The Relationship between Governance Crisis and Public Policy:

Beyond the Policy Window

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Abstract
Crises are often conceptualised as ‘policy windows’ that provide political space for new policy proposals. John Kingdon’s influential account of policy windows had described three streams of problems, policies and politics which jointly shaped policies. However, there is no guarantee that real public problems will be taken up in the government’s agenda in limited democracy. This paper explores an alternative role of crisis in accelerating policy change. By using Hong Kong cases to substantiate the argument, this paper illustrates that social activists and ‘elected’ lawmakers have intentionally created crises as a means to exert pressure for policy change. This paper examines the policy issues in Hong Kong, and presents the ‘catalytic effect’ of crises to demonstrate how crises can influence policymaking. I have developed a conceptual account of crises which can be used for analysing the policymaking process of governments without full democracy.
1. Introduction

Governance crises can harm the legitimacy and stability of a government. However, there can be great discrepancies between the relationship of governance crisis and public policymaking in different types of regimes. First of all, this paper briefly reviews John Kingdon’s problem, policy and politics streams model which served the function of a policy window to discuss its applicability and drawbacks in non-democratic systems. According to John Kingdon’s (1995) renowned streams model, crisis can be viewed as a policy window that lead to reforms in democratic systems. On the other hand, governance crisis could be a warning for public dissatisfaction in non-democratic systems. Secondly, this paper argues the alternative role of crisis as catalyser which has far exceeded the function of a policy window in policymaking as suggested by Kingdon. By referring to two cases in Hong Kong, which is apparently a limited democratic system but endowed with a considerable level of liberty, this paper explains the importance of governance crisis in altering the problem identification and agenda setting process. Moreover, crisis could stop the government from introducing unpopular policies as non-democratic governments may possibly bypass the policymaking process before the implementation of any policy. Finally, the catalytic effect of crises from the macro perspective of politics will be explained to demonstrate how crises can motivate different political actors to intensify their political power and policymaking ability in non-democratic governments.

2. John Kingdon’s streams model and its applicability in non-democratic system

The influential policymaking model of John Kingdon consisted of the three streams – problem, policy and politics. The model aimed to study why some alternatives were seriously considered in some but not all policymaking process. (Kingdon 1995). He
suggested that those streams were independent of one another but none of them
dominated the others. Policymaking is a process initiated by people, and policy
entrepreneurs are the ones who monitor the whole process as suggested by Kingdon.
He also defined policy entrepreneur as someone in the policy community (policy
primeval soup) who had strong interest, and was willing to invest his/her resources for
future policy gain (Kingdon 1995). Policy entrepreneur should actively take part in
the policy process to ensure that the streams are moving towards the same direction
(coupling). The opening of the policy window, which was one of the special features
of Kingdon’s model, is a crucial element in the coupling process that leads to policy
reform.

According to Kingdon (1995), the three streams of problem, policy and politics were
essential factors which could lead to policy reforms. The problem stream was
defined as social problems that were influential enough to raise public awareness. In
some cases, crises had been viewed as sudden events which were exposed to the
problem stream. Problems in the society were mostly captured by data as presented
in social and economic indicators. The unemployment rate and death rate are
common examples. However, Kingdon (1995) suggested that it was highly
politicised to make a problem salient as different people might have different
interpretations for the same issue. The policy stream was defined as different
proposals in the policy community. When there was a problem, policy entrepreneurs
were responsible for finding practical solutions. Nevertheless, the streams model
cannot be complete without the politics stream which was referred to as the ‘notional
mood’ (Kingdon 1995, 146). The change in the politics stream can also be
achieved by the change of ruling party after an election. The politics stream had
provided a favourable condition for the other two streams. When the streams are
heading towards the same direction, the process of coupling would follow. In such circumstances, a policy window which comes from the problem or politics streams can be the turning point to activate this process. It can be a predictable or unpredictable event that triggers the whole society. The coupling process which is promptly turned on by the policy entrepreneur before the closing of the policy window would eventually lead to a reform. In general, a recognised problem, an available solution and the presence of political changes can all provide an environment for the coupling (Kingdon 1995) process while the policy window can be viewed as opportunities to complete the whole policy process.

