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RESEARCH ARTICLE

Transparency, participation, and responsiveness in Hong Kong consultative policymaking

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ABSTRACT

Consultation is widely viewed as a means of buttressing political systems – from democracies to autocracies – characterized by deficiencies in information flows between nongovernmental sources and officials with decision making authority. Does, however, consultation in practice facilitate transparency, participation, and responsiveness in policymaking? The authors collect, code, and analyse information about hundreds of consultations conducted by the Hong Kong government over a 25-year period. The analysis demonstrates that – in contrast to jurisdictions throughout the world – opportunities for and the occurrence of participation, but not transparency and responsiveness, have been consistent elements of consultative policymaking. The analysis also finds that consultation has not eroded over time, despite the imposition of constraints on institutional decision making in the Hong Kong government. These results demonstrate the durability of consultation in a complex political environment, as well as its success in facilitating participation in Hong Kong policymaking.

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A fundamental problem confronted by political systems throughout the world is a relative dearth of channels through which information flows between nongovernmental sources and officials with decision making authority (Bishop, 2022; Chen & Xu, 2017). One potential byproduct of communication difficulties is a deficit in the legitimacy of policies and, more existentially, regimes themselves (Braun & Busuioc, 2020; Distelhorst & Hou, 2017).

Consultation has emerged in recent decades as a means of buttressing legitimacy in the face of such challenges, in jurisdictions as diverse as Brazil, China, and the European Union (Bunea & Licpean, 2024; Teets, 2013; United States Trade Representative 2022). One prominent instrument of consultation is the notice and comment process, in which government agencies make public draft policies and solicit feedback on proposed courses of action. This process has the potential to bolster transparency, participation, and responsiveness in policymaking and, by extension, the resilience of political systems (Beetham, 1991).

Despite this promise, it is possible that in practice the notice and comment process fails to enhance performance along these dimensions (Elliott, 1992; Rangone, 2022). Government notices may not be constructed in a manner that facilitates public comprehension of agency proposals. Organizations and individuals may not respond to proposed policies in large numbers. Participants may not convey knowledge or experiences relevant to decisions agencies are making. Officials may not give serious consideration to public input, irrespective of the quality of submitted information.

These possibilities raise the following research question. To what extent is consultative policymaking characterized by transparency, participation, and responsiveness? This article addresses this question in the context of the notice and comment process in Hong Kong. The authors collect, code, and analyse information about more than 500 consultations conducted by the Hong Kong government over a 25-year period (1997–2021). This information makes it possible to evaluate the consistency with which transparency, participation, and responsiveness have been achieved in Hong Kong consultative policymaking since the 1997 transfer of sovereignty from the United Kingdom to the People's Republic of China (PRC).

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Hong Kong is a salient context for evaluating the practice of consultative policymaking for a number of contrasting reasons. On the one hand, Hong Kong is a former British colony and current special administrative region of the authoritarian PRC. Hong Kong's colonial legacy implies that consultation might naturally be circumscribed in terms of participants and policy areas (King, 1975; Lau, 1982). Hong Kong's current governance reality might also serve as a limiting factor for the achievement of transparency, participation, and responsiveness (U.S.-China Economic and Security Review Commission, 2021). Consistent with this possibility, research has portrayed government consultation conducted under the auspices of the Chinese Communist Party (CCP) as performative and cosmetic (Ding, 2020; Wang & Han, 2023). On the other hand, procedural legitimacy is pursued by governments of all types in the face of pressing economic, environmental, and public health issues (Bishop, 2022). For its part, the CCP no longer finds it feasible to rely on breakneck economic growth as a justification for its monopoly on political power, thereby enhancing incentives for robust implementation of procedures such as notice and comment policymaking (Holbig, 2018; Whiting, 2017). Furthermore, Hong Kong has long been characterized by a vibrant civil society and, therefore, the possibility of vigorous exchanges between policymaking officials and nongovernmental actors (Gunia, 2019; King, 1975). Such exchanges periodically manifest through mass movements, such as Umbrella Movement in 2014 and protests, five years later, regarding proposed amendments to the Fugitive Offenders Ordinance. In sum, Hong Kong is a challenging yet promising jurisdiction for transparency, participation, and responsiveness in the notice and comment process.

In this complex environment, research has uncovered both robust and problematic instances of consultative policymaking in Hong Kong (Cheng & So, 2015; Cheung, 2011; Joseph, 2016). This article builds upon extant case studies by systematically analysing information about hundreds of consultations that occurred over a period of decades. Is the notice and comment process in Hong Kong generally characterized by transparency, participation, and responsiveness? Has the realization of these principles changed over time or remained consistent during the era of 'One Country, Two Systems?'

Although this article is the most comprehensive study of consultative policymaking in Hong Kong yet undertaken, it is important to acknowledge a pair of scope conditions regarding the research design. First, the analysis does not compare policies developed through consultation with policies during which the notice and comment process did not occur. Rather, the research assesses variation in transparency, participation, and responsiveness across instances of consultative policymaking. Second, the analysis does not focus on the substance of consultation documents and comments on proposed policies. Rather, the research focuses on procedural elements of consultative policymaking as a means of assessing transparency, participation, and responsiveness. This emphasis is warranted for both local and global reasons. Hong Kong residents who are content with procedures are relatively likely to report satisfaction with policy outputs and outcomes as well as trust in government (He & Ma, 2021). Such connections are consistent with patterns prevalent throughout the world, making it well established that the 'processes of government . . . constitute an important, free-standing variable that has serious implications for the health' of political systems (Hibbing & Theiss-Morse, 2001).

