

1
3 ADMINISTRATIVE REFORM IN
5 HONG KONG: AN INSTITUTIONAL
7 ANALYSIS OF FOOD SAFETY ☆
9

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13
15 **ABSTRACT**

17 *In this chapter I trace the evolution of Hong Kong's political and*
19 *administrative systems from one dominated by the bureaucracy to one*
21 *dominated by the political executive. The change has had profound*
23 *consequences for governance arrangements in Hong Kong and on reform*
25 *capacity. I illustrate the impact of the change on the institutional*
27 *arrangements in one policy domain, food safety.*

29
31 **INTRODUCTION**

33 As they make policy on administrative reform, political executives operate
35 within discrete political-administrative traditions that influence their
37 calculations of how through reform to maximize political support. The
39 traditions range on a continuum from those where politicians dominate

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1 administrators (e.g., the UK) to those where administrators are relatively
 2 autonomous from politicians (e.g., Germany or Japan) (Knill, 1999). These
 3 relationships help to determine reform capacities: strong political executives
 4 have better capacity to impose administrative reforms. The traditions are
 5 also largely path-dependent (Peters, 1999) and they influence the institu-
 6 tional choices of the political executive. Conversely, the institutional choices
 7 of the political executive also influence political-administrative tradition:
 8 the process is an iterative one. Cases of states changing from one tradition to
 9 another in a relatively short period of time are rare. Yet, this is exactly what
 10 has happened in Hong Kong. As a result of regime change, the political
 11 executive in Hong Kong has improved capacity to impose administrative
 12 reform.

13 I trace the evolution of Hong Kong from a system dominated by the
 14 bureaucracy to one dominated by the political executive. This change has
 15 had profound consequences for governance arrangements in Hong Kong
 16 and on reform capacity. I illustrate the impact of the change on the
 17 institutional arrangements in one policy domain, food safety. I draw on
 18 official documents, especially Legislative Council papers, other government
 19 documents, depositions and petitions submitted by trade representatives,
 20 official Hong Kong and mainland websites, and a series of interviews carried
 21 out with Hong Kong government officials in August 2006.¹

23

THEORETICAL CONSIDERATIONS

25

26 This chapter draws on two theoretical perspectives, historical and rational
 27 choice institutionalism. According to historical institutionalism public
 28 organizations are path-dependent – historical traditions and informal
 29 norms are important for understanding organization reforms. In order to
 30 understand contemporary institutions we need to study their political and
 31 policy histories. Once governments make their initial institutional choices,
 32 the patterns created will persist, unless there is some force sufficient to
 33 overcome the inertia created at the inception of the program (Peters, 1999).

34 Path dependency helps to explain patterns of relationships between
 35 politicians and administrators in various political systems. According to
 36 Knill (1999) we can explain reform capacities in terms of the relative power
 37 relationships between politicians and administrators. In some systems, such
 38 as the United Kingdom, strong political executives dominate administrators
 39 and are able to impose administrative reforms on government agencies
 relatively successfully. In other systems, such as Germany or Japan, strong

1 bureaucracies have dominated weak politicians. In these systems bureaucrats
2 are able to veto, significantly modify, or indefinitely delay administrative
3 reforms. An historical institutionalist approach would lead us to expect that
4 types of relationships between politicians and administrators are relatively
5 stable. Yet I also understand that while institutions are enduring, they are
6 also capable of adapting, for example, to the problems that they have
7 created. Critical institutional events, during which a variety of internal or
8 external forces come together, can alter institutional paths. One such event
9 was the regime change that marked the transfer of sovereignty over Hong
10 Kong to China in 1997. A result of this shock, was to move Hong Kong from
11 a system dominated by administrators to one dominated by politicians. In
12 this chapter I illustrate the impact of this change on institutions and
13 administrative behavior by examining the case of food safety.

14 Historical institutionalism has relatively little to say about institutional
15 design (Peters, 1999). To remedy this problem I draw on the literature of
16 institutional choice from the perspective of transactions costs analysis
17 (Horn, 1995; Williamson, 1999). According to this perspective politicians
18 have a choice of institutions to deliver public services. Generally they choose
19 the institutional arrangements that reduce four kinds of transactions costs
20 including (1) decision-making costs (which implies that they prefer vague
21 solutions if beneficiaries can readily participate in administrative rulemaking
22 ex post); (2) commitment problems, such as the possibility that politicians in
23 the future may undo the policy or institutional choice thus threatening support
24 for politicians; (3) uncertainty costs, the risks associated with complying with
25 government policies or attempting to influence them ex post; and (4) agency
26 problems, that is the problem that the agency will fail to implement the policy
27 as politicians intended due to information asymmetry and/or conflicts of
28 interest between the principal (politicians) and the agent (administrators). This
29 perspective assumes bounded rationality, methodological individualism, and
30 that politicians are concerned to please their constituents.