John Kingdon had based on the democratic system of the United States to develop the streams model. It is understandable that the model may not be fully applicable in political systems without full democracy so as to allow the problem and politics streams to function properly. Other than the government in the policy community, it is uncertain that whether there are sufficient policy entrepreneurs. For instance, in a party-state like China, the Communist Party is the only policy entrepreneur that is available and capable of recommending any solution. Similar conditions can be found in limited democracy such as Hong Kong. Under the executive-driven\(^1\) government (Li 2007), it was difficult for other political actors (such as oppositions in the Legislature) to replace the leading role of government executives in policy process.

The lack of sufficient policy entrepreneur would directly affect the functioning of the problem stream. There are two main questions to be asked. First, is it possible to

\(^{1}\) It refers to the executive branch holding exclusive power on policy and budget initiation, as the Chief Executive enjoys more power than the Legislature according to the Basic Law, given that the LegCo in Hong Kong is fragmented under the diverged electoral systems, see Li (2007).
identify the really salient problem? Secondly, will the government tackle the real problem? In the absence of democracy, it is doubtful that the real problem can be recognized by the government. This is a matter of agenda setting as the public agenda can be totally different from the government agenda. The economic depression due to the outbreak of severe acute respiratory syndrome (SARS) and controversies on the proposed Basic Law Article 23 (on National Security) in Hong Kong in 2003 were good examples.

For the politics stream, the conflicts between the state and society can be serious as there is no popular election to reflect the national mood. Theoretically, the change of ruling party is almost impossible in Hong Kong\textsuperscript{2}. Thus, the politics stream is comparatively inactive in non-democratic regimes since the change in the national mood is not fully represented by election. There is obviously a mismatch between the agenda of the government and the public as the policy process is dominated by the rulers without consulting the public carefully. When there is a deadlock, collective movement outside the institution may be an alternative way for breakthrough. The withdrawal of legislation on national security bill in Hong Kong was a direct result of the half million demonstration on the HKSAR Establishment Day in 2003 (Cheung 2005).

The malfunction of the streams can be easily recognised when there are controversial policies. On one hand, the public would attempt to hinder any policy process which is unfavourable to them as the real needs of the public are not taken into account by the government. Theoretically, policy window can be an opportunity which serves

\textsuperscript{2} The Chief Executive elected should publicly make a statutory declaration to the effect that he is not a member of any political party (Hong Kong Ordinances Cap 569 s 31).
as a catalyst for policy reform. However, if the streams are not ready, we should reconsider the role of policy window in the whole policymaking process.

3. Governance Crisis: beyond the policy window

Kingdon referred policy window as ‘an opportunity for advocates of proposals to push their pet solutions, or to push attention to their special problems’ (Kingdon 1995, 165). As policy window is unpredictable, ‘policy entrepreneurs must be prepared, their pet proposal at the ready, their special problem well-documented, lest the opportunity pass them by’ (Kingdon 1995, 165). Kingdon suggested that there were ‘two categories of windows – problem and political window’ (Kingdon 1995, 174). A crisis should fall into the first category, and the change of administration or national mood should be identified as the second one (Kingdon 1995).

In the arena of crisis management, scholars would likely relate Kingdon’s policy window to their studies on crises (Brandstrom and Kuipers, 2003; Keeler, 1993; Boin 2004; Stern 1997). Kingdon suggested that the policy window that is to be opened may pass from a scene of crisis or focusing event, for example, is by its nature of short duration (Kingdon 1995). In fact, crisis may be just one kind of the entire “windows”. However, the real power of crisis is often underestimated as it was merely taken as a window of opportunity for policymaking. The concept that crisis is an occasion to learn and to foster reform has not been new to crisis management scholars (Boin et al. 2005; Boin, McConnell and’t Paul 2008).

