

A Popularly-Elected Presidency as a Focus of Constitutional Choice: Explaining the Taiwanese Case, 1986-96*

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Literature concerning constitutional choice usually fails to distinguish between the genesis and function of an institution. As a result, the question of how constitutional systems are initially chosen is usually ignored. This gap generates a situation where, while parliamentarianism is preferred by most scholars, presidentialism is chosen more frequently by newly democratized nations. This paper is an attempt to bridge this gap by looking into the experience of Taiwan from 1986 to 1996. In general, the constitutional choice in Taiwan can be explained by the focus of the agenda—a popularly-elected presidency. After the fourth stage of constitutional reform in 1997, the ROC system has come to resemble more and more, in Shugart and Carey's terms, the premier-parliamentary system. Several findings can be reported: (1) The issue of a popularly-elected presidency was built as a "focal point" in the process through the establishment of three political pacts among rivals. The participants' pact-building efforts were all based on considerations of advancing partisan interests by ex-

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ploiting President Lee Teng-hui's inherited strongman position. (2) The focal point was enforced by the idea of popular sovereignty, which was a tacit agreement among all rivals though with different interpretations. Under the agreement, people gradually coordinated their opinions toward favoring a directly-elected presidency. (3) The focal point helped to coordinate actions and stabilize the reform process, but has not guaranteed the stable functioning of the system because of the possibility of divided government or cohabitation in the future.

KEYWORDS: constitutional choice; a popularly-elected presidency; focal point; presidentialism; parliamentarianism

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Introduction

Theories of Constitutional Choice

Debates on presidentialism versus parliamentarianism led by Juan Linz¹ have shown signs of a revived interest in institutionalist arguments in political science.² Many serious comparative political scientists have voiced opinions on this topic.³ The debate, usually addressed through

¹Juan J. Linz, "Presidential or Parliamentary Democracy: Does it Make a Difference?" in *The Failure of Presidential Democracy: Comparative Perspectives*, ed. Juan Linz and Arturo Valenzuela (Baltimore: Johns Hopkins University Press, 1994), 3-87.

²According to Linz, this article has been in academic circulation since 1984.

³E.g., see note 1 above; Donald L. Horowitz, "Comparing Democratic Systems," in *The Global Resurgence of Democracy*, ed. Larry Diamond and Marc F. Plattner (Baltimore: Johns Hopkins University Press, 1993), 127-33; Arend Lijphart, ed., *Parliamentary versus Presidential Government* (Oxford: Oxford University Press, 1992); Arend Lijphart, "Democratization and Constitutional Choices in Czechoslovakia, Hungary, and Poland," *Journal of Theoretical Politics* 4, no. 2 (1992): 207-23; Arend Lijphart, "Constitutional Choice for New Democracies," in Diamond and Plattner, *The Global Resurgence of Democracy*, 146-58; Arend Lijphart, "Presidentialism and Majoritarian Democracy: Theoretical Observations," in Linz and Valenzuela, *The Failure of Presidential Democracy*, 91-105; Scott Mainwaring, "Presidentialism in Latin America," *Latin American Research Review* 25, no. 1 (1990): 157-79; Scott Mainwaring, "Presidentialism, Multipartyism, and Democracy," *Comparative Political Studies* 26, no. 2 (1993): 198-228; Powell G. Bingham, Jr., *Contemporary Democracies: Participation, Stability, and Violence* (Cambridge, Mass.: Harvard University Press, 1982); Adam Przeworski, *Democracy and the Market* (New York: Cambridge University Press, 1991); Adam Przeworski et al., "What Makes Democracies Endure?" *Journal of Democracy* 7, no. 1 (1996): 39-55; Giovanni Sartori, *Comparative Constitutional Engineering* (New York: New York University Press, 1994); Matthew S. Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992); Alfred Stepan and Cindy Skach, "Constitutional Frameworks and Democratic Consolidation: Parliamentarianism versus Presidentialism," *World Politics* 46, no. 1 (1993): 1-22.

an empirical route, seeks to uncover the "best" constitutional design for newly-democratizing polities. The typical criteria used for judging the superiority of a design are political stability, government performance, and economic development.⁴ Based on these criteria, scholars focus on the question of which constitutional arrangement is superior to the others. The argument that parliamentary systems are inherently more stable than presidential systems has almost achieved the "status of stylized fact."⁵

One important gap in this literature is the question of how constitutional systems are initially chosen. Przeworski and others⁶ question in a recent article that, "if parliamentary democracies last longer, it is puzzling why so many democracies adopt presidentialism."⁷ This gap reminds us to distinguish between the *function* and *genesis* of institutions while studying constitutional choice.⁸ Failure to do so will reduce the institutional arguments into rhetorical schemes with no explanatory relevance. Moreover, by neglecting the fact that political agents are capable of "structuring the world so they can win"⁹ in the choice process, political science as a field is at risk of going back to the legal-formalist tradition of the *old* institutionalism.¹⁰ In this article, I will assume that politicians pursue their interests

⁴Lijphart, "Constitutional Choice for New Democracies."

⁵Barbara Geddes, "Book Review: *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*," *American Political Science Review* 88, no. 1 (1994): 224-25.

⁶Przeworski et al., "What Makes Democracies Endure?" 47.

⁷Shugart and Carey also cast the same doubt on the literature in the beginning of their major study of presidentialism. They state that "most of the scholarly literature on the subject comes out quite squarely behind parliamentarianism as the preferred alternative. However, among practicing politicians, the message is getting through slowly, if at all. Nearly all new democracies in the 1970s and 1980s, and in 1990, have had elected president with varying degrees of political authority." See Shugart and Carey, *Presidents and Assemblies*, 2.

⁸This argument is stimulated by Dankwart A. Rustow as he points out that "the factors that keep a democracy stable may not be the ones that brought it into existence: explanations of democracy must distinguish between function and genesis." See Dankwart A. Rustow, "Transitions to Democracy: Toward a Dynamic Model," *Comparative Politics* 2 (1970): 346.

⁹William. H. Riker, *The Art of Political Manipulation* (New Haven, Conn.: Yale University Press, 1986), ix.

¹⁰I am referring to the period from the late nineteenth to the early twentieth century. See David Easton, "Political Science in the United States: Past and Present," in *Discipline and History: Political Science in the United States*, ed. James Farr and Raymond Seidelman (Ann Arbor: University of Michigan Press, 1993), 291-94. He calls this period the formal (legal) stage in the development of contemporary political science in the United

and further their careers above all else in the process of constitutional choice. This disposition drives them to prefer some institutional agreements to others.¹¹ Thus, the constitutional choice is a process of collectively choosing an institutional arrangement among participating parties.¹²

However, there are several limitations to this reductionist view of constitutional choice. First, the range of possible constitutional arrangements that can be considered is limited by a country's history of political development. Przeworski and others suggest that a "casual glance at history" can provide clues to answer the question of "what determines the initial choice of democratic institutions."¹³ In other words, the path to the final choice matters. By historical restrictions as well as by successful or unsuccessful strategic maneuvers, politicians focus on certain preferred agendas for decisions. Leadership of political elite is the most important factor in the process of sorting out agenda foci, as we will see in the Taiwanese case. Second, the volatility of a party system as well as the instability of voters' partisan preferences during the time of constitutional choice create tremendous uncertainties for politicians to calculate what is the "correct" institutional preference for their party to adopt at the bargaining table.¹⁴ Likely is that partisan preference may be affected by other fac-

States. Famous works were produced by scholars such as Walter Bagehot and Woodrow Wilson. Students of politics at that time were trying to understand how political institutions operate by describing or comparing the formal rules of governing, such as constitutions.

¹¹ Barbara Geddes, "Political Institutions as Bargains among Self-Interested Politicians" (Paper prepared for the APSA meeting, San Francisco, 1990); and "Initiation of New Democratic Institutions in Eastern Europe and Latin America," in *Institutional Design in New Democracies*, ed. Arend Lijphart and Carlos H. Waisman (Boulder, Colo.: Westview, 1996), 21-23.

¹² This viewpoint can be classified under the rubric of the "New Institutionalism," an attempt of the rational choice political theorists to refocus on the problem of political institutions. See James G. March and Johan Olsen, "The New Institutionalism; Organizational Factors in Political Life," *American Political Science Review* 78, no. 3 (1984): 734-49; Elinor Ostrom, "An Agenda for the Study of Institutions," *Public Choice* 48, no. 1 (1986): 3-25; William H. Riker, "Implications from the Disequilibrium of Majority Rules for the Study of Institutions," *American Political Science Review* 74, no. 2 (1980): 423-47; and Kenneth Sheplse, "Studying Institutions: Some Lessons from the Rational Choice Approach," *Journal of Theoretical Politics* 1, no. 2 (1989): 131-47.

¹³ Przeworski et al., "What Makes Democracies Endure?" 47.

