

Executive Summary

The rule of law is one of the foundations for the civilisation and sustainability of societies. Law establishes the rules, standards and principles that set and guide the behaviour and relationship of members (including the government) within a society. The rule of law is one of the six dimensions of the World Bank's Worldwide Governance Indicators (WGI), that reviews the extent to which the general public have confidence in, and abide by, the rules of society; the quality of contract enforcement, property rights, the police, and the courts etc.

Clarity of law and impartiality in law enforcement are some of the major universal principles embodied in the rule of law. Indeed, respecting the law is the responsibility of each member of society. The United Nations (UN) encourages all member states to strive for the creation of a favourable environment for cultivating the rule of law.

In Hong Kong, the rule of law has long been a core value of the city. However, the World Economic Forum's 2019 Global Competitiveness Report showed that Hong Kong was ranked 8th in terms of the independence of the judiciary among the 141 global economies (Hong Kong was ranked 4th in 2013/14).

The recent spate of social incidents, in which a significant number of people were involved in unlawful activities, has seriously impacted the stability of the city. Data from the Government showed that regarding illegal acts relating to the 2019 protests, up to July 31 2021 the Police had arrested 10,265 persons; 4,009 of whom were students. This has raised concerns about the level of young people's faith in the rule of law.

A survey conducted by the Hong Kong Federation of Youth Groups in 2020 revealed that only 38.2% of the youth polled expressed confidence in the city's rule of law; the figure was far lower than that in 2017 (88.0%). Several surveys of the Youth I.D.E.A.S. in recent years noted a significant percentage of young people that did not trust the HKSAR Government.

The participation of its youth is a driving force for the continuity of Hong Kong society. Their faith in the rule of law therefore has an implication on the stability and sustainability of the city's future, as well as its governance. The data and situations outlined earlier concerning the perceptions of the youth in regard to the rule of law, require attention; especially after the city's experience of the unprecedented social incidents.

This study looks at the values and perceptions of youth about the rule of law in Hong Kong, as well as the challenges to their faith in it given the political and social unrest of recent years. Recommendations will be put forward with the aim of safeguarding the city's rule of law through education and other approaches. It is hoped that the younger generation can take a more active role in building Hong Kong society, as well as providing some insights for maintaining good governance.

In conducting this study, data was collected between August and October 2021 through: an on-site survey of 529 young people (aged 15 to 34); parallel-case interviews with 15 similar individuals; and research-exclusive interviews with 4 academics and experts.

Main Discussion

- 1. The rule of law is one of the foundations for the civilisation and sustainability of societies. Various factors contribute to maintaining the rule of law, including people's perceptions of it, awareness of the rules, confidence in the judiciary, and its overall relationship with society. Every member of society (including government) is responsible for maintaining respect for the law.**

According to the UN, the rule of law refers to a principle of governance in which all persons, institutions and entities (public and private; including the state itself), are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated. All members of a society have a duty to embrace all possible measures for ensuring that everyone is equal before the law.

An academic pointed out that one of the fundamental roles for the existence of law was that it protects the common good and interests of the members of a society. Within the realm of public governance, policy formulation and enactment must have a legal basis. The rule of law is crucial for good governance.

The WGI's Rule of Law index measures people's confidence in the rule of law, their abiding by the rules, as well as their perceptions regarding the quality of contract enforcement, the police, and the courts etc. An overseas research agency, with a mission to promote global peace, has pointed out that the level of trust between the government and its society is one of the key elements.

The existence of law has various functions, with one example being that by the promotion of abiding by the law, the individual rights of each member are respected for the common good of the society. Safeguarding the belief in the rule of law is the duty of everyone within each society.

2. The values and perceptions of the rule of law held by the young respondents require attention.

Hong Kong has earned a high reputation in various international rule of law rankings, yet its position has fallen in recent years. In the WGI's Rule of Law index between 2014-2018, Hong Kong was within the range of 93.27 points to 95.19 points (on a scale of 0-100; 100 being the highest); the scores in 2019 and 2020 were 91.35 points and 91.83 points, respectively. That correlated to differences in its global ranking in 2020 (18th) with that of 2018 (11th).