One byproduct of the article's broad, procedural approach is the assembly of a data set consisting of the complete set of actions that have been developed through the notice and comment process for which information is available via the Hong Kong government. The data set, which is available from the authors upon request, can be utilized to facilitate research into a host of questions beyond those investigated in this article. For example, researchers might conduct in-depth case studies of the impact of public comments on revisions to proposed policies, applying approaches that have been implemented in China, the United States, and other jurisdictions (Golden, 1998; Kornreich, 2019).

The analysis reveals two main patterns regarding transparency, participation, and responsiveness in the notice and comment process in Hong Kong. First, opportunities for and the occurrence of participation – but not transparency and responsiveness – have been consistent elements of consultative policymaking. Second, there has not been an erosion over time in the practice of consultation. These results demonstrate the durability of consultation in a complex political environment, as well as its success in facilitating participation in Hong Kong policymaking.

Consultation in Hong Kong

Consultation has been a part of Hong Kong policymaking for many decades (Endacott, 1964). Throughout much of the colonial period, government officials primarily consulted with business and professional elites

on issues not beset by political sensitivities. This lack of engagement with the mass public and contentious politics led observers to describe Hong Kong as a 'minimally integrated social-political system' characterized by the 'administrative absorption of politics' (King, 1975; Lau, 1982).

As public awareness grew – manifested through events such as the 1967 anti-colonial riots – the Hong Kong government's approach to consultation broadened in a number of respects. For example, District Offices were instituted as a means of facilitating 'communication between the governors and the governed, including the input of intelligence about "public opinion" to the decision-makers in the government' (King, 1975). Building upon this legacy, consultation during the 'One Country, Two Systems' period has taken on a surrogate democracy function, bridging the gap between the government and the public in an environment characterized by periodic protests and the rollback of electoral reforms (Lau, 1982; Romano & Bromley, 2005). In sum, experiences from colonial rule to the present illustrate that consultation has operated as an instrument of 'controlled inclusion' designed to broaden information flows – and thereby secure government resilience – in the face of burgeoning societal demands (Gueorguiev, 2021; Joseph, 2016).

The notice and comment process operates under guidelines established by Hong Kong's Constitutional Affairs Bureau.[1] The guidelines – as the following excerpt illustrates – are for the most part rather generic: 'All comments and representations received from members of the public or interested parties have to be carefully read and collated'. In a handful of respects, however, the guidelines offer specific instructions. The guidelines lay out a variety of methods beyond the submission of written comments that agencies are encouraged to employ – if appropriate – in soliciting feedback. These methods include seeking the views of Legislative Council panels, District Councils, District Offices, and Advisory Boards and Committees. The guidelines also recommend that agencies advertise proposed policies through a variety of legacy and new media channels. Finally, agencies are advised to consult with a broad range of organizations, parties, and individuals plausibly affected by proposed policies.

The notice and comment process takes place prior to the presenting of policies for deliberation in the Legislative Council. Consultative policymaking therefore has the potential to help government officials 'avoid "surprises" and find out concerns in the early stages of a project'.[2] A fundamental question is the extent to which consultation in practice enhances transparency, participation, and responsiveness in the development of policies for Legislative Council consideration.

Research on consultative policymaking in Hong Kong highlights shortcomings in the notice and comment process (Cheung, 2011; Joseph, 2016). Public participation is in certain instances dominated by businesses and other stakeholders whose interests are significantly affected by proposed policies. Officials at times limit the dissemination of information about the manner in which feedback has been incorporated (or not incorporated) into government decisions.

Despite such shortcomings, it is nevertheless the case that practices are relatively robust in particular consultations (Cheung, 2011; Joseph, 2016). Researchers, for example, have touted the consultation that occurred during the development of an urban renewal plan in Wan Chai (Cheng & So, 2015). Not only did local organizations, professional groups, area committees, and schools participate in the process, more than 1000 residents offered viewpoints on how to improve living conditions as well.

Does the notice and comment process, however, facilitate the transparency, participation, and responsiveness necessary to promote government legitimacy as a general matter? Existing research has collectively answered this question in a somewhat contradictory manner, with more and less robust instances of consultative policymaking reported in various case studies (Cheng & So, 2015; Cheung, 2011; Joseph, 2016). This article engages with such contradictions. By collecting and coding detailed information about hundreds of consultations over a 25-year period, the article's analysis makes it possible to identify general patterns and systematic variation in the implementation of the notice and comment process.