¹⁴ A good discussion of the uncertainty can be found in Guillermo A. O'Donnell and Philippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore and London: Johns Hopkins University Press, 1986), 3-5.

tors exogenous to the choice of constitutional system, such as—in the case of Taiwan—the independence issue and the internal conflict of parties. Third, the outcome of the constitutional choice should be legitimate. That is, regardless of the winner or loser at the moment, every participating party should have a fair chance which might lead parties to look beyond their partisan interests and search for compromise with their rivals on certain constitutional issues. All these limitations do not logically prevent the self-interest explanation from operation, if we are sensitive to the timing of the decision and able to identify critical events in the process.

Negotiating the Focus and the Focus of Negotiation

The constitutional choice of new democracies, this author believes, can be explained by concentrating on the process of exclusion and inclusion of issues in the choice set. In other words, *by explaining the focus of an agenda, we can explain the choice*. Since the formation of the agenda is related to the institutional history of a nation, we can derive from this two types of formation process. First, an inherited institution can be a focus to be abolished (a negative focus). It is a practice of making a choice by eliminating alternatives from the choice set. The substance of such a focus is agreement over what each party does not want. The practice does not necessarily bring about a final choice, but certainly does have an impact on the final outcome. For example, in 1912 in China and in 1931 in Spain, monarchy was a negative focus. Second, an inherited institution can attentively be a focus to be adopted (a positive focus). This is also a process of making a choice by focusing on one particular issue in the choice set. The substance of such a focus is agreement over what each party wants to concentrate on in its constitutional decision. The harmony is usually created by the importance of certain issues that are related to the survival of parties in the post-constitution reform era. The sense of relevance is a result of the *distributional consequences* of institutions that affect particular interests or values to be realized in a society.¹⁵ The unique position of a

¹⁵Przeworski, *Democracy and the Market*; Jack Knight, *Institutions and Social Conflict* (Cambridge: Cambridge University Press, 1992).

popularly-elected presidency in the Taiwanese case is a typical example of the existence of a positive focus.

A successful coordination on a positive focus does not exclude the possibility of negotiation among parties. In the original setting of the "focal point" theory, Schelling points out important similarities between coordinating in tacit and explicit bargaining.¹⁶ On the one hand, constitutional negotiations will bring information to parties, make communications among parties, and create concessions among parties. These activities will make parties realize the importance of the institutional focus. On the other hand, a prior existence of certain inherited institutions or institutional norms, which are "standing out" for their own sakes in the process, can be helpful to tacit negotiations between parties.¹⁷ The ability to adopt the same focus (positive or negative) often occurs due to historical as well as partisan causes. We should carefully distinguish one factor from the other and should not reduce one into the other. The Taiwanese case will shed some light on how these two seemingly incompatible notions mixed in the real world.

*The Taiwanese Case*¹⁸

As China's military exercises moved closer and closer to the middle line of the Taiwan Strait in March 1996, the first direct presidential election of the Republic of China (ROC) became a focus of attention in the interna-

¹⁶For using coordination as a key concept to understand constitution, see Russell Hardin, "Why a Constitution?" in *The Federalist Papers and the New Institutionalism*, ed. Bernard Grofman and Donald Wittman (New York: Agathon Press, 1989), 102-8.

¹⁷Thomas C. Schelling is the first to think about the problem of coordination in bargaining situation. In his own words, the "standing out" means that "a prime characteristic of most of these 'solutions' to the problems, that is, of the clues or coordinators or focal points, is some kind of prominence or conspicuousness." See Thomas C. Schelling, *The Strategy of Conflict* (Cambridge, Mass.: Harvard University Press, 1960), 57. For the similarities between tacit and explicit bargaining, Schelling states that "(t)he fundamental problem in tacit bargaining is that of *coordination*; we should inquire what has to be coordinated in explicit bargaining. The answer may be that explicit bargaining requires, for an ultimate agreement, some coordination of the participants' expectations. . . . The 'coordination' of expectations is analogous to the 'coordination' of behavior when communication is cut off; and, in fact, they both involve nothing more nor less than intuitively perceived mutual expectations" (pp. 69-71).

¹⁸See appendix for a chronological table of major events from 1986 to 1996.

tional media. The election was a significant accomplishment, considering that only in 1986, for the first time in the history of the ROC on Taiwan, did President Chiang Ching-kuo announce his plan to liberalize Taiwan's political arena. He outlined six areas of political reform, including lifting the forty-year-old martial law, alleviating the ban on organizing new political parties, and democratizing the national representative body.¹⁹ After only a decade of transition, the direct election of the Republic's president became the symbol of Taiwan's "political miracle," which has complemented the island's famous "economic miracle." Beyond this rhetoric, one interesting aspect of Taiwanese democratization is worth pointing out. Throughout the transition, the heart of the constitutional reform on Taiwan has been gradually focusing on the issue of the popularly-elected presidency by direct or indirect means.²⁰ Many constitutional debates and compromises centered around this issue. The "focal point" position of a popularly-elected presidency provides an interesting case for understanding the logic of constitutional choice, in Taiwan in particular, and in other newly-democratizing countries in general.

Methodologically, this paper centers around the concept of a "focal point" solution to a coordination game in order to reinterpret the history of constitutional reform on Taiwan. However, the structure of this paper is more in the interpretive rather than analytical tradition. In order to have a meaningful discourse, as Buchanan prescribes,²¹ there are three main sec-

¹⁹See *Washington Post*, October 8, 1986, A18, for an interview with President Chiang Ching-Kuo. Also see Chou Yangsun and Andrew J. Nathan, "Democratizing Transition in Taiwan," *Asian Survey* 27, no. 3 (March 1987): 277-99. Also, for an insider's review of this period of time, see James Chul-yul Soong, "Political Development in the Republic of China on Taiwan, 1985-1992: An Insider's View," *World Affairs* 155, no. 2 (1992): 62-66.

²⁰For a clarification of terminology, note a distinction made by Shuart and Carey (*Presidents and Assemblies*, 20 n. 4) between a "popular" and "direct" vote of president. The U.S. system is popular but not direct. If a president is elected by an assembly, the election is neither popular nor direct. The term "popularly-elected presidency" includes both direct and indirect methods of electing the president. In the 1947 ROC Constitution, the president is non-popularly-elected. In the process of constitutional reform on Taiwan, although popularly-elected presidency has assumed its "focal point" position, there is a conflict on using direct or indirect means to do the job. See section 3 in this paper for details.

²¹Buchanan pointed out that "the essential principle for meaningful discourse about constitutional-institutional reform . . . is the recognition that reform involves movement from some 'here' toward 'there'." See James M. Buchanan, "Federalism as an Ideal Political Order and an Objective for Constitutional Reform," *Publius* 25, no. 2 (1995): 19-27.

tions to this paper. In the first part, I will institutionally and historically sketch out the "here" in the Taiwanese case. It is the foundation of meaningful discussion of the latter parts of the movement and the "there." The second section highlights certain events to illustrate the establishment of the "focal point" position of a popularly-elected presidency, showing the historical as well as partisan reasons behind all the events. The final part discusses the different meanings of the movement and its effect on the reform process. Also, I will describe the impact of this choice on the Taiwanese constitutional system as a whole and potential problems the system will face in the future.

The Inherited Choice Environment: The "Here"

The Constitution and the Strongman Legacy

A pure legal-formalist viewpoint, according to Shugart and Carey's typology,²² the 1947 ROC Constitution is neither a pure presidential nor a pure parliamentary system.²³ The Constitution's principle drafter, Chang Chun-mai, called it a "revised parliamentary system," which combines the advantage of executive stability in presidentialism and the essence of responsible government in parliamentarianism.²⁴

The president of the Republic was elected by the National Assembly with a six-year tenure (Arts. 27:1 and 48).²⁵ Under a normal situation, the

²²Shugart and Carey, *Presidents and Assemblies*; Matthew S. Shugart, "Of Presidents and Parliaments," *East European Constitutional Review* 2, no. 1 (1993): 30-32.

²³According to Shugart ("Of Presidents and Parliaments," 30-31), five types of constitutional systems can be identified: (1) pure presidential (the United States), (2) premier-presidential (France under the Fifth Republic), (3) president-parliamentary (the Weimar Republic of Germany), (4) parliamentary with "president" (Ireland), and (5) pure parliamentary (most continental European nations).

²⁴See Chang Chun-mai, *Zhonghua minguo minzhu xianfa shijiang* (Ten lectures on the democratic constitution of the Republic of China) (Taipei: Taiwan Shangwu yinshuguan, 1971). Also, Taiwanese scholar Hu Fo has called this system a "responsible cabinet system" (*zeren neigzhi*). See Hu Fo, "Our System is a Responsible Cabinet System," *Zhongguo luntan* (China Tribune) 29, no. 12 (1990): 34-40.