From Kingdon’s perspective, the role of crisis as a policy window is rather passive in policymaking. Catastrophic crises such as aircraft crash or railroad collapse (Kingdon 1995) were treated as openings for the interim policy window. However,
crises do not always occur after the readiness of three streams which are regarded as the prerequisites for policy reform by Kingdon (1995). It does call into question on how important a crisis is in policymaking especially when there is an absence of the three streams.

As I have argued, there were some functional setbacks in the problem stream and politics stream in non-democratic systems as there is no policy entrepreneur. However it is difficult for those governments to do coupling as they were unable to address the real problem or accommodate the national mood due to a lack of popular election in the executive branch. The situation gets worst when there is a controversial policy. In this regard, crisis can reverse the policy process to agenda setting.

### 3.1 Crises altering agendas

In non-democratic regimes, governments can implement any policy they proposed. In most cases, the governments have the privilege to set the policy agenda. Since the governments are not directly accountable to the people, their agenda may not necessarily reflect the real problem in the society. Besides, any attempt to solve the real problem in the society may affect the vested interest of certain groups of people. This can be explained by the over-representation of certain sectors in the government such as the businessmen in Hong Kong\(^3\) (Lui 2007; Ma 2012). If the agenda setting process was deviated from the public opinion of the main stream, the output of the policy may also be far below public expectation. In extreme cases, public

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\(^3\) The Functional Constituency in the LegCo and the Election Committee of the Chief Executive are heavily weighted in favour of the business sector. For example, one fourth of the seats in the Election Committee are reserved to representatives of business sector by the Beijing government (Lui 2007; Ma 2012).
dissatisfaction or social unrest can be foreseen. Thus, in non-democratic regimes, crisis as a policy window can alter the agenda and reverse the problem stream.

In this regard, I would refer crises as those critical events that could cause (potential) damage to the legitimacy of the government and the capability of the state. Crises can be man-made chaos or natural disaster (Ronsenthal and Kouzmin 1993) regardless of their nature. However, the function of crisis in this circumstance is to influence governmental decision. Social groups, available opposition parties (such as those in the Legislative Council of Hong Kong) and the mass media may try to regain their position in the agenda setting by manipulating crisis events. Through different means, such as large scale demonstration and massive media coverage, political pressure is exerted on the government. It may lead to two possible outcomes if the pressure is sufficient. First, the government may review its problem identifying and agenda setting process. After the (re)consideration of public opinion, the government may eventually reframe the agenda to better address the real problem. As a result, crisis will alter the problem stream and generate new policy. Second, if the policy proposal of the government absolutely violates the interest of the public, the outbreak of a crisis may lead to the withdrawal of controversial policy. In this case, the real national mood (in the political stream) which is suppressed may override the previous government decision. The whole policy process will be disrupted as the controversial policy proposal does not truly represent the ecology of the policy community.

Generally speaking, non-democratic regimes are not always authoritative in policymaking. At least in the case of Hong Kong which is a limited democracy in substance enjoys a certain level of freedom. Dominated policymaking process can
also be found in societies with an inefficient democratic system, as the power has been held back by elites. In those semi-opened policy communities, crisis is a good means to activate different streams although most of them are controlled by the government. In this circumstance, other than acting as a policy window which creates an opportunity, crisis can initiate reform. This does not imply that Kingdon model is not applicable to non-democratic regimes. This paper intends to argue that crisis, as a policy window, can also influence the whole policy process as crisis provides an opportunity for different policy actors to play an active role in the process.