Conceptualization and measurement

To evaluate the operation of the notice and comment process in Hong Kong, it is necessary to conceptualize and measure transparency, participation, and responsiveness. The article's focus on transparency, participation, and responsiveness is derived from the information exchanges that occur in consultative policymaking. The notice and comment process begins with agencies making public proposed courses of action (transparency). Organizations and individuals then submit comments expressing sentiments and providing legal,

scientific, economic, and technical expertise (participation). The process concludes with a government decision that acknowledges and perhaps incorporates public input (responsiveness). Given their elemental nature, transparency, participation, and responsiveness are common orientations for both researchers and practitioners of consultative policymaking (Kerwin & Furlong, 2019; Kornreich, 2019; U.S.-China Business Council, 2015).

Conceptualization

Transparency is 'the extent external actors are afforded access to information about the way public organizations operate' (Cucciniello et al., 2017). In consultative policymaking, a core element of access is the provision of detailed, comprehensive information regarding proposed courses of action and responses to public comments (Grimmelikhuijsen et al., 2013). In addition, access is associated with the presentation of information in a manner that is comprehensible (i.e. understandable) to interested parties (Dawes, 2010).

Participation in consultative policymaking is distinct from elections and other instruments of public input. In the notice and comment process, organizations and individuals submit feedback on proposed government actions. Such participation, in other words, is not oriented towards evaluating candidates for public office. Nor does participation in consultative policymaking consist of complaints or suggestions initiated by nongovernmental actors, as in the context of mayoral mailboxes and petition systems (Distelhorst & Hou, 2017). The reactive, policy-oriented feedback of the notice and comment process is commonly communicated via written submissions. In Hong Kong – and throughout the contemporary world – comments are primarily submitted via email addresses and websites dedicated to the receipt of public feedback on proposed policies, although agencies convene in-person forums as well (Dudley, 2021).

The canonical conception of responsiveness is that government policies are consistent with public preferences (Erikson et al., 1993). The notice and comment process, however, is not a plebiscite in which agencies craft policies by tallying expressions of directional preferences (Farina et al., 2012). In the United States, to take one example, the Supreme Court has stated that agencies are not required to process comments in an equivalent manner: '[C]omments must be significant enough to step over a threshold requirement of materiality before any lack of . . . consideration becomes of concern' (Dooling, 2011). In this context, responsiveness is gauged not by the association between majority sentiment and government decision making, but rather by the degree to which officials engage with substantive information presented in comments.

Measurement

The authors draw upon existing research and experiences with consultative policymaking in Hong Kong and throughout the world to establish measures of transparency, participation, and responsiveness (Cucciniello et al., 2017; Golden, 1998; Grimmelikhuijsen et al., 2013; Kornreich, 2019; Potter, 2019; West, 2004). It bears emphasis that the measures are not utilized to evaluate the operation of consultative policymaking on a case-by-case basis. Policies vary in salience and complexity and, therefore, in the extent to which particular measures are appropriate indicators of procedural robustness (Gormley, 1986). Nevertheless, a transparent, participatory, and responsive system of policymaking is expected to generally operate in a manner consistent with the measures.

Transparency

Transparency occurs (or does not occur) both at the outset and at the conclusion of the notice and comment process. The authors operationalize the comprehensiveness of information at the outset as the number of pages in consultation documents, on the assumption that lengthier documents provide more details about proposed courses of action. Document length has long been a common measure in research on consultative policymaking (Kerwin & Furlong, 1992). It is important to make clear that the length of a document considered comprehensive likely varies across instances of consultation, as some policies require the provision of more extensive information than others. In the aggregate, however, a transparent system is expected to be characterized by lengthy consultation documents. In the absence of an absolute standard of sufficient length, a relative comparison of Hong Kong consultation documents with documents from other

jurisdictions provides an approach for making judgements about aggregate comprehensiveness. Research on China, for example, provides a reference point by demonstrating that consultation documents average 11 pages in length (Balla & Xie, 2020).

The authors measure the comprehensibility (i.e. ease of understanding) of consultation documents through Flesch reading ease scores, which utilize the average number of words per sentence and the average number of syllables per word to measure the clarity or difficulty of written language (Flesch, 1948). Flesch scores constitute the 'most widely used index of readability' and have been employed in previous research on consultative policymaking (Lim, 2008; Røed & Hansen, 2018). Consistent with governments throughout the world, the authors view plain language as a manifestation of transparency.[3]

At the conclusion of the notice and comment process, agencies have a number of opportunities to foster transparency. One widely endorsed standard is the publication of a document communicating the results of the consultation (Rangone, 2022). Specific characteristics of results documents serve as additional measures of transparency. The inclusion in response documents of the identities of commenters and the texts of comments circulates information about public interest in and sentiment surrounding pending government actions.

Opportunities for participation

At the outset of the notice and comment process, agencies make decisions with implications for opportunities for participation. One decision is establishing the duration of comment periods. Comment periods of longer duration provide interested parties with more time to comprehend proposed policies and 'do the research needed to produce informed comments' (Lubbers, 2006). A key element is the minimum duration considered necessary to provide interested parties with adequate time to submit substantive comments. Governments vary in the amount of time viewed as sufficient. In 2018, the Chinese government recommended that comment periods be open for a minimum of 30 days (Horsley, 2018). American presidents have for decades called for comments periods of at least 60 days.[4]

Another decision concerns the instruments through which participation is solicited. Throughout the world, the submission of written comments – whether on paper or over the Internet – has historically operated as a baseline form of participation in consultative policymaking (Dudley, 2021). Commenting is limited in that it does not facilitate interaction among participants and therefore does not provide a means of resolving stakeholder conflicts (Elliott, 1992). One potential antidote to these limitations is in-person participation, in which interested parties are given opportunities to listen and respond to one another's arguments and evidence (Coglianese, 1997). Public forums are permissible – although not mandatory – under Constitutional Affairs Bureau guidelines for consultative policymaking. Research on Hong Kong highlights instances in which public forums have been held on proposed policies (Cheung, 2011; Joseph, 2016). In the analysis that follows, the article examines the overall extent to which public forums supplement written comments as a means of participation in consultative policymaking.