²⁵The National Assembly, as intended by Dr. Sun Yat-sen, is the sovereign institution of the people. It is composed of representatives elected from every county of the nation as well as some occupational and minority representatives (Art. 26). The idea of the Na-

president can be seen as being elected by *popular yet indirect* means. However, the power assigned to the president and premier (the president of the Executive Yuan) is, as revealed by the provisions, quite ambiguous.²⁶ According to Shugart and Carey's power index,²⁷ the president has more non-legislative than legislative powers (see table 1). Most legislative powers are in the hands of the premier.²⁸ On many occasions, the division of power is not clear-cut, because there exist certain institutional arrangements designed to balance the power between the two (see especially footnotes b and c of table 1). The ambiguity within the executive branch further damages the clarity of the constitutional provisions on executive-legislative relations. Constitutional scholar Ch'ien Tuan-sheng pointed out long ago that this ambiguity has allowed para-constitutional factors, such as personalities and parties, to define these relations.²⁹

The strongman legacy: Ironically, for the past forty years of constitutional practice on Taiwan, these provisional ambiguities have been overcome by a strongman legacy created by the Chiangs under a very special historical situation. The pressure to survive on the small island of Taiwan provided the Kuomintang (KMT) with justifications to create a regime where Chiang Kai-shek was "the head of state, commander-in-chief of the military, chairman of the ruling party, and the final arbiter of government."³⁰ The post of KMT chairman is on the top of the ROC decision-

tional Assembly, in this author's opinion, is derived from an older tradition of combining the executive and legislative functions of a government into an assembly, as compared with either presidentialism or parliamentarianism. It was called "convention theory" by Douglas V. Verney. See Douglas V. Verney, *The Analysis of a Political System* (Glencoe: Free Press, 1959), 57-74.

²⁶A good discussion of shaping authorities between presidents and premiers in Eastern Europe can be found in Thomas A. Baylis, "Presidents versus Prime Ministers: Shaping Executive Authority in Eastern Europe," *World Politics* 48, no. 2 (1996): 297-323.

²⁷Shugart and Carey, *Presidents and Assemblies*, 148-58.

²⁸In *Presidents and Assemblies*, Shugart and Carey did not explicitly consider the relations between the president and the premier in their index. The logical extension of their index of presidential power to measure executive power can reveal more information about a hybrid system such as the premier-presidential system.

²⁹Ch'ien Tuan-sheng, *The Government and Politics of China* (Cambridge, Mass.: Harvard University Press, 1950), 325.

³⁰Jaushieh Joseph Wu, *Taiwan's Democratization: Forces Behind the New Momentum* (Hong Kong: Oxford University Press, 1995), 25.

Table 1
Powers of the Executive (President and Premier) in the 1947 ROC Constitution

Power	Score ^a	Executive Power-Sharing	
		President	Premier
Legislative Power			
Package veto/override	1		Yes ^b
Partial veto/override	0		
Decree	2	Yes ^c	
Exclusive introduction of legislation	0		
Budgetary power	3		Yes ^d
Introducing referenda	0		
Total	6	2	4
Nonlegislative Power			
Cabinet formation	3	Yes ^e	
Cabinet dismissal	2	Yes ^f	
Censure	4		Yes ^g
Dissolution	0		
Total	9	5	4

Notes:

^aAccording to Shugart and Carey, the maximum score for the legislative power is 24. The average score for the forty-four cases selected by the authors (some countries have multiple cases) is 3.5. The maximum score for the nonlegislative power is 16, and the average score for the case is 9.6. See Matthew S. Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992), 150.

^bArt. 57:2 and 3. If the premier wants to "veto" a resolution or requests the Legislative Yuan to reconsider a resolution concerning a major policy of the Executive Yuan.

^cArt. 37. The article says that "The President shall, in accordance with law, promulgate laws and issue mandates, which much be countersigned by the Premier or by Premier and the head of the ministry or commission concerned.

^dArt. 70. The article says that "The Legislative Yuan may not propose an increase in the expenditure as set forth in the budget estimate presented by the Executive Yuan."

^eArt. 55. The article says that "The Premier shall be appointed on the nomination of the President and with the consent of the Legislative Yuan."

^fThe president does not have explicit articles to dismiss cabinet members. However, in practice, as the president is the party chairman of the ruling party, he has informal power to remove certain minister or even the premier without interference from the legislative branch.

^gThere is no explicit article for the legislative branch to dismiss a cabinet. According to Art. 57:3, however, after the Legislative Yuan overrides the reconsideration by a two-thirds majority, "the Premier shall either abide by the said resolution or resign." However, if the premier did neither, there is no constitutional way to solve the conflict.

making hierarchy, which incorporated democratic centralism.³¹ Both Chiang Kai-shek and Chiang Ching-kuo occupied this post until their respective deaths. Since the KMT was the only dominating force in the political realm before the 1980s, the chairman of the KMT was able to control both the executive (the president and the premier) and legislative activities by the chairman's supreme position above normal executive-legislative interactions. With the extraordinary system installed (see the discussion below), the executive as well as the legislative institutions were reduced to instruments of collaboration with the ruler. This is the essential reason that the KMT regime was called "authoritarian" or "quasi-Leninist" before 1986.³²

The 1947 ROC Constitution, as a result of the strongman legacy, can be best depicted either as a premier-presidential system or a parliamentary with "president" system, depending on where the strongman is. Taiwanese scholar Parris H. Chang's description of a succession situation in 1975 demonstrates this point well:

When the elder Chiang died in April 1975, the presidency was filled by Vice-President Yen Chia-kan, but it was Chiang Ching-kuo, the premier of the Executive Yuan (cabinet), who succeeded his father as the KMT chairman and wielded the real power. Overnight, the government changed from a presidential system to cabinet system, as the Executive Yuan became the locus of decision making and President Yen was contended to be a figurehead, notwithstanding the emergency powers of the presidential office. In March 1978, Yen completed Chiang Kai-shek's unfinished term and stepped down as president: Chiang

³¹According to Samuel P. Huntington, the KMT regime on Taiwan is one of the three non-Communist one-party regimes which came into existence in the 1930s. The other two are the Republican People's Party (RPP) in Turkey and the Institutional Revolutionary Party (PRI) in Mexico. See Samuel P. Huntington, "Forward," in *Political Changes in Taiwan*, ed. Tun-jen Cheng and Stephan Haggard (Boulder, Colo.: Lynne Rienner, 1992), xi-xiii. This author would like to thank John Carey for reminders of the similarities between the Taiwanese and Mexican situations by pointing out an unpublished paper by Jeffrey A. Weldon, "The Mexican Congress and the Presidency: 1917-1940" (Paper prepared for the APSA meeting, San Francisco, 1996). Although beyond the scope of this paper, the problem of the relationship between a one-party regime and the choice of presidentialism is an interesting topic for future research.

³²Edwin A. Winckler, "Institutionalization and Participation on Taiwan: From Hard to Soft Authoritarianism," *The China Quarterly*, no. 99 (1984): 481-99; Ten-jen Cheng "Democratizing the Quasi-Leninist Regime in Taiwan," *World Politics* 41, no. 3 (1989): 471-99. For authoritarianism in general, see S. E. Finer, "Authoritarianism," in *The Blackwell Encyclopedia of Political Science*, ed. Vernon Bogdanor (Oxford: Blackwell, 1991), 34.

Ching-kuo was elected to the presidency and the office once more became head of both the state and the government.³³

With the strongman legacy as the only source of legitimacy, the president of the Republic, though elected indirectly by the members of the National Assembly, has been the center of power from 1949 to 1988 with the exception of the years from 1975 to 1978. As a result, the system usually leans to the premier-presidential system rather than to a parliamentary with "president" system.

Diluted confidence relations: The major deviation of the Taiwanese system from the premier-presidential system is that the typical parliamentary confidence relations—executive dissolving the legislature and legislature dismissing the cabinet—are diluted in the 1947 Constitution. On the one hand, neither the president nor the premier has the power to dissolve the Legislative Yuan. The survival of the legislative branch, as in the U.S. system, is totally separated from the will of the executive branch. On the other hand, the Legislative Yuan does not have the right to initiate a vote of confidence in the cabinet. There are, however, quasi-confidence relations between the two branches. The Constitution has stated that "the Executive Yuan is the highest administrative organ of the state" (Art. 53) and "the Executive Yuan shall be responsible to the Legislative Yuan" (Art. 57), and that the premier is responsible to the Legislative Yuan in the following three ways.³⁴ First, the premier is nominated by the president with the consent of the Legislative Yuan (Art. 55). Second, the Executive Yuan has the responsibility of presenting its policy proposals to the Legislative Yuan.³⁵ During plenary sessions of the Legislative Yuan, legislators have the right to interpellate the premier and the heads of various ministries (Art. 57:1). Lastly, the Legislative Yuan can pass a resolution to request the Executive

³³Parris H. Chang, "The Changing Nature of Taiwan's Politics," in *Taiwan: Beyond the Economic Miracle*, ed. Denis Fred Simon and Michael Y.M. Kau (Armonk, N.Y.: M.E. Sharpe, 1992), 35.

³⁴Throughout this paper, all English translations of exact articles are adopted from Ch'ien Tuan-sheng, *The Government and Politics of China*. However, this paper replaces the lengthy term "the President of the Executive Yuan" with "the Premier," and shortens "the President of the Republic," to "the President."

³⁵The content of the presentation is similar to the State of the Union address in the United States.