In consideration of the increasingly complicated social environment of Hong Kong society, the perceptions of youth concerning the rule of law in the city are worthy of being paid attention.

2.1 Respondents cherished the rule of law. Some youth hoped that the rule of law could be maintained. However, they had reservations regarding the current situation of the rule of law as implemented in Hong Kong.

The importance attached to the rule of law as a core value of Hong Kong, by the 529 polled respondents, was rated at an average of 7.87 (on a 0-10 scale; "5" = moderate, "10" = very important). Of the 15 parallel-case interviews with similar individuals, some hoped to retain the continuation of the rule of law spirit in the city; some others considered self-discipline as the most important rationale for the existence of law, in which each member of the public simply respected the rights of others. They believed that only by doing so could people feel safe and secure.

The poll, however, noted that the respondents had reservations when asked how they felt about the current situation of the rule of law in the city. Of the 529 respondents, 45% agreed (very much agree or fairly agree) with the statement that the government could exert influence on the courts; 12.8% disagreed (very much disagree or fairly disagree).

The percentage of those who agreed (very much agree or fairly agree) with the statement that there is no independent judiciary (25.2%) was similar to those who thought otherwise (27.0%). Similar findings applied to when respondents were asked if they agreed with the statements that law could uphold social justice (25.7% agreed; 22.7% disagreed), or that court trials were fair (18.3% agreed; 19.1% disagreed).

What was of particular note was the statistically significant and large number of respondents who opted for "half-half" when asked the three questions above: 47.6%, 51.6% and 62.4% respectively.

Rule of law is the capstone of people's livelihoods, as it protects their rights and the common interest of society, and is considered as the greatest strength of Hong Kong. There is though a discrepancy between the respondents' expectations and how they regard the reality. This highlights concerns about the scale of the impact on the relationship between the youth and the wider society of Hong Kong. Anyone who cares for Hong Kong's future should be concerned.

2.2 Mutual trust between the government and citizens is an important element for cultivating a rule of law culture in any society. A large number of respondents expressed their diminishing confidence in the city's rule of law after the recent spate of social incidents. This was particularly the case for those who distrusted the HKSAR Government. The issue of trust is a serious matter for the city to effectively maintain its rule of law.

Seventy percent (70.1%) of respondents said that their confidence in the city's rule of law fell after the recent spate of social incidents. The percentages of those who shared the same feeling regarding: confidence in the police (79.4%), the justice department (59.0%), and the judges (48.6%) were especially noteworthy.

In addition, 42.0% of respondents said that citizens' loss of confidence in the rule of law was the greatest challenge towards its effective maintenance in the city. Another 30% (29.5%) said that the challenge lay in the lack of mutual trust between the Government and citizens.

More than 70% (71.2%) of respondents did not trust the HKSAR Government. Respondents expressing distrust in the Government were more inclined to: think that there was no independent judiciary; believe that the government could influence court rulings; have a diminished confidence in the city's rule of law, police, justice department, and the judges; disregard the statement that court trials were fair; and reject the statement that the law could uphold social justice.

Hong Kong society is still affected by many deeply-rooted issues. The recent spate of social and political incidents, triggered by the now-abandoned extradition bill, has heavily affected the governance of the territory and unprecedentedly eroded the level of trust in the HKSAR Government. Against this background, any policies or actions of the Government would easily provoke suspicion and scepticism from the public. There is a famous saying in the legal sector that "Justice must not only be done, but must also be seen to be done". The HKSAR Government should continuously seek to increase the transparency of its work relating to judicial and legal procedures, such as law enforcement, prosecution and court trials, so as to restore and maintain public trust

and eliminate unnecessary doubt from the public.

2.3 More than 70% of respondents indicated that they would follow laws they deemed unreasonable. The most cited reason of those, was that they would face prosecution by not doing so. Some referred to the reason that complying with the law was a civic duty. There were youth in the parallel-case interviews that revealed the motive behind their compliance with laws was to avoid being arrested for no immediately obvious reason.