31 Combining these two perspectives I explain the changing institutional
32 choice of the political executive in Hong Kong as it moved from a position
33 of weakness to strength vis-à-vis the administration. Combining the two
34 perspectives improves the robustness of the explanation.

35

37 **THE CASE OF HONG KONG**

39 The case of Hong Kong demonstrates the utility of combining historical and
40 rational choice institutionalism. Colonial Hong Kong preferred

1 autonomous governance arrangements that could help to address the
2 political executive's legitimacy problems. With the transfer of sovereignty
3 in 1997, the political executive sought to gain political control over the
4 up-to-then bureaucratic state as it addressed new legitimacy problems.
5 Strengthening the political executive was accomplished over time from 1997
6 to 2002 when the Principal Official Accountability System (POAS) was
7 introduced (see later).

9

The Administrative (Colonial) State

11

12 The high colonial state (the 1970s and early 1980s) was characterized by
13 bureaucratic rule (Lau, 1982; Scott, 1989, 2005; Miners, 1998). First, all
14 official positions in the colonial government, except the Governor who was
15 appointed by the UK government, were held by civil servants. Civil servants
16 made policy, sold it to the public, and then implemented it. The political
17 executive in this set up was confined to the Governor and his advisors.
18 Second, governors generally were appointed from among British Foreign
19 Office officials and arrived in Hong Kong with relatively little administrative
20 experience, although some may have served briefly as advisors to previous
21 governors. No governor came to the position with expertise in Hong Kong's
22 education, social welfare, housing, transport, or other sectors. Moreover,
23 they brought with them virtually no staff of their own. Accordingly they
24 were heavily dependent on the civil service for policy. This meant that in
25 policy terms, administrators dominated the political executive in all areas,
26 except managing relations with the UK and China. Third, all formal power
27 was centralized in the office of the Governor who was advised by an
28 appointed (until 1991) legislature (the Legislative Council). Although the
29 Legislative Council approved the budget, because of its formally weak
30 (advisory) position, the administration had a high degree of budgetary
31 autonomy. Power over the budget was in practice exercised within the
32 administration by the Financial Secretary, himself usually a career civil
33 servant. This does not mean that bureaus always obtained what they wanted
34 (they did not), but it does mean that the political executive exercised only
35 weak control over the budget. This state of affairs was aided by Hong
36 Kong's huge and relatively consistent budget surpluses. In Knill's (1999)
37 terms, then, the administration dominated the political executive and was
38 able to shape administrative reform to suit its interests. Fourth, the colonial
39 state faced continuous legitimacy problems (Scott, 1989). These were
addressed, but not overcome, by cooptation of the local elite into various

1 advisory positions and elected local councils, on the one hand, and by
2 adopting policies that lead to rapid economic growth, which provided some
3 kind of performance-based legitimacy, on the other.

4 The autonomy enjoyed by Hong Kong's administration was reflected in
5 its approach to public health and food safety. Hong Kong's public health
6 function came into existence in 1843 principally to serve the needs of the
7 government, the British military, the police, and prisoners. Only gradually
8 did it extend its reach to the community. The Medical Department was set
9 up in 1872 and by 1890 included a 'government analyst' whose duties
10 included determining food and water quality (Ho, 2004, p. 169). From at
11 least this period food safety came under the purview of relatively
12 autonomous bureau-type agencies,² especially the Department of Health
13 (DH) which took up responsibility for the safety of all imported (that is
14 virtually all) food in Hong Kong.

15 In 1883 administrators put sanitation (including the cleanliness of wet
16 markets which sold raw, unprocessed food) under the control of a relatively
17 independent Sanitation Board (Ho, 2004). Conflict between influential
18 members of the public and civil servants over whether a more tightly
19 controlled Department of Sanitation, staffed by civil servants, or a more
20 independent Sanitation Board should manage the cleanliness of food
21 markets apparently dates from at least the 1890s (see Lau, 2002). The
22 government preferred the Sanitation Board, but was eventually persuaded to
23 set up a Sanitation Department in 1908. The colonial government's view was
24 that it should be as little involved in food safety and sanitation as possible.