Yuan to alter its major policies. The Executive Yuan, with the approval of the president, may request that the Legislative Yuan reconsider the resolution. On reconsideration, the Legislative Yuan can reaffirm its original policy with a two-thirds majority. If the Legislative Yuan upholds its original resolution, the premier can either abide by the decision or resign (Art. 57:2, 3). However, if the premier wants neither to follow the resolution nor resign, there is no constitutional means to remove him (or her) from office, as a successful no-confidence vote can do in a typical parliamentary system. The system thus seems to offer a framework for executive-legislative relations which is more "interactive" than that in a pure presidential system but less clear than that in a pure parliamentary system. With these diluted confidence relations, the ROC Constitution leans still more toward the premier-presidential system than toward others described by Shugart and Carey.³⁶

As Taiwan moved into the post-Chiang period after Chiang Ching-kuo's death in 1988, that fact that the Constitution was an attempt to blend the best of both parliamentarism and presidentialism generated endless debates. Rival groups could easily pick arguments for or against the hybrid system. To argue what the ROC system really is—i.e., what tradition the Constitution is following—became itself a political issue.³⁷ As we will see in section three, the endless debates over the ambiguities of the Constitution promoted partisan opportunism in the process and made partisan coordination on a reform agenda more complicated. As a result, the constitutional deliberations can be easily distinguished by their partisan line.

The Extraordinary System

After the ratification of the Constitution on December 25, 1946, civil war broke out between the KMT and the Chinese Communist Party (CCP) on mainland China. The KMT-led government quickly amended the Constitution by adopting the "Temporary Provisions Effective During the

³⁶Shugart and Carey, *Presidents and Assemblies*.

³⁷It is a paraphrase of William H. Riker's words: "Just what is a political issue is itself a political issue." See Riker, "Introduction," in *Agenda Formation*, ed. William H. Riker (Ann Arbor: University of Michigan Press, 1993), 3.

Period of Communist Rebellion" in 1948 and then fled to Taiwan. Because of the Communists' threat to take over Taiwan by force, the government also declared martial law on May 20, 1949. With the Temporary Provisions at work, the constitutional system on Taiwan was literally placed under "emergency rule" from 1948 to 1991.³⁸ There were several military conflicts on offshore islands between 1949 and 1958, but the U.S. Seventh Fleet, which patrolled the Taiwan Strait before 1970, helped contribute to a prolonged stalemate between the KMT and the CCP. In the realm of domestic politics, this impasse provided the KMT with a perfect justification to prolong emergency rule on Taiwan. There were several important features with respect to both the executive and legislative branches of this extraordinary system.

Changes in the executive branch: For the executive branch, the Temporary Provisions first provided the president of the country with extraordinary emergency powers without being subject to the procedural restrictions of the legislative branch as prescribed by the Constitution (Arts. 39 and 43). Second, the Temporary Provisions extended the president's decisionmaking and personnel powers by providing the president with legal means to establish related institutions. The National Security Council and the Central Personnel Administration were established, shifting powers from both the Executive and Examination Yuan to the president. In the realm of decisionmaking, the premier and the Executive Yuan became the president's policy implementation bureau. These changes were obviously also not intended by the framers of the Constitution. Third, according to Art. 3 of the Temporary Provisions, which was passed in March 1960, "during the Period of Communist Rebellion, the President and the Vice-President may be re-elected without being subject to the two-term restriction prescribed in Article 47 of the Constitution."³⁹ This amendment demolished the tenure restriction of the president established in the Consti-

³⁸That is, in an extraordinary situation, a political system could take usual means to rule in order to bring the whole country through the situation.

³⁹An English translation of the Temporary Provisions can be found in Hungdah Chiu, "Constitutional Development and Reform in the Republic of China on Taiwan (With Documents)," *Occasional Papers/Reprints Series in Contemporary Asian Studies* (School of Law, University of Maryland), no. 2-1993 (115): 50-51.

tution. The presidency became a permanent job for strongmen.

Changes in the legislative branch: For the legislative branch, first, according to Ruling No. 76 from the Council of Grand Justices in 1957, "the National Assembly, the Legislative Yuan, and the Control Yuan together are equivalent to the parliament (or congress) of a democratic state." Compared to the unified executive branch under the presidency, the legislative branch is institutionally divided and weak. That design weakened the ability of the legislative branch to check and balance the executive branch. Second, in 1954, the Council of Grand Justices ruled that, because of the emergency situation which prevented reelections in the whole of China, all representatives elected in 1947 and 1948 would continuously exercise their powers until the emergency situation ended.⁴⁰ As a result, all three representative institutions, which were supposed to be subject to regular reelection, became permanent bodies with members growing older and older. Without the electoral mandate from the people, the legislative branch became nothing more than a rubber stamp of the executive branch.

External shock and internal adjustment: Nonetheless, when the United States under President Richard Nixon began to play the "China card" against the Soviet Union in the early 1970s, the ROC's international status was drastically altered. In October 1971, the ROC was ousted from the United Nations and replaced by the People's Republic of China (PRC). As a result, the ROC suddenly lost most diplomatic ties with the world's major countries and international organizations. On February 27, 1972, the Shanghai Communiqué was issued as a result of Nixon's visit to China, resulting in a fundamental shift in U.S. China policy that had been in place since World War II.⁴¹ As the external justification for emergency rule declined drastically, the KMT sought internal democratization as a means to regain legitimacy. The progressive economic and social policies since the

⁴⁰See Ruling No. 31 in *Dafaguan huiyi huibian* (A collection of rulings from the Council of Grand Justices) (Taipei: Sanmin shuju, 1995), 13.

⁴¹In the Shanghai Communiqué the U.S. government states that "The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves." Quoted in Ralph N. Clough, *Island China* (Cambridge, Mass.: Harvard University Press, 1978), 3.

Table 2
Proportion of Elected Members in the Legislative Yuan

	1980	1983	1986	1989	1992 ^a
Elected Members ^b	69	70	73	101	155
Total Chamber ^c	375	367	339	250	161
Elected (%)	18.4	19.0	22.5	40.4	96.2

Notes:

^a"Elected Members" exclude the representatives of overseas Chinese.

^b"Total Chamber" is the number of legislators registered in the previous year.

^cOn June 21, 1990, the Council of Grand Justices issued its Ruling No. 261 to terminate the tenure of all the "old" representatives on December 31, 1991. As a result, the 1992 election of the Legislative Yuan was the first "free" election of the legislative body since 1947.

Sources: Data for 1980 in *Annual Review of Government Administration: Republic of China*; data for 1992 in *Zhongyang ribao* (Central Daily News), December 20, 1992.

1950s were not enough to sustain the legitimacy claim of the KMT regime any longer. In March 1972, the National Assembly passed amendments on the Temporary Provisions providing the president with the exclusive authority to determine the means to hold supplementary elections for national representative institutions.⁴² Although there had been several efforts to increase the percentage of elected members since then, when Chiang Ching-kuo launched in 1986 his plan for political reform, only about one-quarter of the Legislative Yuan members were subject to popular election (see table 2).

All these institutional "loopholes," which were the backbone of the "extraordinary system," allowed the KMT to build its authoritarian regime on Taiwan in a "legal" manner. As the system began to open up in the 1980s, the Temporary Provisions remained the main roadblocks to full-fledged democracy on Taiwan. As a result, from 1986 to late 1989, the

⁴²The amendments were passed on March 17, 1972. On June 29, the president promulgated a law known as "Regulations Governing the Election of Additional Members to Elective Offices on the Central Government Level in the Free Districts During the Period of Mobilization against Communist Rebellion." Thus, a small proportion of central government elective offices was open for direct election on Taiwan. For text of the regulations, see *China Yearbook, 1972-1973*, 749-57. For a review of this period of time, see chap. two of Clough, *Island China*, 33-68.

focus of constitutional reform on Taiwan was mainly on demolishing the extraordinary system rather than on the choice of executive-legislative relations.

The Emerging Opposition: The Democratic Progressive Party

Before the 1980s, there were scattered opposition movements on Taiwan.⁴³ None of these efforts were strong enough to mobilize a significant part of society, however, until a group of Taiwanese intellectuals known as *dangwai* (literally, "outside the KMT") appeared in the late 1970s. After years of street confrontations and electoral struggles with the KMT, *dangwai* began to consolidate into a more organized opposition in the early 1980s. In September of 1986, the Democratic Progressive Party (DPP) was officially launched, despite the fact that the government both had yet to legalize opposition parties and actively sought to suppress the DPP's formation.⁴⁴ Many scholars believe that Chiang single-handedly held back the conservative factions within the KMT who were opposed to the DPP's appearance.⁴⁵ Scholar Chu defines this period as the beginning of the breakdown of the KMT authoritarian rule.⁴⁶

The Legislative Yuan in the late 1980s was an important political arena for the DPP to express its political opinions. Many physical conflicts initiated by DPP legislators in the chamber had the function of raising the

⁴³For reviews of the Taiwanese opposition movements, see J. Bruce Jacobs, "Political Opposition and Taiwan's Political Future," *Australian Journal of Chinese Affairs*, no. 6 (1981): 21-44; John F. Copper, "The Evolution of Political Parties in Taiwan," *Asian Affairs* 16, no. 1 (1989): 3-21; Hung-mao Tien, *The Great Transition: Political and Social Change in the Republic of China* (Stanford, Calif.: Hoover Institution Press, 1989), 90-101.