377 respondents (accounting for 71.3% of the total) said that they would follow laws they deemed unreasonable. More than half (55.2%) of this number referred to the concern of facing possible prosecution for non compliance, while 22.0% cited the reason of civic duty. 144 respondents (accounting for 27.2% of the total), however, indicated they would not follow laws they deemed unreasonable. Of these, the most cited reason was that no-one should observe laws that were not reasonable (87.5%).

Some youth in the parallel-case interviews expressed the view that the severe penalties of the National Security Law had made them more vigilant in abiding by laws; the series of arrest operations relating to social incidents had left them feeling uneasy. Based on this reasoning, some youth frankly said that they had changed their motivation for following laws; from fulfilling civic duty to avoiding being arrested for no immediately obvious reason.

Law is a form of social contract. The ultimate value behind complying with laws is that every member is helping to protect the common interest. This is a positive gesture and enables society to progress. While compliance with laws out of the fear of being prosecuted is in itself not a bad thing, this might not be the best method for cultivating respect for the law or for fostering harmony within a society. Instead, policy makers should be more attentive to the importance of promoting the positive side of obeying laws.

- 3. There is neither a shortcut to nor a single factor involved in safeguarding the rule of law. Hong Kong society has encountered challenges in this regard. The Government and the community should work together to maintain its hard-earned rule of law culture.**

This study finds that there are hurdles in promoting education about the rule of law in the city. Some youth in the parallel-case interviews lamented that issues related to the rule of law had become overly sensitised through the polarisation of society in recent years. Some found it difficult to have rational discussions on this topic, and some honestly said that they preferred to keep silent about it.

An expert in one of this study's interviews pointed out that some media reported news related to the rule of law in a less objective manner. Citizens tended to make personal comments on court rulings (for example, if it was reasonable or not), according to the outcome of the verdict without paying sufficient attention to the legal grounds. The expert considered that this kind of comment was unfair to the judges.

According to the respondents' point of view, the performance of the HKSAR Government in promoting education about the rule of law was rated at an average of 4.20 (on a 0-10 scale; 5 representing a 'pass' and 10 means very good).

An expert in the interview of this study said that there was a close relationship between the Basic Law, the National Security Law, and the changes to the HKSAR's electoral system, as they are all based on the fact that Hong Kong is a part of China. The expert, however, raised a concern that some members of the public lacked a comprehensive understanding of Hong Kong's history, while some were unwilling to come to terms with its political and legal reality.

Explaining legislation is a part of rule of law education. Some youth in the parallel-case interviews said that the National Security Law was a new piece of legislation in the city and its hasty enactment coupled with the unclear explanation by the Government, left the public uncertain about its clarity and predictability.

The rule of law foundation of Hong Kong has been built and developed over many years. All sectors in the city should join together to maintain a favourable environment and avoid worsening any problems.

4. Respondents were committed to the promotion of the rule of law, but some felt powerless in this regard.

According to the UN, there are various approaches that individuals could adopt to help promote a culture of lawfulness, such as being more active in understanding law and advancing legal reform. This study noted that 261 respondents (49.3%) were interested in knowing more about the law. The most cited method that was considered as the most effective way to enrich their knowledge of law was searching information by their own, closely followed by attending court proceedings. The rest (50.7%), however, showed no such interest, with most referring to the reason that there was no need or no use for them in so doing.

Some youth in the parallel-case interviews were current tertiary students. They said that they had learned a lot about the spirit of the rule of law and understood it better as a result of participating in workshops and other sessions on the subject organised by Non-Governmental Organisations (NGOs). They were impressed by the diverse and interactive elements of such sessions which included mock courts and role play where they could exchange views. This made them more interested in and aware of the rule of law. Some of them joined the workshop in the capacity of group leader. They were impacted by the fact that they managed to conduct effective communication with younger participants (Primary School or Secondary School students). An expert shared a view that young people could take a role in promoting the spirit of the rule of law to their peers. Indeed, more than half of the respondents (51.2%) revealed that their concept on the rule of law was most influenced by peers.

Some youth in the parallel-case interviews shared their experience of attending court proceedings or visiting judiciary departments, saying that such involvement could maintain their sense of the rule of law and understand more about it.