25 Hong Kong's status as a city also contributed to the decision to put food
26 safety in the public health domain. Being almost completely urbanized, Hong
27 Kong had little local production of agricultural and fishery products (they
28 accounted for only 0.1% of GDP in 2005) and has imported virtually all
29 (95%) of its food since World War II. Accordingly, in Hong Kong the
30 domestic lobby for agriculture and fisheries is small and relatively insigni-
31 ficant. Pressure to frame food safety as an adjunct of agriculture, requiring
32 protection and development for an export market, was almost completely
33 absent in Hong Kong. Indeed a department of agriculture was set up only in
34 1946 (prior to that time administrators established agencies such as the
35 Government Gardens Department). This sets Hong Kong apart from many
36 places where food safety policy is dominated by agricultural bureaucracies and
37 their producer clients (Ansell & Vogel, 2006; Toke, 2004; Nestle, 2003).

38 The colonial state's approach to governance (defined here as a preference
39 for autonomous agencies) and its need for legitimacy lead to highly
40 fragmented institutional arrangements including those for food safety. The

1 colonial political executive was not as constrained as post-1997 politicians
2 by the need to please beneficiaries. Still, pleasing beneficiaries (to gain and
3 maintain legitimacy) was not unimportant given the colonial state's
4 legitimacy deficit. The colonial political executive chose autonomous
5 arrangements to manage food safety because of its governance ideology,
6 on the one hand, and to reduce transactions costs, on the other.

7 According to the transactions cost approach, politicians seek to reduce
8 their decision-making costs by articulating vague policy if they can ensure
9 beneficiaries rights to participate in administrative rule making *ex post*
(Horn, 1995). In a typical regulatory situation such as food safety,
11 beneficiaries (the public) are a large and diffuse group, and accordingly
12 have high participation costs. Those bearing the burden of regulation
13 (for example, in this case importers, wholesalers, retailers, and restau-
14 rateurs) are usually a small relatively cohesive group, whose participation
15 costs are low. To ensure that beneficiaries are protected, the political
16 executive will choose more autonomous arrangements, which is exactly what
17 it did in Hong Kong. The political executive's concern that future politicians
18 might undo these arrangements to the detriment of the public also
19 encouraged a more autonomous solution. The political executive sought
20 to reduce agency problems by relying on bureaus, which in principle were
21 characterized by civil service type incentives, including performance-based
22 promotion (Horn, 1995).

23 At its apogee, the colonial state's political executive chose to manage food
24 safety and environmental hygiene through 11 different departments and
25 agencies (Health and Welfare Bureau, 1998). These included two elected
26 municipal councils, set up to address legitimacy problems, which each had
27 authority to make different by-laws with different standards applicable in
28 their respective (urban and rural) jurisdictions; three policy bureaus, three
29 agencies (departments), and the Hospital Authority. At that time key
30 aspects of food safety were the domain of the DH under the Health and
31 Welfare Bureau. The DH operated mainly through a food surveillance
32 system, testing samples of imported food and spot checks on retailers and
33 restaurants. The Agriculture and Fisheries Department (AFD), where
34 veterinarians were located, managed wholesale markets and supervised the
35 inspection of imported live animals. AFD was managed by the Economic
36 Services Bureau, reflecting its trade facilitation and agriculture and fisheries
37 development functions. The Urban Services and Rural Services depart-
38 ments, both reporting to different elected municipal councils, focused on
39 restaurant licensing and environmental hygiene including the cleanliness of
40 food markets.

1 These arrangements characterized above all by a high degree of autonomy
2 from the political executive, accorded to colonial governance ideology, on
3 the one hand, and addressed (weakly) the government's legitimacy problems
4 through elected local councils, on the other. They had consequences for
5 policy making and implementation, however.

7

Participation Rights

9 The beneficiaries of food safety policy (the general public) are a diffuse
10 group with high participation costs. Those burdened by regulation
11 (importers, wholesalers, retailers, and restaurateurs) are relatively well
12 organized and have lower participation costs. To protect the interests of
13 beneficiaries, the colonial political executive chose more autonomous
14 institutional arrangements, which are more difficult for the regulator to
15 influence. In other political systems, more autonomous regulatory commis- **AU :1**
16 sions are typical choices (Horn, 1995). In Hong Kong, the colonial political
17 executive chose to spread responsibility of food safety among a large
18 number of different agencies which made participation by 'the trade' more
19 difficult. It also addressed the commitment problem by make reform of the
20 arrangements more difficult. Indeed, it was only with the relatively drastic **AU :2**
21 change of regime that reform became possible.

22 In Hong Kong stakeholders, such as local producers, importers,
23 wholesalers, retailers, and restaurateurs, collectively known as 'the trade,'
24 have formed scores of groups to lobby the government on food safety
25 regulatory issues.

