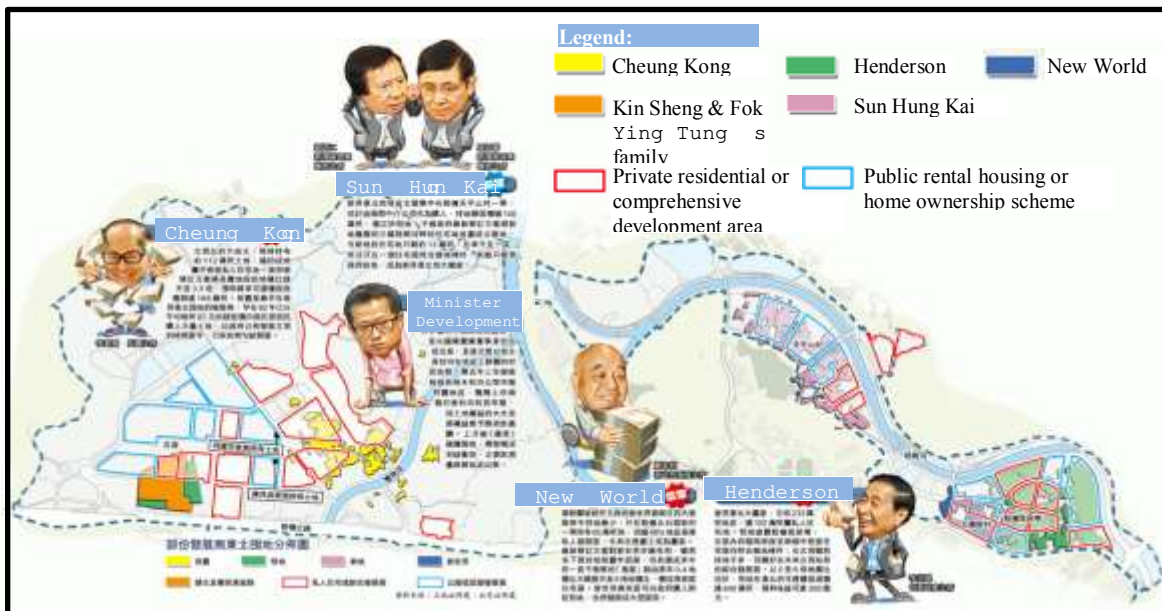


Figure 8. Who Owns What in NENT NDAs

(Source: Apple Daily: <http://static.apple.nextmedia.com/images/apple-photos/apple/20130826/large/a0401a.gif>)

Table 6. Land Banks of the Big Developers in NENT NDAs

 <p><b>恒地 Henderson</b></p> <p>Total area: 2,332,275 ft<sup>2</sup> Eligible area for land exchange: 1,026,991 ft<sup>2</sup> %: 44.03%</p>	 <p><b>新地 Sun Hung Kai</b></p> <p>Total area: 1,416,786 ft<sup>2</sup> Eligible area for land exchange: 133,134 ft<sup>2</sup> %: 9.40%</p>	 <p><b>長實 Cheung Kong</b></p> <p>Total area: 1,124,864 ft<sup>2</sup> Eligible area for land exchange: 482,292 ft<sup>2</sup> %: 42.88%</p>
 <p><b>Kin Sang &amp; Henry Fook</b> 建生及霍英東家族</p> <p>Total area: 738,386 ft<sup>2</sup> Eligible area for land exchange: 153,175 ft<sup>2</sup> %: 20.74%</p>	 <p><b>新世界 New World</b></p> <p>Total area: 650,196 ft<sup>2</sup> Eligible area for land exchange: 314,062 ft<sup>2</sup> %: 48.30%</p>	

Source: Synthesized from: Apple Daily:

<http://static.apple.nextmedia.com/images/apple-photos/apple/20130826/large/a0501a.gif>