Nevertheless, some youth in the parallel-case interviews said that society had generally ignored the role of young people in promoting the rule of law. Some youth even believed that their ability was quite limited in this regard, while some said that there was a lack of opportunity for them to take part. As a result, some youth felt hopeless and powerless.

An expert pinpointed that many of the rule-of-law promotions targeting students were arranged on a one-off basis, and the time was short. The expert emphasised that a more systematic curriculum with sufficient allocation of time is required to deepen students' understanding of this subject.

Participation in, familiarity with the rationale of laws and the history of society could help better promote the understanding of the law. The Government and all sectors of society should explore and provide more opportunities and platforms for young people to take part in its promotion.

Recommendations

Based upon the findings and discussion above, this study proposes the following recommendations on education, transparency and youth participation so the spirit of the rule of law in the city could be safeguarded.

- 1. Continuous public education and promotion is necessary if a society is to continue cultivating and maintaining the rule of law. This study recommends that the city's future rule-of-law education should be strengthened in the following ways:**

- 1.1 Enhance education about the rationale behind laws.**

The rationale behind the existence of laws requires our support and attention. Only under circumstances in which each member of the community is willing to abide by laws, could everyone's rights and society's common interests be protected, enabling being able to live in a stable and peaceful community.

In order to consolidate the rationale of laws and its influence, this study recommends that more emphasis on the content of new legislation is not enough; education about the rationale behind laws and their implementation is also needed. Such an approach is crucial for cultivating an atmosphere of respecting law within a society.

1.2 Enhance education about the relevance between the Constitution and the Basic Law.

Laws are formulated and promulgated within the particular context of a society, in which a deep connection between the laws and the society's history is established.

This study recommends that the link between the Constitution and the Basic Law should be enhanced, with an aim of helping the public understand the historical background of the Basic Law, its constitutional position, its legislative justification and source of comprehensive and system-based power.

2. The HKSAR Government has been facing challenges of low public trust, resulting in a less favourable environment within which to build public confidence. The Government should seize every opportunity to help increase citizens' faith in the rule of law.

2.1 Improve explanation of the law and the strategy behind its promotion.

This study noted that the Government's performance in its explanation of new legislation and responding to public concerns in recent years was far from satisfactory, leaving citizens uncertain about what the legislation meant. This, to a large extent, undermines the general principles that laws should be clear, stable, predictable and easily understood. The Government should learn from experience.

This study recommends that the Government should improve its explanation of new legislation by holding more public consultations to address the public's concerns and worries. This could result in greater support for new legislation by allaying doubts.

With the ever-changing political and social landscape of the city, this study also recommends that the Government should keep reviewing legislation through a process of thorough consultation with and listening to all stakeholders.

2.2 Improve the transparency of court trials, and the standards of prosecutions.

It is important to make the work of law enactment, prosecution and courtroom trials open and transparent so as to build public confidence in the rule of law. All criminal proceedings commence in the Magistrates' Courts, in which many of the verdicts are delivered verbally. There are live broadcasting facilities within the court building of the Court of Final Appeal, High Court, District Court, and all seven Magistrates' Courts. To improve the transparency of the judiciary, this study recommends that:

- (1) The judgements, reasons for verdict, and reasons for sentence of the rulings at Magistrates' Courts should be made available on the Judiciary's website for public reference.**
 - (2) For any prosecution that might cause widespread public concern, the Judiciary should take the initiative to explain to the public the reasons and considerations when it comes to deciding whether or not to prosecute cases.**
 - (3) The live broadcast of court trials should extend beyond the courtroom at all levels so that as many members of the public as possible can watch and follow trials.**
- 3. Explore more training and opportunities for young people so that they could take a more active role in the promotion of the Hong Kong's rule of law and further motivate them to help in the future development of the city.**

Youth engagement is a driver of change and of the continuous development of society. They are also best able to influence their peers

and find diversity and interactivity important elements for them to learn about laws. Yet, some young people feel powerless or hopeless when asked about their role in promoting the rule of law in the city.

This study recommends that NGOs and professional groups should provide more training and opportunities for young people so that they could be better equipped to learn about, and promote, the rule of law in the city.