26 Given their lack of access and the decentralization of the food safety
27 regime, 'the trade' has focused mostly on influencing government policy
28 through its over-representation in the local legislature. Hong Kong's
29 Legislative Council, resembling a bicameral system, is divided equally into
30 two types of constituencies: 30 general constituencies (elected by universal
31 suffrage and representing the public) and 30 functional constituencies
32 (elected by interest groups that represent business and 'the trade'). Among
33 the functional constituencies are Legislative Councilors who speak for food
34 safety in one way or another, such as agriculture and fisheries, catering,
35 wholesale and retail, commerce, and import and export. The trade is
36 represented on the Legislative Council's Panel on Food Safety and
37 Environmental Hygiene, which monitors the government's food safety
38 policy and its implementation. Seven of the 10 members of the panel come
39 from functional constituencies, including agriculture and fisheries, catering,
and wholesale and retail, which ensures that the trade has significant

1 representation in any attempts by the government to change food safety law
or regulation.

3 According to Hong Kong's constitution no bill may be passed by the
Legislative Council unless a majority of delegates representing both types of
5 constituencies assent to it. This provision gives 'the trade' some influence in
the legislature to modify or resist food safety regulation.

7

Uncertainty Risks

9 Uncertainty over policy preferences and the impact they will have on
beneficiaries is a cost to the political executive which it seeks to reduce
11 (Horn, 1995). The colonial state reduced uncertainty costs by operating in a
relatively closed environment. Policy was made and implemented by the civil
13 service, with relatively little participation from even attentive publics, such
as the trade. The nature of the colonial civil service also served to reduce
15 uncertainty costs. Policy was made by a small group of elite administrative
officers, who shared a common background (social class and education),
17 and a common vision of their place in the Hong Kong political system and
the role of the state in society. Elite administrative officers met regularly in
19 the Policy Committee, chaired by the Chief Secretary, to make policy. They
all knew each other, participated in key decisions, and were bound by
21 common understandings. The administrative officer grade structure itself
acted as a coordinating mechanism that reduced uncertainty (Lam, 2005).

23

Agency Problems

25 Agency problems arise when the agent (the administration in this case) fails
to implement the policies of the principal (the political executive [the Chief
27 Executive in this case]). Agency problems result from two general types of
structural features of hierarchy, namely, information asymmetry and
29 conflicts of interest (Horn, 1995; Moe, 1984; Williamson, 1999). Both
featured prominently in the colonial set up.

31 The extreme decentralization of Hong Kong's food safety regime meant
that no focal point existed to steer and coordinate policy in food safety. No
33 policy bureau had responsibility for the municipal councils and their
executive agencies (the Urban Services Department and the Regional
35 Service Department) and the Director of Health's power to make binding
decisions on food safety was considerably limited. The fragmented
37 arrangements also undermined the ability of the administration to address
large-scale food safety emergencies quickly. In 1997, 2001, and 2002, for
39 example, Hong Kong was the site of a deadly outbreak of avian flu in
humans. In these cases authorities established links between public health

1 and the way food was handled. The crises also revealed breakdown in
communications that went way beyond the usual information asymmetries
3 that characterize typical government bureaucracies. A lack of communica-
tion within agencies in Hong Kong (e.g., the DH, AFD, and the Hospital
5 Authority) and between the Hong Kong and mainland governments was
especially damaging.

7 Conflicts of interest also characterized the decentralized arrangements. As
the Permanent Secretary for the Health Welfare and Food pointed out,
9 reflecting on the differences between the current and colonial (in practice,
pre-2000) situation: 'If two bureaus [are involved] I have to get another
11 Permanent Secretary to work with me. She may have a different agenda in
terms of priority. When it comes to resource allocation we have to spend
13 some time to fight as to who is going to pay for what ... So, from my
perspective, now [under the reformed arrangements] I'm the Permanent
15 Secretary for food safety and I can call the shots.' Policy coordination in
particular suffered under the pre-2000 arrangements. The different missions
17 of the various policy secretaries, focused on health, economic development,
and planning, the environment and lands, undoubtedly undermined
19 effective coordination of food safety policy. Indeed, these arrangements
pushed policy coordination up to the Chief Secretary, who was preoccupied
21 with other responsibilities resulting in delay and neglect.

Still, under these fragmented arrangements ties evolved linking food
23 safety agencies at an operational level. Coordination was facilitated through
personnel placements (seconding specialized staff from department to
25 department such as, health inspectors from the Urban Services Department
to the DH) and by developing standard operating procedures (SOP) that
27 required the involvement of staff of another department, such as the SOP
that required doctors in the DH investigating food poisoning cases in
29 restaurants to turn their findings over to the restaurant licensing authorities
in the Urban Services Department for action.