Occurrence of participation

A straightforward measure of the occurrence of participation is the number of comments submitted in response to proposed policies. An established pattern in jurisdictions as diverse as China, the European Union, and the United States is that consultations typically generate small numbers of comments (Balla & Daniels, 2007; Balla & Xie, 2021; Bunea & Licpean, 2024). Another measure concerns the identity of participants. There are instances in which business domination has characterized consultative policymaking in Hong Kong, during both the colonial and 'One Country, Two Systems' periods (Cheung, 2011; King, 1975). The article's analysis evaluates the extent to which the notice and comment process in Hong Kong exhibits a bias towards business as a general matter. It is important to underscore that business participation in the policymaking process is wholly legitimate, given that facilities, firms, and industries are routinely constrained by government decisions. According to the logic of collective action, however, narrow interests are more likely to mobilize than broad constituencies, with consequences for the completeness of the information environment within which agencies make policy (Olson, 1965). Such consequences are not necessarily problematic on a case-by-case basis, as businesses may possess the bulk of the salient expertise and experiences in the context of particular consultations. In the aggregate, however, business domination implies that broad societal constituencies are not well-represented in the notice and comment process.

Responsiveness

According to the Constitutional Affairs Bureau, agencies are expected to engage with information communicated by interested parties during the notice and comment process, but are not required to make changes in proposed policies. This expectation – which is consistent with practices throughout the world – establishes the centrality of procedural responsiveness (Qiaoan & Teets, 2020; Su & Meng, 2016). The analysis evaluates two measures of the process of addressing participation. The first measure is whether the agency publicly disseminates responses to feedback submitted on proposed policies. The second measure pertains to consultations in which such responses occur. Does the agency provide responses to specific comments on an individual basis? Such specificity represents a robust approach to responsiveness, relative to the alternative of issuing general statements about public input in the aggregate.

Hypotheses

As noted at the outset, Hong Kong presents a complex case for developing expectations about transparency, participation, and responsiveness. During the period under analysis (1997–2021), Hong Kong was characterized in some contexts – but not others – by vigorous exchanges between societal actors and government officials (Cheng & So, 2015; Cheung, 2011; Gunia, 2019; Joseph, 2016). Hong Kong's status in this era as a special administrative region of the PRC further complicates matters. On the one hand, the CCP has promoted consultative policymaking as an instrument of procedural legitimacy (Chen & Xu, 2017; Distelhorst & Hou, 2017). On the other hand, the CCP has constrained procedures in a broad array of Hong Kong governmental institutions (Davis, 2020).

The first task is to develop expectations regarding the relative prevalence of transparency, participation, and responsiveness. Throughout the world, transparency is a hallmark of consultative policymaking. In the European Union, the Have Your Say portal provides 'instantaneous, full transparency' about a number of characteristics of consultations (Bunea & Licpean, 2024, p. 875). In China, the notice and comment process has promoted transparency at the subnational level of government (Balla, 2017).

By contrast, participation is often quite limited in consultative policymaking. Research on the European Union and the United States has demonstrated that the typical proposed policy receives 3 and 13 comments, respectively (Balla & Daniels, 2007; Bunea & Licpean, 2024). It has also proven difficult across political systems to uncover evidence of government responsiveness to public comments (Balla et al., 2025; Golden, 1998). One analyst has observed that although agencies occasionally make changes in proposed policies, such revisions 'tend to be small and painful, and they are often subtractive rather than innovative or additive' (West, 2004, p. 67).

In sum, research from a wide variety of jurisdictions demonstrates that the notice and comment process has a mixed procedural record. Does this pattern of consistent transparency with limited participation and responsiveness hold in Hong Kong as well?

> Transparency hypothesis: transparency is more consistently achieved in the Hong Kong notice and comment process than participation and responsiveness

The second task is to develop expectations regarding changes over time (or a lack thereof) in the operation of the notice and comment process. A starting observation is that consultation is an institutionalized form of government policymaking. It occurs, that is, within the delineated process of drafting policies for consideration by the Legislative Council.

Demonstrations for transparency, participation, and responsiveness have occurred in Hong Kong on a periodic basis (Gunia, 2019). In 2003, for example, more than a half million people protested the introduction of a national security law prohibiting treason, secession, sedition, and subversion against the Chinese government. A decade later, the Umbrella Movement advocated for universal suffrage by occupying streets in Hong Kong's financial district and other locations. In 2019, months of protests were sparked by a bill permitting the extradition of wanted fugitives to jurisdictions – including mainland China – with which Hong Kong has not signed a formal extradition treaty (BBC News, 2019).