⁴⁴A very good review of the evolution of the DPP can be found in Lee Hsiao-fong, *Taiwan minzhu yundong sishi nian* (The forty-year democratic movement in Taiwan) (Taipei: Zili wanbao chubanshe, 1988).

⁴⁵For a useful effective and condensed review of this vital period, see Wu, *Taiwan's Democratization*, 37-44. See also John F. Copper, "Taiwan in 1986: Back on Top Again," *Asian Survey* 27, no. 1 (January 1987): 81-84; Hung-mao Tien, "Taiwan in 1986: Reforms Under Adversity," in *China Briefing* (1987): 136-38; Chang, "The Changing Nature of Taiwan's Politics," 30-32; and Andrew J. Nathan and Helena V.S. Ho, "Chiang Ching-kuo's Decision for Political Reform," in *Chiang Ching-kuo's Leadership in the Development of the Republic of China on Taiwan*, ed. Shao-chuan Leng (New York: University Press of America, 1993), 31-62.

⁴⁶Chu Yun-han, *Crafting Democracy in Taiwan* (Taipei: Institute for National Policy Research, 1992), 42-44.

awareness of the populace on certain issues. As these events were reported by the mass media, people were effectively being reeducated by the DPP about their situation on Taiwan. In the post-Chiang era, the rise of the Legislative Yuan opened both a battlefield and a deliberative arena for political foes to debate issues concerning constitutional reform.

The DPP's electoral leverage: The formation of the DPP was a result of the opposition movement by Taiwanese communities both on Taiwan and overseas, beginning as early as the end of the February 28th Incident in 1947. This movement advocated human rights, democracy, and Taiwan's independence. There are moral as well as strategic reasons behind all these arguments (see table 3). The advocacy of democracy was, on the one hand, an active means of demolishing the moral foundation of the KMT's authoritarian legacy. The DPP has been preaching the idea of the popular election of the mayor of the capital city of Taipei, Taiwan's provincial chief, as well as all national representatives. Although the logical ultimate claim of popular sovereignty, the idea of the direct election of the president was not adopted into the DPP's electoral platform until the national election in 1986.⁴⁷

On the other hand, for the DPP, democracy is also an avenue toward Taiwan's independence. Scholar Tun-jen Cheng points out that "the Democratic Progressive Party (DPP) . . . posits that democracy presents a viable shortcut, indeed the best avenue, to an independent Taiwanese nation-state."⁴⁸

In the early 1980s, the platform of Taiwan's independence was usually introduced through the concept of self-determination (see table 3). The platform was that "the future of Taiwan should be determined jointly by all inhabitants in Taiwan." Together with raising the ethnic conscience among the Taiwanese majority through electoral mobilization, the DPP

⁴⁷One piece of evidence can sustain the statement. In mid-1989, Chang Chun-hung (the key strategist of the DPP) published a very important book about the DPP's viable strategies toward a ruling party. See Chang Chun-hung, *Dao zhizheng zhi lu* (The road to rule) (Taipei: Nanfang chubanshe, 1989). In the book, the direct election of the presidency was not mentioned at all. The focus of the opposition at that time was using local election victories to pressure the KMT to speed up political reforms at the national level.

⁴⁸Tun-jen Cheng, "Democracy and Taiwan-Mainland China Ties: A Critique of Three Dominant Views," *Journal of Northeast Asian Studies* 12, no. 1 (1993): 72-89.

Table 3
Dangwai/DPP Main Electoral Platform, 1980-91

Year	Elections	Main Theme	Platform
1980	National Assembly; Legislative Yuan	Human rights	Release prisoners of the Kaohsiung Incident
1981	County magistrates/ city mayors; provincial assemblymen/city councilmen	Democracy;	"Democracy needs check and balance, check and balance needs <i>dangwau</i> "; " <i>dangwai</i> , check-and-balance, and progression"
1983	Legislative Yuan	Democracy; Taiwan's independence	"The future of Taiwan should be determined jointly by all inhabitants in Taiwan"; demol- ish the Temporary Provisions and lift martial law; reelections of all national representa- tives; direct elections of the mayor of Taipei and provincial governor
1985	County magistrates/city mayors; provincial assemblymen/city councilmen	Democracy; Taiwan's independence	"The future of Taiwan should be determined jointly by all inhabitants in Taiwan"; demol- ish the Temporary Provisions and return to constitutional rule; lift martial law; release political prisoners
<i>[On September 28, 1986, the DPP was formed]</i>			
1986	National Assembly	Democracy	The same as in 1985 but adding: lift ban on formation of new parties; respect the idea of independence and popular sovereignty; re- elections of all national representatives; di- rect election of the president
1989	Legislative Yuan; county magistrates/city mayors; provincial assemblymen; city councilmen	Democracy; Taiwan's independence	"Political order based on democracy and free- dom"; "new nation, new constitution, new parliament"
1991	National Assembly ^a	Democracy; Taiwan's independence	Taiwan's independence; direct election of the president; returning to the United Nations

^aIt was the first "real" election of the Assembly since 1947. It can also be seen as an election for a Constitutional Assembly to revise the Constitution.

Sources: Information for 1980-86: Lee Hsiao-fong, *Taiwan minzhu yundong sishi nian* (The forty-year democratic movement in Taiwan) (Taipei: Zili wanbao chubanshe, 1988); information for 1989-91: John F. Copper "Taiwan's Recent Elections: Fulfilling the Democratic Promise," *Occasional Papers/Reprints Series in Contemporary Asian Studies* (School of Law, University of Maryland), no. 5-1990 (100): 66-77; John F. Copper, "Taiwan's 1991 Second National Assembly Election," *Journal of Northeast Asian Studies* 11, no. 1 (1992): 37-41.

also sees democratization as a means to achieve both Taiwanization of the political realm and, eventually, the final goal of Taiwan's independence.⁴⁹ Regardless of the military threat from the PRC, pursuing Taiwan's independence is an emotional issue, as well as a viable alternative for Taiwan to search for a way out of international orphanage. The development of the DPP is mostly attributed to the growing anxiety among the populace on all these issues. The DPP's use of this electoral leverage was an important element behind the momentum of Taiwan's democratization.

Factional politics: Factional politics appeared in the opposition (*dangwai*/DPP) as early as the late 1970s, but during the transition from 1979 to 1988 was not a major problem for the opposition.⁵⁰ This was because the DPP politicians realized that defeating the KMT's strong grassroots apparatus throughout Taiwan would require party unity. The factions within the DPP were usually divided by different views on the means to achieve their common political goals, such as Taiwan's independence, rather than on the goals per se. However, during the 1980s, there was a power struggle within the DPP between the radicals (who believed that the streets were the only battlefield to defeat the KMT) and the moderates (who believed that the same political goal could be achieved through electoral competition and negotiation with the KMT). Between 1989 and 1991, the argument over presidentialism versus parliamentarianism within the DPP appeared along this factional line. The moderate Formosa faction stressed

⁴⁹Because the KMT was dominated by the mainlanders, Taiwanization of governing elite is always a key indicator of Taiwan's progress in democratization. See Huang Teh-fu, "Electoral Competition and the Evolution of the Kuomintang," *Issues & Studies* 31, no. 5 (May 1995): 101-6. The mainlanders (13 percent of the population) are those who fled to Taiwan with the KMT government around 1949 and their offspring, who were born on Taiwan. The so-called Taiwanese comprise about 85 percent of the population. They are composed of two groups of people who migrated to Taiwan from the mainland beginning several hundred years ago. They are Taiwanese from Fujian province (73 percent of the population) and Hakka from Guangdong province (12 percent of the population). The real "native" Taiwanese are the aborigines who are of close ethnic origin to Malays. They occupy only 2 percent of the population and mostly inhabit mountain areas. See Li Wen Lang, "Ethnic Competition and Mobilization in Taiwan's Politics," *Journal of Northeast Asian Studies* 12, no. 1 (1993): 59-71.

⁵⁰Factionalism has always been the main character of the *dangwai*/DPP. See Alexander Ya-li Lu, "Political Opposition in Taiwan: The Development of the Democratic Progressive Party," in Cheng and Haggard, *Political Change in Taiwan*, 139-42; Wu, *Taiwan's Democratization*, 89-97.

the strategic need for the DPP to focus on the issue of the direct election of the president. The radical New Tide faction wanted to focus on having a new constitution, one that advocated parliamentarianism, for an independent Taiwan. The Formosa faction was concerned more about the strategic use of the DPP's constitutional advocacy. The New Tide faction wanted to search for a best constitution for a new Taiwanese state. In the fall of 1991, during the deliberation of the "People's Conference on Constitution-Making" held by the DPP, several key leaders of the New Tide faction and some liberal scholars strongly advocated a parliamentary system for the "Draft Constitution for Taiwan" (*Taiwan xianfa caoan*).⁵¹ The Formosa faction, by contrast, emphasized the need to search for a consensus within the party on the issue of the direct election of the president in order to fight conservatism within the KMT. Later, at the DPP's party congress in October, a compromise between the two factions was reached—a move defined by Cheng and Hsu⁵² as a critical intra-party pact.⁵³ Taiwan's independence, which was adopted into the DPP's party constitution at that time, as well as the issue of the direct election of the president, became the main theme in the 1991 election of the Second National Assembly, the body whose main responsibility was to amend the Constitution (see table 3).