31 Interdepartmental working committees and task forces were used to
handle crises, such as the 1997 avian flu outbreak (Poon, 2003). Initially led
33 by the DH because officials viewed avian flu as primarily a health risk, the
Urban Services Department was brought in to clean up Hong Kong's wet
35 markets and the AFD to inspect local chicken farms, and then on December
29, 1997 to slaughter all (1.5 million) chickens in Hong Kong, initially
37 planned as a 24 h operation. Only after strong criticism from the legislature,
the public, and the trade that the government had acted too slowly did the
39 Chief Executive appoint the Chief Secretary to coordinate follow-up action
(Poon, 2003).

1 Multiple levels of agency problems also characterized the relationship
2 between Hong Kong and central and local mainland bureaucracies, on the
3 one hand, and between the central government bureaucracies and local
4 government agencies on the mainland, on the other. To stop the import of
5 live chickens, for example, the government had to seek the cooperation of
6 the Ministry of Foreign Relations and Trade (later Commerce) in Beijing
7 which controlled livestock quotas. The Ministry, however, did not have
8 information on the incidence of avian flu on mainland farms (this was held
9 by the Ministry of Agriculture). The Ministry of Agriculture in turn was
10 dependent on local agriculture bureaus to report this information.

11 The colonial political executive chose relatively autonomous arrange-
12 ments for the management of food safety. If uncertainties were low, so too
13 were participation rights for the private sector (the trade). A result of this
14 institutional choice was relatively high agency costs.

17 *The Political State*

19 Regime change fundamentally altered the relationship between politicians
20 and administrators in Hong Kong with the balance of power shifting toward
21 politicians. Strengthening the political executive culminated in the
22 introduction of the POAS in 2002 under which fixed-tenure politicians
23 replaced career civil servants as policy secretaries. This move, which
24 dramatically increased the number of politicians, established an entirely new
25 relationship between politicians and administrators. As part of the POAS,
26 the political executive centralized policy making in the hands of the
27 appointed politicians. For the political executive regime change substituted
28 one kind of legitimacy problem with another. Hong Kong's new status as a
29 special administrative region of China addressed the problem of rule
30 imposed through the coercive force of an alien state, but it did not address
31 the problem of the people being disenfranchised. According to the
32 constitution, the central government appoints the Hong Kong government
33 in a process that excludes virtually all citizens in Hong Kong.³ The shift of
34 power from administrators to politicians was facilitated by the series of
35 crises that engulfed the public health and food safety domains (discussed
36 earlier).

37 Historical institutionalism is able to explain change in terms of adaptation
38 and learning (Peters, 1999). Incremental adjustment to crises characterized
39 the Hong Kong response as well. By 1998 politicians saw the need for
40 structural changes to strengthen leadership in the coordination of food

1 safety policy and to ensure efficient coordination and prompt response to
2 food safety crises (Constitutional Affairs Bureau, 1998).

3 To address agency problems the political executive replaced the
4 fragmented and autonomous arrangements with a single more tightly
5 controlled agency. The move sought to address agency problems by
6 centralizing authority over food safety in a single department, (the Food
7 Safety Center within) the Food and Environmental Hygiene Department
8 (FEHD) which was formed from pieces of the DH, the (renamed)
9 Agricultural, Fisheries and Conservation Department (AFCD), and the
10 Urban Services and Rural Services departments. A single policy secretary
11 working with one permanent secretary was put in charge of most of the
12 relevant food safety departments FEHD, AFCD, and Health, and the
13 confused structure of elected municipal councils and urban and rural
14 services departments was abolished. This arrangement provided for a lead
15 department (FEHD) and a single source of policy.

16 A consequence of these changes, however, was to replace one set of
17 agency problems with new ones.

19 *Participation Rights*

20 Under the new more centralized arrangements, the trade has a single entry
21 point to the policy system, namely the FEHD. An FEHD deputy director
22 has regular meetings with various trade groups to consult them on
23 impending changes to laws or regulations. The relationship between FEHD
24 and the trade, however, was less one of bargaining and negotiation and
25 more one of FEHD passing on information. As the former Director of
26 FEHD pointed out: 'Whatever you told them at this stage in a regular
27 meeting they wouldn't say much. But then things changed when you got to
28 Legco. Then all of a sudden at Legco they said you never talked to me and
29 then we pointed out that on such and such a date we told them about it [the
30 policy]. They seemed to have forgotten everything we had told them before.'

