



MANAGING VIBRANT STREETS 2 Street Performance Policy in Hong Kong

Interim Report

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Executive Summary

Towards a Shift from a Nuisance to an Asset to Hong Kong

This study focuses on street performance management under the framework of public space management. Street performance was identified as one of the most pressing issues in “Managing Vibrant Streets”, Civic Exchange’s April 2018 study on street management in Hong Kong. While street performance is legal, it is not proactively managed. This has led to a series of events resulting in its predominant perception as a nuisance rather than a placemaking asset.

The growth of street performance within the last 20 years was not the result of active promotion, but an unintended consequence of pedestrianisation schemes such as the now-discontinued Sai Yeung Choi Street South pedestrian zone in Mong Kok. The authorities were not prepared for the plethora of activities that emerged, and poorly managed street performance activities became so disruptive to nearby residents and businesses that the pedestrianisation scheme was eventually terminated.

However, this did not resolve the underlying problems, as performers merely relocated, e.g. to the Tsim Sha Tsui and Central waterfronts. The ensuing conflicts gave rise to blame games and public backlash as local stakeholders worried that their neighbourhoods would become “another Mong Kok”, culminating in increased restrictions on the use of public spaces (such as in Times Square), and undermining political support for pedestrianisation proposals that could otherwise enhance walkability and urban liveability.

Hong Kong’s existing regulatory framework is anchored in the idea of street performance activities being a nuisance rather than a socio-cultural and placemaking asset. It is tolerated, but not actively managed or promoted, and thus places street performers in a precarious position. Current general-purpose noise and obstruction regulations and enforcement mechanisms are not adequate to the scale of street performance activities, and existing government busking permit schemes are limited in scope and effectiveness and are unattractive to most performers.

Stronger government leadership is required to overcome the gap between broad general policymaking at the territorial level and district-specific needs. Cross-bureau action is needed to overcome policy siloes to provide comprehensive thinking and create clearer lines of accountability. Street performance, if well-managed, enriches public spaces, provides opportunities to engage in culture in everyday life, and enhances quality of life in Hong Kong.

Objectives

This study aims to advance the discourse by engaging with stakeholders and identifying possible areas of consensus and compromise. It comprises two phases: the systematic mapping and analysis of stakeholder positions in phase one, and the assessment of the acceptability and feasibility of a range of possible policy solutions in phase two. The underlying objective is to identify policy options that the Government can build support on and which are locally workable.

This interim report presents insights into stakeholder viewpoints by identifying their major concerns and understanding their power dynamics through the following methods.

1. Identification of key players and their major concerns, and analysis of their relationship and power dynamics:

A total of 28 individuals from 11 stakeholder groups including the Government, businesses, residents' advocacy groups, district councillors and street performers were engaged through semi-structured interviews. These interviews were used to carry out a stakeholder mapping exercise that describes and categorises the relationships between stakeholders to gain insights into power dynamics that may influence the outcome of programmes or policies.

2. Examination and comparison of selected overseas case studies and the local institutional context:

A comparative analysis of overseas case studies including licensing approaches, (Taipei, Singapore, Melbourne), zoning-based approaches (New York City, Prague), voluntary approaches (Bath) or mixed approaches (London) was conducted to identify successful and less successful elements and to seek inspiration for solutions that could be adapted to Hong Kong. A complementing analysis of Hong Kong's own institutional constraints and opportunities was carried out to provide insight into the local context.

The combined findings of the stakeholder interviews and the comparative analyses will form the basis for composing a menu of plausible policy approaches. These will be carried through to phase two of the study which will yield final policy recommendations upon its completion.

Problems and Potential Benefits

Three major problems were identified through the stakeholder interviews: noise, obstruction of public spaces and performance quality/taste.

Noise

- Without an objective decibel guideline in place, enforcement is carried out by the police and rests on officers exercising their professional judgment on a case-by-case basis of subjective nuisance. The lack of an objective noise threshold makes it difficult for performers to know when they are breaking the law, and for the police to gather evidence.

Obstruction

- A fair allocation of public space among multiple stakeholders with different needs is generally difficult. Obstruction laws are enforced mainly by the Food and Environmental Hygiene Department through case-by-case assessment of spatial layout, pedestrian volume, and potential hazards. As with noise, the lack of detailed guidelines makes it difficult for street performers to know when their occupation of public space is acceptable, and as a result they must use trial and error to discover where, when and how to avoid conflicting situations.