The Rise of the Focus: The "Movement"

In January 1988, when Lee Teng-hui took over the presidency after Chiang Ching-kuo's death, he inherited every institutional title but not the strongman legacy. He faced an authoritarian system in deterioration. Internal power struggles surfaced as the KMT faced increasing pressure from

⁵¹For the deliberation, see DPP, *Renmin zhixian huiyi shilu* (The record of the people's conference on constitution-making) (Taipei: DPP, 1991), 161-223. For the final draft, see *ibid.*, 463-78.

⁵²Cheng Tun-jen and Hsu Yung-ming, "Issue Structure, the DPP's Factionalism, and Party Realignment," in *Taiwan's Electoral Politics and Democratic Transition: Riding the Third Wave*, ed. Hung-mao Tien (Armonk, N.Y.: M.E. Sharpe, 1996), 137-73.

⁵³For the original discussion on pacts, see O'Donnell and Schmitter, *Transitions from Authoritarian Rule*, 37-47.

the opposition to speed up constitutional reforms.

Power Struggle within the KMT

Within the KMT, a serious power struggle broke out in early 1990 when Lee sought reelection after he finished the remainder of Chiang Ching-kuo's term. This struggle was between the "mainstream" faction (which supported Lee's leadership) and the "non-mainstream" faction (which was composed of the anti-Lee forces). Most of the anti-Lee forces were the KMT's power-holders, many of them mainlanders and their offspring. The struggle surfaced in the 1990 election of the president of the ROC. This factional cleavage cut through many important reform issues in the KMT, and would later especially affect the issue of a popularly-elected presidency.⁵⁴ The only consensus among the two major factions was to pursue the path of constitutional reform rather than constitution-making, as advocated by the opposition DPP.

A clash of views on popular election of the president: The mainstream faction in general wanted to preserve executive dominance and the legislature's inability to counterbalance the executive. The most viable shortcut was to increase the president's electoral mandate. The non-mainstream faction demanded a parliamentary system, however. They raised three major arguments against the idea of a popularly-elected presidency. First, they held that the 1947 Constitution was not a presidential system, but a "responsible cabinet system," as claimed by Professor Hu Fo.⁵⁵ The president was only a symbolic figure. In other words, according to the Shugart and Carey typology, Taiwan's system was a parliamentary with "president" sys-

⁵⁴ A good review of this period can be seen in Ling Ts'ai and Ramon H. Myers, "Surviving the Rough-and-Tumble of Presidential Politics in an Emerging Democracy: The 1990 Elections in the Republic of China on Taiwan," *The China Quarterly*, no. 129 (1992): 123-48. For the "mainstream" perspective, see Chou Yu-kou, *Lee Teng-hui de iqian tian* (A thousand days of President Lee Teng-hui) (Taipei: Maitian chuban gongsi, 1993). For the "non-mainstream" perspective, see the memoirs of Lin Yang-Kang and Hau Pei-tsun: Lisa Kuan, *Chengxin: Lin Yang-kang huiyilu* (Public trust: The memoirs of Lin Yang-kang) (Taipei: Tianxia chubanshe, 1995); Cora L.S. Wang, *Wukui: Hau Pei-tsun de zhengzhi zhi lu* (With a clear conscience: The political journey of Hau Pei-tsun) (Taipei: Tianxia chubanshe, 1994), 215.

⁵⁵ Hu, "Our System is a Responsible Cabinet System," 34-40.

tem, rather than a premier-presidential system. Second, they argued that the mainstream's proposal was motivated by Lee Teng-hui's intention to consolidate his de facto power inherited from the previous authoritarian regime and to check the increasingly powerful legislative branch. Third, they argued that President Lee was an undercover pro-independence activist, who wanted to use the presidential election as an expression of the independent attitude of the Taiwanese people to the PRC, which always treated Taiwan as a renegade province. Although President Lee had gradually emerged as a real leader after gaining the KMT chairmanship in 1988, being reelected as president in 1990 and achieving control of the military in 1993, the KMT was still being torn by the internal power struggle. With the conflict spreading throughout every level of the party, the KMT finally split when the New Party was formed in 1993.⁵⁶

President Lee's unique leadership position: In the power struggle, President Lee had something that the Chiangs lacked: native Taiwanese ethnicity. This qualification made President Lee an adapter between regimes. He served as both the continuity to and the means of discontinuity from the old regime. This unique position helped create legitimacy across regimes. It helped to stabilize the transition process by creating a leadership center in a chaotic transition.⁵⁷ Lee's popularity among the native Taiwanese community was and is higher than that of any other politician.⁵⁸ On the one hand, he inherited the KMT legacy as the successor of Chiang Ching-kuo and the legitimate leader of the ROC. Many KMT power-

⁵⁶For the formation of the New Party, see *Xin xinwen zhoukan* (The Journalist), no. 223 (1993): 12-21; 12-21; no. 335:21-23; no. 336:46-64. See also Chiang Yi-ping and Lee Zushen, *Ni shui er xing: Xindang gushi* (Move against the tides: Stories of the New Party) (Taipei: Shangzhou wenhua, 1994).

⁵⁷This situation was very similar to the role King Carlos played during the Spanish transition after Franco's death in 1975. Many have noticed the critical role that King Carlos played in the post-Franco years. See Juan J. Linz, "Innovative Leadership in the Transition to Democracy and a New Democracy," in *Innovative Leadership in International Politics*, ed. Gabriel Sheffer (Albany, N.Y.: State University of New York Press, 1993), 141-86; Joel Podolny, "The Role of Juan Carlos I in the Consolidation of the Parliamentary Monarchy," in *Politics, Society, and Democracy: The Case of Spain*, ed. Richard Gunther (Boulder, Colo.: Westview, 1993), 99-112.

⁵⁸According to fifty-three polls done by *Lianhe bao* (United Daily News) during President Lee's tenure from 1990 to 1996, Lee's average approval rating was 80 percent. The highest and lowest scores were 89 and 70 percent respectively. See *Lianhe bao*, May 19, 1996, 2.

holders who were threatened by Lee's ascent to power could not undermine Lee's legitimacy by questioning Chiang's decision to name Lee as his successor. That move would only put their own legitimacy into question. On the other hand, the DPP played the ethnic cleavage card in order to undermine the legitimacy of the KMT rule on Taiwan for the duration of the democratization, but they could not deny that President Lee was also a native Taiwanese.

The regeneration of the KMT: Three factors during the period of constitutional reforms made the KMT an indispensable player, despite being torn by internal power struggle. First, Chiang Ching-kuo's decision to select a Taiwanese successor helped the KMT to defuse the ethnic attacks of the opposition. Second, the KMT had been involved in local factional politics for years. The clientelist relationship between the KMT and local elite could not be broken easily.⁵⁹ Third, the continuous military threat from the PRC on the independence issue made Taiwanese voters hesitant to explicitly support independence.⁶⁰ As a result of all these factors, unlike most communist parties in Eastern Europe and the former Soviet Union, the KMT did not vanish during the process of democratization. We can see that although the KMT share of the vote has been constantly declining, the popular support for the DPP in the major elections since 1986 has rarely exceeded 35 percent (see table 4). The combination of a resourceful KMT apparatus and a popular leader, President Lee, will guarantee the survival of the KMT in the process of democratization. However, the institutional key to unlock the the force behind the combination is a popularly-elected presidency.

⁵⁹For a general introduction of the local politics on Taiwan, see Chao Yung-mau, "Local Politics on Taiwan: Continuity and Change," in Simon and Kau, *Taiwan: Beyond the Economic Miracle*, 43-68. Also, there is a very interesting "political anthropology" on the same issue by Joseph Bosco: "Faction versus Ideology: Mobilization Strategies in Taiwan's Elections," *The China Quarterly*, no. 137 (1994): 28-62.

⁶⁰In the 1991 election of the Second National Assembly, the DPP was defeated. Many observers believed that the independence issue in the DPP's platform was the central reason for the defeat. According to an editorial entitled "A Strong Vote for One China," in the *New York Times* (December 24, 1991): "The Kuomintang won more than 70 percent of the vote. That margin testifies to public support for the Kuomintang's 'One China' doctrine, holding that eventual reunification with the mainland is inevitable and that Taiwan's independence is inconceivable."