4. The cases of Hong Kong

After returning the sovereignty to China in 1997, Hong Kong becomes a special administrative region (HKSAR) of China under the three principles of “One country, two systems”, “Hong Kong people ruling Hong Kong” and “High level of autonomy”. The political system of Hong Kong can be said to be semi-democratic or limited democratic. The Chief Executive is elected by a committee consisted of 1,200 members who are mostly pro-Beijing. Only half of the members in the Legislative Council are elected by general public, the political system of Hong Kong has been described as an executive-driven (Li 2007) system. Other than approving or disapproving government policies, the LegCo does not have much power⁴. In this regard, the policy process in Hong Kong is mostly top-down and the policy maker can remain control of the policy agenda (Scott 2010). The government of HKSAR which is headed by the Chief Executive is the most powerful policy entrepreneur although some opposition parties in the LegCo always try to influence the

⁴ According to Article 74 of the Basic Law, the mini-constitution of Hong Kong SAR, members of the Legislative Council (LegCo) are not allowed to introduce or amend bills related to public expenditure or political structure or the operation of the government.
The political system of Hong Kong is unique as Hong Kong consists of a non-democratic executive branch, a semi-democratic legislature and a liberal civil society with comparatively high level of freedom of speech, press, and assembly. The political context of Hong Kong provides a special policy environment which Kingdon’s model may not be completely applicable. The two policy controversies provided below try to illustrate how (potential) crisis can become a significant element that directs the whole policymaking process.

4.1 The Legislation of Basic Law Article 23 and the July 1st demonstration in 2003

According to Basic Law Article 23, it was the constitutional responsibility for the Hong Kong SAR Government to ‘enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies’ (Basic Law of HKSAR, Article 23). The controversies began when Chief Executive C H Tung started to spearhead the legislation process in his second term of office. According to Cheung (2005), the HKSAR government was heavy-handedness in Article 23 legislation and the backlash. Cheung (2005) also suggested that the government had underestimated the opposition from the general public but overestimated the support from pro-Beijing party in passing the bill. Cheung (2005)
argued that some sections\textsuperscript{5} which were proposed in the bill had startled the pan-democrats as well as the general public as they had openly asked for the termination of one-party rule of the Chinese Communist Party (CCP) especially after the 1989 Tiananmen Square Incident. In this regard, without in-depth consultation, the bill, which was expected to be passed in July 2003, was toughly pushed forward by the Secretary of Security Regina Ip.

The 1 July protest rally in 2003 was certainly a historical event in Hong Kong (Cheng 2005; Chan and Chan 2007). Half a million people had marched towards the government office in Central in a peaceful manner. They mainly protest against the poor governance of C H Tung. They opposed to the ineffective crisis management of the government during the outbreak of SARS but the main reason was their antagonism towards Article 23. Soon after the rally, Tung’s government still insisted to continue the legislation process by making amendment on some controversial sections in the bill. However, the introduction of the bill was found to be impossible on 6 July when Executive Council\textsuperscript{6} member James Tien who was also the Chairperson of Liberal Party (LP) from the pro-Beijing camp tendered his resignation to the ExCo and declared that all LP lawmakers would not support the bill in the LegCo. The government eventually postponed the legislation the next day as there were insufficient votes to support the bill in the LegCo after the U-turn of Liberal Party.

The withdrawal of the legislation of Article 23 had demonstrated the negative effect

\textsuperscript{5} Under this circumstance, it may be identified as a kind of subversion against the Central People's Government that would be prohibited and even sanctioned after the legislation of Article 23.

\textsuperscript{6} Executive Council (ExCo) is the highest decision making body in HKSAR government chaired by the Chief Executive.
of imposing unfavourable policy without considering the streams (problem and politics) in a non-democratic regime. The large scale protest rally in 1 July 2003 had initiated a governance crisis which harmed the legitimacy of Tung’s administration badly. In this case, crisis acted as a window to call off change as it had stopped the government from implementing unfavourable policy. On the contrary, it would be uncommon for governments in democratic system to rigorously enforce unpopular policy or bills as all politicians want to secure more votes for the next election. As I have mentioned, technically non-democratic government can draft any policy without considering the streams. However, to some extent, governance crisis such as the mass demonstration in Hong Kong would highlight the importance of the problem stream and political stream in non-democratic systems. Owing to certain constraints, people may not be able to vote by their hands but they can always vote with their legs. Crisis can bring the policy process back to the policy community with interaction among multiple policy entrepreneurs under the operation of the three streams similar to Kingdon’s model.