31 Given their representation in Legco functional constituencies, the incentive
32 to participate privately may have been low.
33 Government's relations to the trade are to a large extent hierarchical.
34 Government uses consultation with the trade to inform and to listen to
35 objections. As the former Director of FEHD pointed out: 'We may change
36 the details after talking to them, but yes, we still want to implement [the
37 policy or regulation]. We are fully aware of the political facts. In the last few
38 years all the important things ... we managed to get them all done ... In
39 spite of all the kicking and screaming, they [the policies] were done because
40 they were important.' On lower priority items for the government, such as a

1 scheme for rating restaurants according to their cleanliness and on nutrition
2 labeling, opposition from the trade has resulted in delay. Because the
3 government consults many different groups it may play one off against
4 another to achieve a 'balanced' policy. 'Just because we I can't please both it
5 is unfair to say that we haven't consulted ... we *have* consulted but we
6 haven't listened, that may be true' (Interview, DFEHD, August 21, 2006).

7

Uncertainty Risks

9 One of the most significant consequences of the introduction of the POAS
10 system was to increase uncertainty risks. Many of the politicians recruited to
11 fill the elite policy positions came from outside the civil service. Accordingly
12 they brought to their positions a wide variety of policy preferences that,
13 because Hong Kong's system eschews political parties, were not molded into
14 a coherent program. Individual preferences assumed an exaggerated
15 importance in such a system. The government also replaced the Policy
16 Committee, which had brought elite civil servants together to make policy,
17 with an Executive Council, on which all political appointees sat. This
18 arrangement fostered a silo effect, which undermined coordination at the
19 top and increased uncertainty. Government policy became less predictable
20 for both the administrators and the public, and increased risks of
21 uncertainty.

Agency Problems

23 The new arrangements addressed some sort of agency problems, but
24 resulted in new problems as well. The new arrangements facilitated the
25 establishment of a new, high level Steering Group on food. The Group
26 brings together senior officials from the bureau and the FEHD (and AFCD
27 and Health as needed) to study longer-term policy issues. The Steering
28 Group is the first such regular policy coordination mechanism for food
29 safety created in the Hong Kong government.

31 The bureau has also established regular mechanisms to improve
32 coordination including twice monthly meetings that the directors and
33 deputy directors of FEHD, AFCD, and Health had with the policy secretary
34 and the weekly meetings convened by the secretary with his permanent
35 secretary, deputy secretaries, and principal assistant secretaries. Although
36 these are held on a regular basis, their agendas are usually crises driven. The
37 permanent secretary also maintains daily contact with the heads of
38 departments supervised by the bureau. Heads of departments interact with
39 other departments generally to iron out the details of policies set at the
bureau (such as which department should pay for a particular exercise).

1 Policy bureaux turn to more ad hoc coordination mechanisms to handle
operational problems that require an explicit policy steer. The interdepart-
3 mental working committee chaired by the policy secretary of Health
Welfare and Food Bureau (HWFB) to deal with malachite green in eels in
5 2005 brought together many officials from the policy bureau, FEHD,
AFCD, and Health to work intensively over only about a week and
7 according to one source was called an ‘interdepartmental working
committee’ for the sake of a press release ‘for ease of comprehension’
9 (Interview, PSHWFB, August 25, 2006). The government gave these
informal arrangements more structure to demonstrate to the public that
11 action was being taken (as indeed it was).

In another case, the permanent secretary pulled together an interdepart-
13 mental task force to deal with organized crime and food smuggling in a
wholesale food market. In this case the permanent secretary of HWFB
15 chaired a task force that included representatives of the Security Bureau,
police, customs, FEHD, and AFCD. Initiative for the exercise came from
17 the bureau. The permanent secretary pointed out: ‘We have to have a task
force because they [the departments] will have to work together ... The
19 bureau gives its blessing. If I need to sort things out I will have to come in.
But by and large, I think after one or two interventions all departments
21 worked smoothly together. My intervention is really to fund them to employ
additional guards and strengthen the [market] management system.’ Fights
23 over resources tended to undermine cooperation among agencies and
required this kind of high-level intervention which was facilitated by the new
25 institutional arrangements.

The new arrangements have not reduced problems of conflicts of interest
27 among departments even those housed under one bureau, however. As a
result of the reforms the single permanent secretary’s position has been split
29 into two, which means turf battles between the two permanent secretaries
that would be pushed up the policy secretary.