Despite such mass movements, the Hong Kong government has taken steps to limit transparency, participation, and responsiveness in policymaking. These actions – such as restrictions on voting in

elections – have been aimed at 'enhancing Beijing's control in ways that would undermine both autonomy and the rule of law' (Davis, 2020).

In sum, government officials have constrained institutional decision making in a variety of ways, despite mass public sentiment to the contrary. It is therefore hypothesized that transparency, participation, and responsiveness in the notice and comment process have eroded in the years under analysis.

> Erosion hypothesis: transparency, participation, and responsiveness are less consistently achieved over time in the Hong Kong notice and comment process

Data collection

To assess the hypotheses, the authors assembled information about the implementation of the notice and comment process in Hong Kong over a 25-year period. The primary source is GovHK, a portal operated by the Hong Kong government. The authors specifically utilized the 'Consultation Papers in Archive' section of the website.[5] This section provides access to 517 policies that agencies proposed between 1997 and 2021. These policies constitute the complete set of actions that were developed through the notice and comment process for which information is available via GovHK.

GovHK contains links to consultation documents. These documents describe actions that agencies are proposing. The information contained in the documents is useful for measuring a variety of measures, such as the number of pages in the proposal and the duration of the comment period. Other variables, however, must be measured at the conclusion of the consultation. Examples include the number of comments submitted and whether the agency publicly responded to feedback.

To obtain such measures, it is necessary to inspect results documents issued at the close of the notice and comment process. Results documents are not posted to GovHK. As a result, the authors turned to other sources, including the website of the agency that implemented the consultation. The authors also conducted Internet searches using the title of the consultation and similar phrases as parameters. The end result of this process is what the authors believe to be the most comprehensive, detailed collection of information about notice and comment policymaking in Hong Kong yet assembled.

Assessing the hypotheses

Figure 1 documents the number of consultations conducted on an annual basis. After an initial rise following the 1997 transfer of sovereignty, the notice and comment process has taken place with fairly consistent regularity. Most years are characterized by the occurrence of 20–30 consultations.

Transparency hypothesis

The information presented in Table 1 indicates that implementation of the notice and comment process is not supportive of the transparency hypothesis, which states that transparency is more consistently achieved than participation and responsiveness. Agency transparency is mixed with respect to the content of proposed policies. Although detailed information is circulated in consultation documents (consultation documents average 54 pages in length), proposed policies are not typically presented in a comprehensible manner. Only 7 consultation documents have Flesch reading ease scores above 60, the plain language threshold.[6] Plain language, it is important to acknowledge, can be a challenging standard for consultation documents, in that proposed policies are at times quite complex and technical. Nevertheless, the Hong Kong government aspires to be 'transparent … to the public' through consultations with a 'scope … as wide as possible'.[7] As measured by Flesch reading ease scores, this element of transparency is in most instances not achieved.

Transparency at the conclusion of the notice and comment process is similarly inconsistent. Results documents were identified for 58% of consultations. This pattern of results documents not being available for substantial proportions of consultations holds throughout the period under analysis. For example, 56% of results documents were located for consultations that occurred in 2002 or earlier. The content of results documents is indicative of a regular lack of transparency with

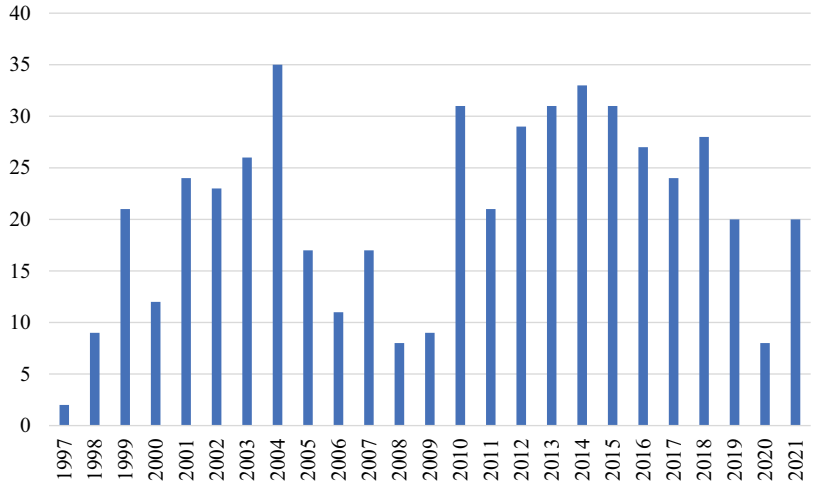

Figure 1. Number of consultations, by year.

Table 1. Measures of transparency, participation, and responsiveness.