4.2 The Scheme $6,000 controversy

In his speech on 23 February 2011 for the annual government budget, Financial Secretary John Tsang had announced the injection of $6,000 dollars to every holder of a Mandatory Provident Fund\(^7\) (MPF) account. Under the MPF regulation, people can only withdraw their contributions after they are sixty-five; therefore the injection had been widely commented as “water afar off quenches not fire”. The proposal was strongly resisted by the general public as well as the political parties. At the very beginning, John Tsang insisted that there was no room for amendments as the

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\(^7\) As a retirement protection system in Hong Kong, MPF is a ‘mandatory, privately managed, fully funded contribution scheme’ introduced in 2000 (Mandatory Provident Fund Schemes Authority 2012).
alternative of giving out $6,000 in cash would definitely push up the inflation. The situation had changed when the pro-Beijing parties unexpectedly called for a cash switch on the MPF injection (The Standard 28 February 2011). The pro-Beijing legislators, who were holding more than half of the seats in legislature, claimed that they ‘did not threaten to use their power to veto the budget as a pressure tactic against the government‘ (The Standard 1 March 2011). On 3 March 2011, the government finally gave in and made a U-turn on the budget by distributing $6,000 in cash instead of injecting to the MPF account (South China Morning Post 3 March 2011).

Although some commentators argued that the Scheme $6,000 was only part of the election campaign of the pro-Beijing camp for the District Council election\(^8\) shortly. It appeared that the government’s U-turn was to avoid potential governance crisis triggered by the disapproval of government budget by the LegCo. There has not been any precedent case of the kind over the hundred years of Hong Kong history since the colonial era. From the policymaking perspective, there are fundamental differences in respect of problem definition and agenda setting between the injection of $6,000 into the MPF account and the giving out of cash. The injection was meant to relieve the problems associated with the aging population which was predicted to reach 28% of the entire population in 2039 (MPFSA 2012). The government intended to give out cash so as solve the immediate financial difficulties of the less privileged under heavy inflation, especially for the “unclassified” population\(^9\).

Although the dissatisfaction of the general public showed that the original

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\(^8\) There are 18 District Councils (DC) in Hong Kong. As the lower tiers of local government, District Councils are advisory bodies on local administration (Holiday and Hui 2007). DCs consist of elected member and appointed (by Chief Executive) member. DC election held in every four year, the last election was held on November 2011.

\(^9\) A Specific term to describe those people who has no job, no home ownership and not enjoying any of the government social welfare scheme such as the Comprehensive Social Security Assistance (CSSA).
government proposal was not tackling the most salient problem of inflation for the people, Scheme $6000 might be able to mitigate one of the important problems faced by the government – the financial burden caused by aging population in the future. The government was at the risk of having its budget be disapproved for the first time without the pro-Beijing lawmakers’ support. Thus, this potential governance crisis had forced the government to shift the proposal to solve the real problem that most people concerned at that moment. The Scheme $6,000 controversy was mainly caused by the lack of popular election on the national mood in the executive branch. The real political stream which is the public opinion of the people can only be represented by the legislature in which half of the seats are established by direct election. Thus, we may conclude that the potential governance crisis on rejecting the budget had influenced the problem and the political stream in this case.

In summary, crisis is not merely a policy window as described by Kingdon (1995). With reference to the cases in Hong Kong, a non-democratic system with relatively high level of liberty, crisis or potential crises had demonstrated their key role in directing the policymaking process. Apart from policymaking, we are also interested in studying the effect of crisis on governance and politics. The “catalytic effect” of crisis can explain the maximisation of the influence of different social and political actors in promoting governmental change and reform during crisis.