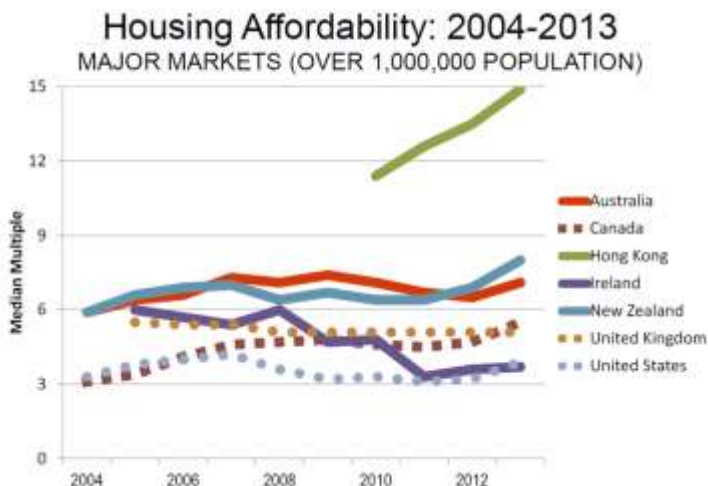


Figure 9. Worsening Housing Affordability in Hong Kong

Source:

<http://www.macrobusiness.com.au/wp-content/uploads/2014/04/Afford2.gif>

## 5. Conclusions

There are a number of lessons that we can learn as the Government wants to urbanise rural Hong Kong. The most obvious one is the limitation of top-down technically oriented urban planning that ignores the lived experiences of people who inhabit real places over time. It is surprising how the various generations of the conceived NDA plans turned a blind eye to the multi-generation squatter-farmers, simply because they do not own the land that they and their family members have tilled for decades. This is the situation that Lefebvre has severely criticised that the representation of space aims to endow every piece of land with exchange value while destroying long-term relationships that have been built through time. To the planners, the history, culture and heritage in place are not important. Indeed not even one planning document focuses on the people and the communities that will be affected by the plan. Fortunately, unlike the silent space users in the past, some of the squatter-farmers, together with social activists, have become much more vocal in defending their spatial interests. If not because of all the protests and social activist movements speaking for the interests of the farmers, the squatter-farmers might be invisible throughout the planning exercise. However, this does not mean that spatial justice is done. Instead of ignoring them in the planning process, planners have tried to rezone some land for their continued farming practice. Yet, land use zoning without proper policies and assistance mean very little for farmers to re-establish their trade. In other words, their struggle to spatial justice and the right to farm (difference) still have a long way to go.

While the invisible squatter-farmers have tried to make themselves visible and their voices noticeable throughout the planning process, the other powerful stakeholder has kept a very low profile as an invisible hand to wait for profit-maximisation opportunities. Buying up land, out farmers and perhaps even negotiation with the Government behind closed doors, the developers and their aides have led to the disintegration of the farming communities in places such as Fanling North. They have eventually also succeeded in reversing the Government's decision on the conventional new town development approach and allow them to apply for land exchange and participate directly in the development process. For a market economy, one cannot blame the shrewd developers to buy up rural land in anticipation of urban development. The question is for the Government of Hong Kong to have a more comprehensive development strategy in rural Hong Kong, the New Territories. While the ownership of the land may belong to the indigenous population, land, as a natural resource, should be considered as our society's natural commons. As we are in the 21<sup>st</sup> century facing many global challenges, it is no longer adequate for us to pursue economic development without considering social and environmental sustainability. How can we replan our New Territories, our new development areas as our future commons is a very important issue to be considered. Hence the current approach by the Government is considered to be not desirable. Indeed, the Government should at least start to consider involving the indigenous population themselves to co-develop the land, rather than always involving developers as a third party.

Hence, we can conclude that the NDA plans have not done full justice to the farmers nor those who have real housing needs because if not for the protests, objections and voluminous comments made by the squatter-farmers, social activists and the general public (over 10,000 comments were received by the planners when the NDA plan was turned in to a draft statutory plan), the needs of the squatter-farmers would not be recognised, the land would be used primarily for private housing and the number of public housing units will be a lot less than the current one (the difference amounts to 13,685 units). The unfolding of the planning process, the hoarding of land by the developers and the Government's apparent U-turn to facilitate their privileged participation in developing the NDAs all seem to prove that the NDA plans are just smokescreens to turn use-value saturated land into spaces for exchange value. If this is not the intended purposes of the Government, then it has a very important task to do in the future to exonerate itself from being seen as a state that perpetuates land hegemony in Hong Kong.

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**Acknowledgement:** The work described in this paper was supported by a General Research Fund from the Research Grants Council of Hong Kong (Reference No. : CUHK447713).