Variable Name	Variable Description	N	Mean	SD	Min	Max
Transparency						
NumbPage	Number of pages in consultation document (CD)	485	53.98	64.10	2	470
Readability	Flesch reading ease score of consultation document (CD)	462	37.78	15.44	−122.39	115.13
ResultsDoc	1 if results document is publicly available, 0 otherwise (RD)	517	.58	.49	0	1
CommIdentity	1 if the identity of commenters is disclosed, 0 otherwise (RD)	287	.54	.50	0	1
CommText	1 if comment texts are available, 0 otherwise (RD)	287	.15	.35	0	1
Opportunities for Participation						
Duration	Number of days of comment period (CD)	513	72.79	34.40	9	256
PublicForum	1 if one or more public forum was held, 0 otherwise (RD)	289	.73	.45	0	1
Occurrence of Participation						
NumbComm	Number of comments (RD)	267	3,648.20	15,905.64	0	139,000
BusComm	Percent of comments submitted by business interests (RD)	97	38.00	30.28	0	100
Responsiveness						
CommResp	1 if responses to comments are disclosed, 0 otherwise (RD)	287	.67	.47	0	1
SpecResp	1 if responses to specific comments, 0 otherwise (RD)	191	.02	.12	0	1

Note: N denotes the number of consultations for which the variable is measured, while SD, Min, and Max provide the standard deviation, minimum value, and maximum value, respectively. CD and RD indicate that the data were collected from consultation documents or results documents, respectively. There are a total of 517 consultation documents and 301 results documents. Ns less than these totals occur because of specific information that is not available in particular documents. The following are three examples: (1) NumbPage is missing if the consultation document is not available in a format—such as PDF or Word—amenable to page counting. (2) Readability is missing for 23 more consultations than NumbPage because the programming language (Python) used to generate Flesch reading ease score could not extract the text for these documents. The most common reason for this difficulty was that the document contained numerous images and was thus too large to process. (3) BusComm is missing if the results document does not list the identity of every commenter, as the percent of comments submitted by business interests cannot be calculated in the absence of this information.

respect to the nature of public input. Nearly half of the results documents do not state the identity of any organization or individual who submitted written feedback. It is especially unusual for agencies to make comment texts available to the public. Such disclosure occurs in only 15% of consultations.

The performance of agencies is similarly inconsistent with regard to responsiveness. On the one hand, two-thirds of results documents publicly disseminate replies to feedback submitted on proposed policies. On the other hand, only three results documents evidence the robust approach of responding to specific comments on an individual basis. The vast majority of responses constitute general statements about public input in the aggregate. The following is an example of such a statement, taken from a 2017 consultation on Hong Kong's iconic Star Ferry: 'Besides expressly supporting the extension of the Star Ferry's franchise, some views specifically requested for granting a franchise of 15 years to the Star Ferry'.[8]

In contrast to this uneven performance with respect to transparency and responsiveness, opportunities for participation are consistently robust. The average duration of comment periods is 73 days. More than 90% of consultations were characterized by comment periods of at least 30 days. Furthermore, agencies

convened public forums – which include District Council meetings and town hall-style events – during nearly three-fourths of consultations.

The occurrence of participation in the notice and comment process is often rather substantial. Agencies received an average of 3648 comments in response to proposed policies. Only one consultation – on the use of automotive radars to improve vehicle and road safety – did not receive any comments.[9] By contrast, more than 20% of proposed policies generated in excess of 1000 comments. The robustness of this participation is underscored by the fact that in Guangzhou – a Chinese city located not far from Hong Kong – the municipal government receives an average of 114 comments in response to draft laws and regulations (Balla & Xie, 2021). Furthermore, feedback is not primarily submitted by business interests. On average, nearly two-thirds of comments emanate from organizations and individuals advocating on behalf of public sector, non-profit, and citizen interests.

In sum, the evidence does not support the expectation, derived from previous research on a variety of political systems, that transparency is more consistently achieved in the Hong Kong notice and comment process than participation and responsiveness. Only one transparency indicator – the number of pages in the consultation document – demonstrates a default practice of providing detailed, comprehensive information regarding proposed policies. By contrast, all participation indicators demonstrate that both opportunities for and the occurrence of participation are as a general matter robust in Hong Kong consultative policymaking.

Erosion hypothesis

The logic behind the erosion hypothesis is that ever increasing constraints on institutional decision making in the Hong Kong government are associated with declines in the processes of consultative policymaking. Contrary to this expectation, the analysis fails to demonstrate consistent decreases over time in transparency, participation, and responsiveness. The authors estimate regression equations as a means of assessing the association between the passage of time and transparency, participation, and responsiveness. The unit of analysis in the regressions is the consultation. The dependent variables are the measures of transparency, participation, and responsiveness. The independent variable utilized to test the erosion hypothesis is the year during which the consultation occurred. If the erosion hypothesis is correct, then the coefficients for the year variable are expected to be negative in sign and statistically significant (i.e. transparency, participation, and responsiveness are less likely to be achieved over time).[10] The regressions include control variables for policy areas.[11] For the continuous dependent variables, the authors estimate ordinary least squares, with logistic regressions estimated for the dichotomous dependent variables. All standard errors are robust.

Figures 2–4 present the results of theoretical interest.[12] The overarching finding is that there is no support for the erosion hypothesis. This finding is demonstrated by the fact that the coefficients for the year variable are not negative and significant in any of the equations. The substantive bottom line is that the notice and comment process has not witnessed a decline over time in transparency, participation, and responsiveness.