5. The “catalytic effect” of crisis
Public dissatisfaction can be aggravated by the poor performance of the government, especially for the regimes without efficient check-and-balance mechanism. In this regard, crisis can act as a catalyst for reform (Resodihardjo 2006), social unrest and change (Powers and Gong 2008). Dissatisfaction can be accumulated from different
kinds of government failure and grievances within the society such as some unsolved social problems. When the situation reaches a certain level, any minor issue related to government wrongdoings may easily catalyse serious governance crisis. The catalytic effect of crisis shares some characteristics with Kingdon’s (1995) policy window as both of them represent an opportunity for change. Nevertheless, the catalytic effect of crisis should be differentiated from policy window. First, it may not serve any particular public agenda but it would rather be a gathering of general public dissatisfaction towards the government or to the ruling party. Second, as compared to the policy entrepreneur in Kingdon’s model, “crisis entrepreneurs” seldom come from the government. In most cases, there are different actors within the civil society that initiate the bottom-up process.

The catalytic effect of crisis has become a special feature for directing governmental decision making in non-democratic regimes. When there is no way for the general public to influence the government decisions, crisis will act as a means to achieve it. Catalytic effect refers to the framing and promoting of an issue as a governance crisis provided that the severest issue can always receive immediate response from the government. There are two levels of catalytic effect. The lower level can be achieved when the government is willing to make a major change on current policy towards the issue(s) that causes the crisis. The Scheme $6,000 and the withdrawal of Basic Law Article 23 legislation were typical examples. The higher level may be to challenge the legitimacy of the government or even the regime, the Arab Spring incidents were good examples. In terms of catalytic effect, crisis influences politics in all aspects from policymaking to the change of regime. Since crisis consists of uncertainty, the potential political influence of governance crisis could extend far beyond our expectation.
6. Conclusion

Kingdon’s streams model which was based on Western democratic systems had highlighted the importance of crisis as a policy window in policymaking. However, the three streams model of problem, policy and politics may not be totally applicable as it was meant for political systems without full democracy. Non-democratic systems may not always be absolutely authoritative in terms of policymaking. Non-democratic governments, to some extent, need to consider different actors in the policy community although those streams are not functioning in full capacity. According to Kingdon’s streams model, the opening of a policy window was meaningless unless the three streams are ready. Nevertheless the passive role of crisis as argued by Kingdon was doubtful. The failure of the streams would render policymaking in non-democratic regimes mostly a top-down process. In this regard, crisis can be treated as an opportunity to activate those streams by those suppressed actors in the policy community. By identifying the real problem, reframing the agenda and motivating the national mood, the opinion of the public can be respected and taken care of by the leaders so as to incorporate into the policymaking process.

The examples in Hong Kong, a limited democratic system (only for part of the Legislature), have shown that crises could mainly alter policymaking in two ways. First, governance is a good means to eliminate unpopular policy. The national security bill of Basic Law Article 23 was a good example. The large scale protest rally in 1 July 2003 had imposed sufficient political pressure to the Tung’s administration. The people had decided to express the national mood with their legs as there was neither an in-depth consultation regarding such a controversial bill nor any attempt to identify the real problem of the society (the poor economy after SARS outbreak). Second, in the Scheme $6,000 incident, the potential crisis on the
occasion of the disapproval of government budget by the LegCo had eventually forced the government to refocus the attention to heavy inflation which was the most salient problem of the people instead of the aging population problem that the government attempted to solve by injecting $6,000 into the MPF account of working adults.

In many cases, governance crises may occur suddenly, and the legitimacy of the government can fall in a very short period of time. The catalytic effect of crisis can better explain this phenomenon as I have argued that crisis is sometimes a catalyser for policy reform. Without democracy, people’s dissatisfaction towards the government cannot be released through election. Some “minor” events may eventually catalyse a huge governance crisis. It will be a good chance for different policy entrepreneurs to fight for their interests in the policy process when the government decides to make concessions. There is always a tight relationship between crisis and public policy. From Kingdon’s perspective, crisis is a window of opportunity for reforms but for non-democratic regimes, crisis is something beyond a catalyser that assembles all actors to take a step forward in the originally closed policy process.
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