31 Conflicts between policy secretaries as they stake out their programs and
compete for resources are more marked after the introduction of the POAS.
33 In the food safety arena, for example, an October 2005 HWFB proposal to
create a new Food Safety Inspection and Quarantine Department from
35 parts of FEHD and AFCD prompted the Secretary for Environment,
Transport, and Works to demand that AFCD’s remaining conservancy
37 functions be transferred to her portfolio. The result would have been to
abolish the AFCD, a move vigorously protested by AFCD staff who were
39 supported by the legislature. This opposition scuppered the plan (see Health
Welfare and Food Bureau, 2005).

1 Not surprisingly, the new arrangements have not resolved conflicts of
interest among departments, some of which have long standing causes.
3 AFCD's mission to develop agriculture and fisheries in Hong Kong makes it
in some sense unsuitable to regulate food safety. As the former Director of
5 FEHD pointed out, 'The two departments [FEHD and AFCD] have very
different missions. Because of this, they also have different approaches [to
7 cooperation] ... If you ask the AFCD people, if they are honest with you,
they will tell you they are not quite sure what they are doing. They are
9 caught between two bosses now [Health Welfare and Food; Environment,
Transport, and Works]. [They say] for my first 20 years in the department
11 my job was to help the industry develop. When it comes to the control side
[and FEHD asks] "Hey, can you control the farmers for us?" they will be
13 very reluctant ... But from day one FEHD is the control agent, we don't
care whether the pig farm is prospering or not, we want to make sure the
15 food is safe. Therefore we are very control oriented ...'.

Although AFCD has provided support and cooperates at an operational
17 level with FEHD on food safety issues every day, its commitment to food
safety was tested to the limit in 2005 when the government blue print for
19 food safety reform essentially called for the AFCD to be abolished. This
episode demonstrates the limits to which the department is committed to
21 policy coordination. Survival comes first, and in this case all key players
recognized that the department should continue to exist even if food safety
23 policy would be less effectively coordinated. As a deputy secretary pointed
out: 'Obviously you cannot dismiss concerns of staff summarily ... We were
25 talking about the breaking up of a very old and traditional department,
sparking staff resentment which was something we have to think about ... if
27 you want to force it through to the extent that staff are extremely unhappy,
this will not do any good to the new department, nor to the community with
29 its heightened expectations of what we could do and deliver' (Interview
DSHWFB, August 21, 2006).

31 The new arrangements have facilitated improved coordination between
the Hong Kong government and mainland authorities. The permanent
33 secretary has regular meetings (three times per year) with officials of
Administration of Quality, Supervision, Inspection, and Quarantine
35 (AQSIQ)⁴ in Beijing to review food safety policies. Given their policy
rather than operational portfolios, informal contact between the permanent
37 secretary and AQSIQ is rare. 'If things come to me [the Permanent
Secretary] there is bound to be something serious ...' (Interview, PSHWFB,
39 August 25, 2006). Generally these contacts between the bureau and the
AQSIQ are maintained by a deputy secretary in the bureau or the director of

1 FEHD. Regular meetings were also held between food safety officials in
2 Hong Kong, Guangdong, Shenzhen, and Zhuhai to review operational
3 matters. Contacts between Hong Kong and the mainland have also been
4 strengthened. These include a new notification system contained in
5 protocols signed between the Hong Kong government and AQSIQ and
6 Ministry of Agriculture that requires these agencies to notify the Hong
7 Kong government of any adulteration of food or incidences of animal
8 disease coming from AQSIQ-export registered farms. The two governments
9 have also established a regular annual meeting of the policy secretary for
10 HWF and the Minister of AQSIQ to review food safety issues and **AU:6**
11 procedures.

12 In spite of these developments, information asymmetry and conflicts of
13 interest still characterize Hong Kong mainland food safety issues, however.
14 Problems with mainland-sourced food are complex. First, moral hazard
15 problems and information asymmetries characterize the AQSIQ bureau-
16 cratic set up. Given the high levels of corruption found in China generally,
17 why should we believe that they are not also found in the licensing and
18 inspection of farms and food processing plants? Indeed, Hong Kong food
19 regulators admit that this may be a problem. As the permanent secretary
20 said: 'Of course there is no fool-proof system, we have to be content with it.
21 We still know that when it comes to matters with a trading interest we still
22 have to grapple with the problem of possible corruption ... their own sort of
23 norm, way of looking at the system...'. Yet, the Hong Kong government
24 believes that because China is a food exporter (all controlled imports [high
25 risk food] to Hong Kong comes through this channel) the incentive for
26 mainland authorities to provide safe food is very high. Given the openness
27 of Hong Kong, any problems here will be quickly picked up by China's
28 trading partners.