A pair of robustness checks were conducted as a means of contextualizing the analysis to discrete periods and changes in the composition of the Hong Kong government.[13] First, the regressions were run with the identity of the chief executive as the main independent variable, in lieu of the year during which the consultation took place. Second, the regressions were estimated separately for the administration of each chief executive – Tung Chee-hwa (1997–2005), Donald Tsang (2005–2012), Leung Chun-ying (2012–2017), and Carrie Lam (2017–2022) – who held office between 1997 and 2021. Overall, the erosion hypothesis is not supported in these alternative approaches.[14] The findings therefore indicate that consultative policymaking has operated as an instrument of procedural stability in and across eras during which the Hong Kong government has been increasingly characterized by a variety of institutional constraints.

Conclusions and implications

By assembling a wide variety of information about consultations conducted by agencies from across the Hong Kong government over a 25-year period, this article has advanced knowledge of general patterns and systematic variation in the operation of the notice and comment process. The analysis demonstrates mixed results regarding implementation of the notice and comment process. The government provides interested

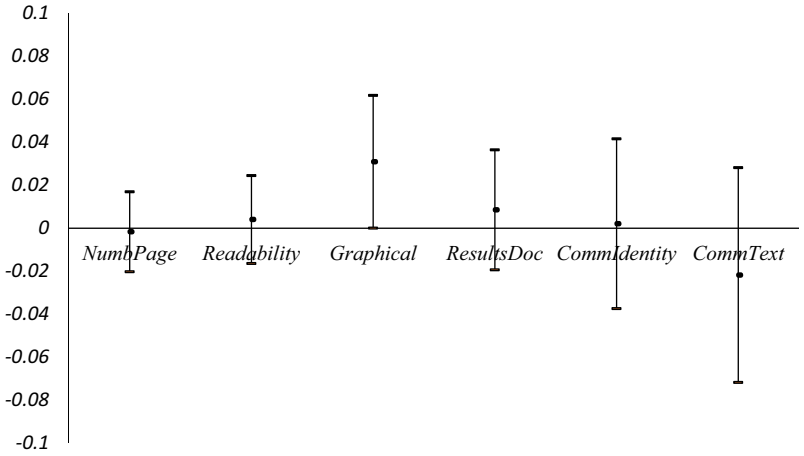

Figure 2. Measures of transperancy, by year. *Note*: This figure, as well as Figures 3 and 4, present the results of the regression analysis. The dots are the values of the coefficients for the independent variable denoting the year during which the consultation occurred, while the dashes are the upper and lower bounds of 95% confidence intervals. A positive/negative and statistically significant association between the year variable and the dependent variable in question would be indicated by the dot and both dashes being located above/below the horizontal line at zero. The continuous variables have been rescaled for ease of presentation.

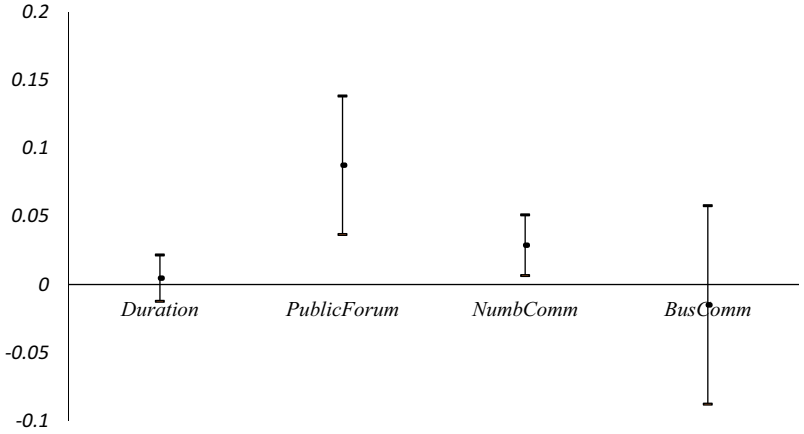

Figure 3. Measures of participation, by year.

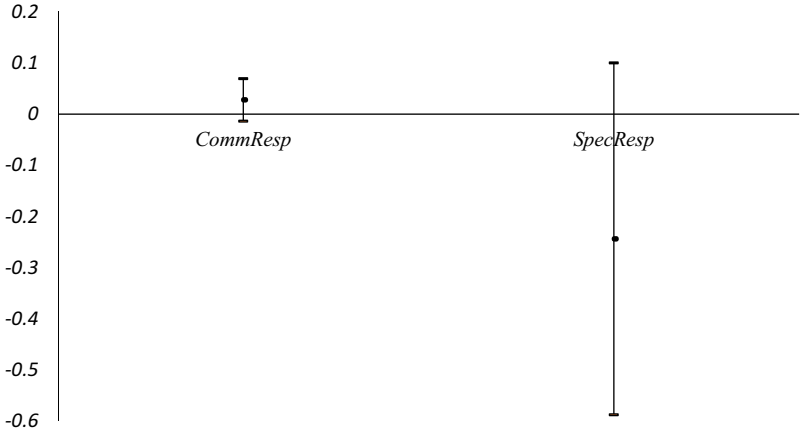

Figure 4. Measures of responsiveness, by year.

parties with ample opportunities to submit comments, and diverse collections of organizations and individuals participate in consultative policymaking. Agencies, however, are inconsistent in providing access to the results of consultations, in particular the texts of public comments and government responses to these inputs. As a result, it is often the case that participants 'do not know whether their views have been incorporated or rejected' (Cheung 2011, 116).

