

## Some Unexplored Issues in the "Accountability System"

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### Introduction

In England, there are four major principles underlying the "cabinet system," namely cabinet collegiality (a group of cabinet members acting jointly), the dominance of the Parliament (the British system is characterized by a fusion of powers between the legislature and the executive), ministerial responsibility (a minister answerable to Parliament for his or her department's policies and actions), and collective responsibility (all ministers equally and jointly responsible for every decision taken by the government).<sup>1</sup> In the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC), the proposal of the "accountability system of senior officials" has not raised these four issues, which can be seen as the hallmarks of the British system of political accountability. This submission aims at exploring these issues in the HKSAR.

### Collegiality of ExCo Members

Under the proposed accountability system, the political appointed officials in the HKSAR will also be Executive Council members, similar to the cabinet members in the British system. It is unclear whether these appointees will really observe the principle of collegiality, which according to James

combines the abilities and experience of many people, rather than relying solely on one. It acts as a check on rash or hasty action. It lessens the risk of power going to the head of one person ... [I]t dovetails well with the need for extensive coordination of policy between ministers and departments. Yet it has drawbacks. It can make for delay: it is infinitely swifter for one person to make up his mind than for a group of people to reach a decision jointly ... Collegiality does not preclude the pre-eminence of one or two members: the chairman of any committee will usually be particularly involved in its affairs, with varying degrees of active involvement by other members ... [I]n Britain, the collegiate ethos remains potent: all ministers, including the premier, are expected to behave as part of a collective governing group.<sup>2</sup>

In the case of Hong Kong, collegiality appears to be relatively weak among the members of ExCo. More importantly, the Chief Executive Office (CEO) has recently disagreed with the policy direction of the Housing Society that is led by an ExCo member. Moreover, it is unclear whether the future ExCo under the accountability system will establish committees that will provide policy advice to the "politically appointed officials."

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<sup>1</sup> Simon James, *British Cabinet Government* (London: Routledge, 1992).

<sup>2</sup> *Ibid.*, pp 5-6.

The lessons from the British system are threefold. First, the "politically appointed officials" in ExCo will have to become more sensitive to the principle of collegiality. Second, the position of the CEO will remain unclear in the future system. It may continue to become the secretariat of the Chief Executive, but the CEO's Information Coordinator may have his or her title changed to, say, the Chief Executive's Principal Private Secretary (as with the British case). The role of the Information Coordinator may have to be adjusted in view of the fact that the "politically appointed officials" will announce their policies to the public. By implication, the Information Coordinator will likely become more low profile in public than ever before. Yet, whether the future Information Coordinator will accompany the Chief Executive to sit in ExCo meetings remains unclear. Furthermore, in the event that the "politically appointed officials" will need administrative staff or personal assistant, they may recruit the staff members themselves and yet such a move may encounter public criticisms. Alternatively, the "politically appointed officials" may have to rely on the administrative support of their departments concerned. Overall, the role of the CEO remains an unexplored issue in the future set-up of the accountability system.

Another issue is whether the ExCo members of the "politically appointed officials" will establish committees, like the cabinet committees in Britain. The current HKSAR polity is characterized by the existence of numerous advisory committees, which however can be re-organized in such a way as to provide research support and policy advice to the future "politically appointed officials." At present, some advisory committees in the HKSAR are influential, but some relatively low key in public. The "accountability system" in the future may have to reshape some of the advisory committees and put them under the portfolios of the "politically appointed officials."

### The Importance of Parliament

While the British case is marked by parliamentary sovereignty or dominance, this is and will not be the case of the HKSAR where LegCo remains relatively weak vis-à-vis the executive branch. While the fusion of powers in the parliamentary system is characterized by a ruling party in power, or a coalition of parties in power, the HKSAR does not have this feature. However, in the future accountability system, the Government will need to consider whether LegCo members whose views are similar to the Government will be nominated as "politically appointed officials." Nominating LegCo members supportive of the Government will form either a coalition of pro-government parties or a ruling party in power. This will not only facilitate the government bills to have a smooth passage in LegCo, but will most importantly clearly delineate those political parties that are pro-government or that belong to the opposition.

The Government's proposal that "politically appointed officials" will have to go to LegCo to answer questions from LegCo members is a first step toward the formation of such party coalition in power. This practice will also help train politicians in the HKSAR.

## "Ministerial Responsibility"

While a minister is answerable to British Parliament for his or her department's policies and actions, this will also be the case in the HKSAR when the accountability system is adopted. In Britain, "for many years it was maintained that a minister was responsible for every act of his officials, whether or not he knew of it at the time."<sup>3</sup> With the passage of time, a "more realistic definition" emerged, namely "the minister takes responsibility for decisions he takes himself or which derive from policy he lays down, and for minor administrative slips-ups, but the minister is not responsible for reprehensive behavior by officials of which he knew nothing."<sup>4</sup> In short, the division of responsibility remains unclear in the British case.

In the HKSAR, the division of responsibility between the "politically appointed officials" and the civil servants will also likely remain ambiguous. The Hong Kong case will be complicated by the fact that the demarcation of responsibilities between the "politically appointed officials" and the civil servants under their leadership will be unclear. Furthermore, it is unclear how the government will delineate the relationships between the "politically appointed officials" and other semi-government bodies, such as the Housing Authority, Hospital Authority, etc. Unless a clearer demarcation of responsibilities will emerge, the division of responsibilities between the "politically appointed officials" and the civil servants on the one hand, and between them and the head of semi-government bodies or statutory organizations will remain unclear, thus affecting the question who will really resign in case of policy mistakes.

## Collective Responsibility

In the HKSAR, the principle of collective responsibility is sometimes relaxed as ExCo members may voice their views seemingly contradictory to each other. In the future, when the accountability system is adopted, whether this principle will be more strictly observed remains unclear. But a government that appears to be assertive will have to rely on the strict adherence to the principle of collective responsibility.

## Conclusion

This submission outlines a number of issues that have not been fully discussed in the society regarding the future implementation of the "accountability system." While the British system is characterized by the four features discussed above, the Hong Kong case will likely be marked by a more water-downed version of all these four principles unless the HKSAR Government is determined to experiment with a government led by a coalition of pro-establishment parties, and unless the division of responsibilities amongst the political parties will become clear with the implementation of the "accountability system."

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<sup>3</sup> *Ibid.*, p. 7.

<sup>4</sup> *Ibid.*, p. 8.