Quality/ Taste

- The issue of poor quality or poor taste of performances is subjective and depends on social context. It extends beyond artistic skill and professionalism to personal tastes, differing expectations of socially acceptable behaviour and compatibility with the community's and the city's image.
- Resolving this issue is not merely one of quality control but raises questions about which stakeholders should have authority to decide what is acceptable or unacceptable, good or bad.

These problems directly impact the perceived legitimacy of street performers. Different stakeholders voiced distinctive views on what constitutes a legitimate use of public space, for example on whether street performers should be allowed to make money, or whether it is acceptable for casual performers to use public spaces as outdoor karaoke lounges to entertain themselves.

Most stakeholders perceived clear benefits in street performance, including the promoting arts and culture, enriching urban vibrancy, enhancing quality of life, attracting tourists, drawing increased footfall to local businesses, and enhancing community sustainability. However, without resolving the outlined issues, these benefits cannot be fully realized. Thus, there is ample opportunity for policy interventions to curb these problems and to enable a greater range of stakeholders to benefit substantially.

Possible Solutions

Extensive desktop research and interviews with experts on a selection of international case studies, comprising 7 cities across the world, were conducted to explore various street performance management strategies. The three main governing approaches from these cities were analysed to assess their relevance to Hong Kong's situation:

Licensing-based systems

Licensing enables governments to grant or deny permission to people to perform, providing an incentive to adhere to guidelines and conditions under the threat of having their licenses revoked.

- Licensing officially authorises street performance as a legitimate activity and thereby protects the right of street performers to use public space within certain parameters. However, this puts unlicensed performers in a more precarious position.
- With rights come responsibilities. Different cities employ different rules and conditions for obtaining and keeping licenses. For example, Taipei and Singapore require auditions, whereas Melbourne largely does not.
- In Hong Kong, where street performers are in need of recognition as legitimate public space users, an important question is the level of restriction they are willing to accept in exchange. The example of Melbourne shows that street performers are more likely to buy into licensing conditions if they are seen as reasonable, fair and useful in resolving disputes with other stakeholders and with other performers.
- With regard to implementation in Hong Kong, there are major questions as to how a licensing system can be added to existing government departmental structures as well as the required resources for effective implementation.

Spatial (zoning) approaches

Instead of regulating individual performers by granting or denying licenses, spatial approaches apply rules and regulations to designated geographical locations to address street performance activities in those areas.

- Zoning may involve designating certain areas for street performers, implementing location-specific rules (e.g. regarding space allocation or noise levels) in areas of high pedestrian traffic, or even excluding performers from particularly sensitive zones.
- Spatial approaches by zoning mechanisms can be successful, provided that there is sufficient consideration given to performers' needs and modes of operation. They can be more effective with a positive attitude towards opening up more alternative spaces rather than closing off existing spaces, which are already limited for street performers in Hong Kong. However, piecemeal implementation and uncoordinated imposition of restrictions in different locations can be counter-productive, and merely result in shunting performers from one place to another.

Voluntary measures

Voluntary measures encourage street performers to regulate themselves and each other to avoid the implementation of formal regulation. Common methods include voluntary codes of conduct as in Bath, and management of street performance zones by street performance associations, as in London's Covent Garden.

- For voluntary codes of conduct to be accepted, fairness and openness in the process of designing the codes need to be guaranteed. Trust is an important attribute of success in adopting voluntary measures.
- Likewise, by giving local street performance associations the responsibility to manage street performers, there needs to be a trusting and collaborative relationship between local governments and street performers’ associations and ongoing engagement needs to be in place in order to mitigate any potential conflicts and to negotiate changing dynamics between stakeholders.

Hong Kong’s Institutional Context

A central component of this study is the examination of Hong Kong’s institutional context. There are currently six separate pieces of legislation that are situationally relevant to street performance activities, implemented by different government departments, which illustrates the complexity of the local situation.

Hong Kong lacks a dedicated Bureau or Department of Culture that would be a natural fit for making or implementing street performance policy, resulting in the current uncoordinated approach. Unlike the more flexible administrative structures of some overseas municipal governments (e.g. London, Melbourne), Hong Kong’s government is defined by a rigid departmental structure with discrete pieces of legislation spelling out individual bodies’ separate statutory responsibilities. Hence, implementing more ambitious policy solutions such as licensing or spatial regulations will require new legislation or the creation of new governmental bodies to carry them out.

To address street performance issues in the short term, there are also opportunities for administrative workarounds which may provide place-specific or partial solutions before the implementation of dedicated legislation. Such opportunities and their constraints will be taken into account in the final policy recommendations being developed in phase two of this study.

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