29 Information asymmetries are a particularly difficult problem. Given that
30 Hong Kong cannot send thousands of inspectors to investigate every farm
31 or food-processing factory, the government relies heavily on the AQSIQ
32 bureaucracy. The ministry in Beijing, however, may not know what is going
33 on at local level. During the malachite green scandal, the government
34 pushed the AQSIQ to set up a system of registered fish farms in China from
35 which exports to Hong Kong would come. The authorities issued a list of
36 such farms in short order, but Hong Kong journalists who tried to visit the
37 farms found out that many did not exist.

38 Hong Kong is thus dependent on the mainland for information and the
39 quality of its regulation. Although AQSIQ in some sense acts as an agent of
the Hong Kong government on the mainland, AQSIQ has its own control

1 problems. AQSIQ is also an organization of the central government and
2 thus probably outranks its Hong Kong ‘partners’ in the bureaucratic
3 pecking order in China. Still, the evidence presented here is that both sides
4 have an increasingly close and institutionalized working relationship driven
5 by China’s needs to develop its food export business. This incentive has
6 probably reduced agency problems somewhat.

7 The post-1997 political executive choose to exercise much tighter control
8 over the food safety bureaucracy, in keeping with new governance ideas and
9 pressure from the public for better service (better protection for
10 beneficiaries). The new centralized arrangements increased uncertainty,
11 however, and provided more focused access to the trade. The introduction
12 of the POAS in 2002 resulted in new agency problems.

13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39

Regime change altered the balance of power between politicians and
administrators in Hong Kong and improved the capacity of politicians to
impose administrative reforms. Dramatic changes to the institutional
arrangements for food safety date only from 1997. Politicians replaced the
autonomous arrangements preferred by the colonial state with more tightly
controlled institutions. Politicians took these steps based on their new
understanding of governance and legitimacy, on the one hand, and to reduce
transactions costs, on the other. As a result of the reforms, private sector
participation became more focused, but uncertainty costs increased.
Politicians replaced one set of agency problems with another. In particular
the introduction of the POAS system, which was critical to cementing the
position of politicians vis-à-vis administrators has led to new problems,
which have undermined the coherence of government and policy coordina-
tion.

In some sense the reforms of food safety are representative of reforms in
other policy domains. They all have occurred within a general framework of
shifting politician–administrator relations.

In 2005 the Chief Executive resigned and was replaced by a political
appointee with long experience as a career civil servant. He has moved the
system partially back to the colonial era, by reinstating the Policy
Committee in a move to bring more coherence to the government’s
program. Given the problems associated with the POAS, however, which
continues to be implemented, more coherent policy is unlikely to result.

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3 Mosher (1967); Peters (1998); Poon Ping Yeung & Peter (2004).

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7 **NOTES**

9 1. The interviewees were: Permanent Secretary of the Health Welfare and Food
11 Bureau (PS, HWFB); former Deputy Secretary of HWFB (DS, HWFB); former
13 Director of Food and Environment Hygiene Department (DFEHD); and the
15 Comptroller, Center for Food Safety (CCFS).

17 2. I identify two types of bureaus, the ‘autonomous’ bureau and the ‘tightly
19 politically controlled’ bureau, both of which are ‘bureaus’ as defined by Horn (1995).
21 That is, they are tax funded, their output is opaque, and therefore difficult to
23 measure, they generally lack transparency, their budgets are subject to annual
25 scrutiny by politicians, and they are staffed by civil servants.

27 3. The Chief Executive (CE) is elected by an 800-member Election Committee,
29 composed mostly of local notables chosen by the Chinese Communist Party. Upon
31 being elected, he is appointed by the Chinese central government. The CE nominates
33 principal officials (ministers) who mostly head various policy bureaus and they
35 together with the CE form the government. The central government also appoints
37 these principal officials. For the constitutional set up in Hong Kong see *The Basic
39 Law of the Hong Kong Special Administrative Region of the People’s Republic of
China* (1980) which came into force in 1997 when the United Kingdom ceded
sovereignty over Hong Kong to China.

4. On the mainland the Hong Kong government’s key partner is the General
Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), part
of the central government in Beijing. The AQSIQ supervises a network of local Entry
and Exit Inspection and Quarantine bureaus (the Guangdong province bureau and
Shenzhen and Zhuhai bureaus are key regulators for Hong Kong food imports) that
implement central government quality controls for all exports, including food. The
AQSIQ maintains registers of approved farms and processing plants that may export
food to Hong Kong (and the rest of the world).

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