Table 4
The Vote Share of the KMT and Opposition, 1986-96

Year	Type of Election	KMT	<i>Dangwai/DPP</i>	NP ^a	Non-KMT
1986	Legislative Yuan (Supplementary)	66.73	24.55	—	33.27
	National Assembly (Supplementary)	60.20	18.90	—	39.80
1989	Legislative Yuan (Supplementary)	59.22	29.20	—	40.78
	County Magistrates/ City Mayors	56.11	30.13	—	43.89
1991	National Assembly	71.17	23.91	—	28.83
1992	Legislative Yuan	52.51	30.79	—	40.78
1993	County Magistrates/ City Mayors	47.47	41.03	3.06	52.53
1994	Provincial Governor and City Mayors	56.22	38.72	4.31	43.78
1995	Legislative Yuan	46.06	33.17	12.95	53.94
1996	Presidential Election	54.00	21.13	14.90	46.00
	National Assembly	49.68	29.85	13.67	50.32

^aThe New Party was formed on August 10, 1993.

Sources: Hung-mao Tien, "Elections and Taiwan's Democratic Development," in *Taiwan's Electoral Politics and Democratic Transition: Riding the Third Wave*, ed. Hung-mao Tien (Armonk, N.Y.: M.E. Sharpe, 1996), 3-26; John F. Copper "Taiwan's Recent Elections: Fulfilling the Democratic Promise," *Occasional Papers/Reprints Series in Contemporary Asian Studies* (School of Law, University of Maryland), no. 5-1990 (100); *Xin xinwen zhoubao* (The Journalist), no. 351 (1993): 16; no. 404 (1994): 19; no. 456 (1995): 15; *Zhongyang ribao* (Central Daily News) (Overseas edition), March 25, 1996.

The DPP's Strategic Move

The split in the KMT after Chiang Ching-kuo's death changed the bargaining position of the DPP in the constitutional reform arena. In the beginning, the DPP had advocated a decentralized executive branch and the building of a unified legislative branch to check the executive branch. The unexpected development inside the KMT led the DPP to change its position from advocating a parliamentary system to supporting a directly-elected presidency. Although there were disagreements regarding the issues of

constitutional reform among different factions within the DPP (especially on the issue of parliamentarism versus presidentialism), the DPP quickly reached consensus on demanding a directly-elected presidency.⁶¹ The issue was chosen as one of the foci of the DPP's constitutional position in the election campaign for the Second National Assembly in 1991.

The rhetorical and strategic components of the change: The rhetorical components of the DPP's new position were the democratic value of the presidential election and role in stabilizing the democratic transition. For one thing, direct presidential election is an ultimate democratizing experience: people are able to choose their own leader. For another, the directly-elected presidency can be used as a rally-around-the-flag scheme to stabilize the democratic transition. Chang Chun-hung, secretary-general of the DPP at that time, made the second point clear at a conference:

With the death of Chiang Ching-kuo the authoritarian structure on a very basic level had been reduced to anarchy. There was no means for its renewal and continuation, and this could be a very dangerous situation. We felt that direct establishment of a presidency representing the people would be the best way to move through this transition.⁶²

Moreover, the DPP's change in position was based on four major strategic considerations. First, as a party with around 30 percent of popular support, the potential to achieve governance through a parliamentary system is dim. Because the KMT still controls the mass media and local elec-

⁶¹ See an interview with Chang Chun-hung in Lee Ben-nan, *Xianzheng gaige yu guoshi huiyi* (Constitutional reforms and the national affairs conference) (Taipei: Yongran wenhua chuban gongsi, 1992), 330-35. Chang states that "after a lengthy reflection and fierce debating among us [the DPP], we finally found a strategic point . . . that we can concentrate our efforts on. . . . It is the issue of constitutional reform, especially on the claim of 'directly-elected presidency.' . . . We think that as long as the point is solved, other problems will also be solved without further deliberation." See also the discussion on the intra-party pact formed in the DPP.

⁶² See Havey J. Feldman, *Constitutional Reform and the Future of the Republic of China* (Armonk, N.Y.: M.E. Sharpe, 1991), 33. At that time, some scholars had a similar concern about the potential instability of the Taiwanese transition and preferred establishing a strong presidency through direct elections. See Hung-mao Tien, "The Conjunction of Consolidating the Foundation of Constitutional Democracy," in *Zhanzai lishi de zhuanleidian shang: Lee Teng-hui xiansheng zhengce linian zhi tanxi* (Standing on a historical conjuncture: A study of Mr. Lee Teng-hui's policy ideas) (Taipei: Chengchung Book Co., 1990), 99-102; and Chen Bi-zhao, "We Have to Adopt a Presidency Directly Elected by the Citizens," *Guojia zhengce shuangzhoukan* (National Policy Biweekly), no. 29 (1992): 2.

toral machines, the chances of the DPP gaining power through direct presidential election are greater.⁶³ Second, as Chang Chun-hung pointed out in an interview, to focus on a single issue—the direct election of the president—is easier for the party to mobilize the general public and to bargain with the KMT.⁶⁴ Third, a popularly-elected president of Taiwan is a clear demonstration of the general will of the Taiwanese people. Again, Chang Chun-hung stated in his book that "democracy means Taiwan's independence. People all around the world will be sympathetic to the Taiwanese democracy movement. That is the reason we should use promotion of democracy to represent our advocacy of Taiwan's independence."⁶⁵

Furthermore, Parris H. Chang, a legislator of the DPP, stated in a *New York Times* report that

Sichuan and Guangdong [provinces] don't elect a President, . . . But Taiwan is going to do so, and that means that Taiwan is an independent, sovereign entity. . . . The fact that we are going to the polls and can vote for a President means we are casting a vote for independence. . . . We are institutionalizing our independence and the PRC is going to have to accept this reality.⁶⁶

Last and most importantly, the change had a critical impact on the KMT mainstream faction's calculation. The mainstream faction led by President Lee Teng-hui was receptive to the idea because the populist aspect of a popularly-elected presidency would be a powerful device to use for the survival of the KMT regime on Taiwan. Domestically, it was the most effective card to eliminate the non-mainstream hard-liners in the KMT. Internationally, it could be used as a democratic symbol to attract sympathy from Western nations as well as an expression of an independent national identity to the hostile mainland China during the Taiwanese presidential election.

⁶³Edwin A. Winckler approved this view, stating at a conference that "On Taiwan, the DPP favors presidentialism because it might win a one-on-one presidential contest sooner than it might win a majority in parliament." See Feldman, *Constitutional Reform*, 163. For the same viewpoint, see Lee, *Xianzheng gaige yu guoshi huiyi*, 147.

⁶⁴Lee, *Xianzheng gaige yu guoshi huiyi*, 330.

⁶⁵Chang Chun-hung, *Zhizheng dadao* (The road to power) (Taipei: Tangshan chubanshe, 1991), 128.

⁶⁶Patrick E. Tyler, "Tough Stance Toward China Pays off for Taiwan Leader," *New York Times*, August 29, 1995, A1.

An inter-party pact: In early April 1990, for the first time in forty years, President Lee publicly invited DPP Chairman Huang Hsin-chieh and others to the presidential palace to "have tea."⁶⁷ According to Chang Chun-hung, President Lee agreed to the demand for the popular election of the president. A tacit alliance between the reformers in the KMT (the mainstream) and the moderates in the DPP (the Formosa faction) gradually emerged around the issue of a popularly-elected presidency. At the National Affairs Conference on July 2, 1990, the KMT and DPP representatives met behind closed doors.⁶⁸ According to Chang, President Lee reiterated his agreement to the DPP's demand through the KMT chief secretary, James Soong. This closed-door deal led to a nonbinding agreement: "The current method of electing the president should be changed. The president should be elected by the citizens. The method and procedures for election should be enacted in accordance with legal procedures after consultation with all sectors of society."⁶⁹

Although many protests were raised by conservatives within the KMT, this agreement clearly marked the beginning of a constitutional reform process where a popularly-elected presidency was the focus. After the conference, a consensus on a popularly-elected presidency was reached, but the choice of direct or indirect means was not settled within the KMT. All other constitutional reform issues were overshadowed by this focus.

The KMT's Response to the Issue

In the 1991 National Assembly election, the KMT won a landslide victory. The DPP lost its position as a strong opposition force in the Assembly, since a quarter of the quorum is needed to block any amendment.⁷⁰ However, the elected KMT assemblymen were not as unified a

⁶⁷*Zhongyang ribao* (Central Daily News), April 3, 1990. The DPP handed over a timetable of constitutional reform to President Lee. The final step on the timetable is the direct election of the president.

⁶⁸Lee, *Xianzheng gaige yu guoshi huiyi*, 330.

⁶⁹Feldman, *Constitutional Reform*, 33.

⁷⁰According to Art. 174:1 of the 1947 Constitution, a 75 percent vote in the National Assembly is required to amend the Constitution.

body as the DPP on this important constitutional issue. According to an unofficial calculation by Lee, the distribution of seats in the National Assembly was as follows: mainstream KMT, 50 percent; non-mainstream KMT, 22 percent; DPP, 18 percent; and others, 10 percent.⁷¹ More than a quarter (non-mainstream members plus others) of assemblymen had a tendency to vote against a popularly-elected presidency, a sufficient number to block any amendment. As a result, although President Lee played an active yet low-profile role in promoting a directly-elected presidency within the KMT, the National Assembly still took more than three years to make such an amendment to the Constitution (see table 5).