The findings suggest that the notice and comment process unfolds in a distinct manner in Hong Kong, in comparison to jurisdictions around the world. Transparency – although inconsistent in Hong Kong – is a hallmark of consultative policymaking in a number of political systems (Bunea & Licpean, 2024). In contrast, the submission of comments on proposed policies is more robust in Hong Kong than in locations as diverse as China, the European Union, and the United States (Balla & Daniels, 2007; Balla & Xie, 2021; Bunea & Licpean, 2024).

With the unique context of Hong Kong in mind, the article's findings point to a number of evidence-based suggestions for the practice of consultative policymaking. The Hong Kong government should mandate that agencies make results documents readily available, preferably on GovHK alongside the consultation documents that are currently posted to the portal. Furthermore, agencies should be expected to enhance – to the extent practicable – the comprehensiveness of results documents in two specific ways. First, agencies should make the full texts of comments accessible to the public. Second, agencies should publicly respond to substantive comments on an individual basis, rather than offer overarching statements about feedback in general.

Theoretically, the analysis has implications for understanding the significance (or lack thereof) of consultation for policy and regime legitimacy in political systems seeking to enhance information flows between nongovernmental sources and officials with decision making authority. In particular, the Hong Kong government's inconsistency in public disclosure after the submission of comments raises a seminal question about motivations and expectations for consultative policymaking. Why do organizations and individuals participate in the notice and comment process in the face of uncertainty about the manner in which feedback is acknowledged and addressed?

This question is salient because research elsewhere suggests that public participation is contingent upon expectations of government responsiveness (Distelhorst & Hou, 2017). This article, however, indicates that the submission of comments in Hong Kong does not depend on prior or subsequent government actions. Experiments and surveys of participants strike the authors as potentially insightful approaches for strengthening understanding of the public's engagement with government consultation in the distinct setting of Hong Kong. Furthermore, case studies of consultations occurring in years characterized by demonstrations (e.g. 2003, 2014, 2019) promise to elucidate the implications (if any) of mass movements for transparency, participation, and responsiveness in institutional decision making in the Hong Kong government.

In general, it is essential to develop a body of detailed, empirical knowledge about the operation of consultative policymaking in particular contexts. This article has contributed to this effort by demonstrating the resilience of public participation in an environment characterized by inconsistency in government transparency and responsiveness, as well as over time constraints on institutional decision making. Together these results suggest that the Hong Kong public continues to view the notice and comment process as a legitimate policymaking institution, despite limitations in the information provided by government agencies and the broader political circumstances within which consultation occurs. These findings raise a broad question for future research. To what extent (if at all) does ongoing public engagement in the notice and comment process bolster the legitimacy of the Hong Kong government as well as the foundational principle of 'One Country, Two Systems'?

Notes

1. <https://www.legco.gov.hk/yr03-04/english/panels/ca/papers/ca1117cb2-337-2e.pdf> accessed 2 June 2023.
2. <https://www.epd.gov.hk/epd/misc/eia_elearning/english/chapter5/index.html?id=chapter5_03#chapter5_03#chapter5_03> accessed 1 September 2023.
3. The Plain Writing Act – enacted in 2011 by the United States government – is a statutory example of the notion that clear agency language facilitates public understanding of government decision making. <https://www.govinfo.gov/content/pkg/BILLS-111hr946enr/pdf/BILLS-111hr946enr.pdf > accessed 2 June 2023.

4. This expectation is articulated in Executive Order 12,866, which is available at <https://www.archives.gov/files/federal-register/executive-orders/pdf/12866.pdf> accessed 2 June 2023.
5. <https://www.gov.hk/en/residents/government/publication/consultation/archives.htm> accessed 2 June 2023.
6. <https://web.archive.org/web/20160712094308/http://www.mang.canterbury.ac.nz/writing_guide/writing/flesch.shtml> accessed 2 June 2023.
7. <https://www.legco.gov.hk/yr03-04/english/panels/ca/papers/ca1117cb2-337-2e.pdf> accessed 2 June 2023.
8. <https://www.legco.gov.hk/yr16-17/english/panels/tp/papers/tp20170224cb4-1274–1-e.pdf> accessed 2 June 2023.
9. <https://www.gov.hk/en/residents/government/publication/consultation/docs/2016/79GHz_Radars.pdf> accessed 2 June 2023.
10. The one exception to this expectation concerns the percent of comments submitted by business interests. If erosion is indicated by an increase over time in business domination, then the coefficient will be positive in sign and statistically significant.
11. These control variables are four dichotomous indicators of whether the consultation addressed a particular type of policy: (1) economic (e.g. commerce, finance), (2) environmental (e.g. air quality), (3) legal (e.g. constitutional concerns), and (4) social (e.g. education, labour). The excluded category is issues not falling into any of these four categories.
12. The full regressions are reported as supplemental material.
13. These robustness checks are available as supplemental material.
14. The results of the separate regressions demonstrate that transparency, participation, and responsiveness did not erode during any of the four sub-periods under analysis (1997–2005, 2005–2012, 2012–2017, and 2017–2021).

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