From indirect to direct election of the president: After the National Affairs Conference in 1990, the KMT was determined to lead the constitutional reform efforts through the executive branch. Within its party framework, the KMT formed a Consulting Group for Constitutional Issues (CGCI). The KMT decided on the principle of constitutional reform: "one institution [the National Assembly], two stages."⁷² Before the 1991 National Assembly election, both direct and indirect elections of the president had been discussed in the CGCI. Both proposals were presented to the KMT Central Standing Committee. During the election, the KMT advocated an indirectly-elected presidency, as opposed to the DPP's direct election alternative. The KMT advocated that the president should be elected by a popular means. However, they also agreed that, out of concern for political stability, an indirect method similar to the American system of electoral college should be adopted. The slogan is "You elect me as your national assemblyman, I elect the president and vice-president according to your will."⁷³ In early 1992, the KMT had to make a decision on which method to support before the opening of the Second National Assembly in

⁷¹Lee Hsiao-fong, *Xianzheng gaige yu guomin dahui* (Constitutional reforms and the National Assembly) (Taipei: Yuedan chuban gongsi, 1994), 15-17.

⁷²According to Art. 174:2 of the Constitution, the Legislative Yuan may propose a constitutional amendment to the National Assembly. The provision is as follows: "Upon the proposal of one-fourth of the Legislative Yuan and by a resolution of three-fourths of the members present at a meeting having a quorum of three-fourths of the members of the Yuan, an amendment may be drawn up and submitted to the National Assembly for referendum." See Ch'ien, *The Government and Politics of China*, 460-61.

⁷³*Zhongyang ribao*, November 30, 1991, 2; December 3, 1991, 1, 2.

Table 5
Changes in Executive-Legislative Relations in the Four Stages of Constitutional Reform

	Election of the President	Premier Selection	Legislative Election	Executive-Legislative Relations
1947 Constitution	Elected by the National Assembly	Nominated by the President and with the consent of the Legislative Yuan	Popular election	(1) The Executive Yuan should present its policy report to the Legislative Yuan and be interpellated by legislators; (2) Disagreement between the two: The Executive Yuan, with the approval of the President of the Republic, to request reconsideration; if two-thirds of the legislators uphold the original resolution, the Executive Yuan should either resign or accept the resolution.
The First Stage*	Unchanged	Unchanged	Minor changes on districting and electoral principles	(1) The executive-legislative relationship in the 1947 Constitution is basically untouched; (2) Minor expansion of the president's emergency power; (3) Two institutions established to strengthen the presidential power were put into the Constitution.
The Second Stage	(1) Elected by all citizens of the "free area" of the ROC (2) Exact electoral method to be decided in the next stage	Unchanged	Unchanged from last stage	Unchanged from last stage
The Third Stage	Direct Election	Unchanged	Unchanged	(1) Mostly minor changes from the last two stages; (2) The co-signature power of the premier on personnel affairs is limited and regulated.
The Fourth Stage	Unchanged from last stage	Appointed by the President without the consent of the Legislative Yuan	Unchanged	Considerable changes: (1) The Legislative Yuan may propose a no-confidence vote against the Premier; the President may, within ten days following passage of the vote of no-confidence, declare the dissolution of the Legislative Yuan; (2) The requirement for the Legislative Yuan to uphold a reconsidered bill from the Executive Yuan is changed from 2/3 to 1/2; (3) Impeachment of the president or the vice-president is to be initiated by the Legislative Yuan but approved by the National Assembly.

*In the first stage, the First National Assembly convened from April 8 to 22, 1991 and passed 1-10 amendments. In the second stage, the Second National Assembly convened from March 20 to May 27, 1992 and passed 11-18 amendments. In the third stage, the Second National Assembly convened from May 2 to September 2, 1994 and passed revised amendments 1-10. In the fourth stage, the Third National Assembly convened from May 5 to July 18, 1997 and passed revised amendments 1-11. The English version of the ROC Constitution can be found on the ROC website <<http://www.oop.gov.tw/roc/charter/eadded.htm>>.

late March. The cleavage marked by the 1990 power struggle resurfaced once again.

Within the KMT, President Lee gradually expressed his preference for the direct election method, affirming the importance of following the will of the people.⁷⁴ At the same time, members of the non-mainstream faction increasingly expressed their negative feelings about President Lee's apparent sudden change of position and apparent collaboration with the DPP. However, the opposition of the non-mainstream faction was limited by two factors. First, according to a poll, about 71 percent of respondents did not know the difference between the indirect election advocated by the KMT and the current system under which the president was elected by the National Assembly. Direct election has the advantage of appealing to the general public with its simplicity and democratic connotations. As a result, about 37 percent of respondents said they prefer direct election to other means. The supporters of indirect means of election only amounted to about 17 percent.⁷⁵ Second, some non-mainstream leaders themselves either supported or refused to oppose direct election because of the method's popularity with the general public. Among them, Lin Yang-kang, who is a Taiwanese, supported the direct election plan from the beginning.⁷⁶ Also not opposing the plan was Hau Pei-tsun, the premier at that time, who was seen as the spiritual leader of the non-mainstream faction. Although Hau was concerned about the close ties between a Taiwanese president and an independent Taiwanese state, he stood behind the democratic connotations of the plan.

An intra-party pact: As tension between the two factions accelerated, Premier Hau raised five opinions on constitutional reform in a critical meeting with President Lee on March 11, 1992. According to his memoirs, these points included: (1) a directly-elected presidency is not equal to a presidential system; (2) there should be no reduction of the power of the

⁷⁴For the two different accounts of this important period of time, see Wang, *Wukui*, 206-18, and Chou, *Lee Teng-hui de iqian tian*, 287-99. Also see *Zhongyang ribao*, March 6, 7, and 8, 1992.

⁷⁵*Zhongyang ribao*, March 8, 1992, 2.

⁷⁶Lin was the competing presidential candidate in the 1990 as well as 1996 presidential elections on Taiwan.

president of the Executive Yuan to co-sign laws; (3) direct election of the president should use the one-round vote and plurality rule; (4) the tenure of the president should be reduced from six to four years, with the supplementary election of both president and vice-president by the National Assembly; and (5) the tenure of legislators should be increased from three to four years to concur with the tenure of the president.⁷⁷ These opinions have been seen as a compromise between the two major factions on the issues of constitutional reform. They became the basis of the constitutional amendments in the second stage of the reform effort (see table 5). However, based on strong position of the non-mainstream faction within the KMT party machine, the proposal for a directly-elected presidency was not passed by the KMT Central Standing Committee. The agreement was that the exact electoral method should be decided in the later stage of constitutional reform. As a result, the directly-elected presidency was not written into the Constitution until 1994, the third stage of the reform effort. The realization of "positive focus" between the mainstream faction of the KMT and the DPP had strengthened the legitimacy of the constitution-reforming process. Although the non-mainstream faction still favored a parliamentary system, after the second stage most participating politicians knew that the parliamentary alternative was overshadowed by the heated debate on the popular election of the president. The parliamentary alternative had been excluded from the agenda.

Meaning of a Popularly-Elected Presidency: The "There"

The rise of the "focal point" position of a popularly-elected presidency granted different meanings to the process of constitutional reform on Taiwan. These meanings interact with one another and create viable strategic positions for factions and parties to explore. All these meanings can be used to explain the action and intention of self-interested political agents in the process of constitutional choice.

⁷⁷Wang, *Wukui*, 215.

Institutional Consequences

Is direct election of a president equal to presidentialism? The most obvious meaning of the adoption of a popularly-elected presidency is a purely institutional one. If a directly-elected presidency is adopted before any other arrangement on executive-legislative relations is settled, what will happen to the system as a whole? Will the adoption necessarily drive the system more and more toward presidentialism? According to Sartori, a political system is presidential if and only if

the head of state (president) i) results from popular election, ii) during his or her pre-established tenure cannot be discharged by a parliamentary vote, and iii) heads or otherwise directs government that he or she appoints. When these three conditions are jointly met, then we doubtlessly have a pure presidential system.⁷⁸

Institutionally speaking, "a direct or quasi-popular election of the head of state for a fixed time span" is always a necessary component of the definition of a presidential system, but is not a sufficient one. In Taiwan, three conditions produced a directly-elected president with real power. First, the focus became an instrument for rivals to contest for power during the chaotic reform process; that is, the presidency was seen as an ultimate prize for ambitious politicians to grasp. Second, the focus was used as a means to stabilize the reform process by establishing a center of power. The directly-elected president will not be simply a figurehead in the political arena. Lastly, after winning the first presidential election on Taiwan, President Lee Teng-hui, with his KMT chairmanship, still rules the nation through the party's decisionmaking hierarchy. Unless the KMT is voted out of office, its old structure of exercising power will be intact. Ironically, as President Lee's presidential power is established in a unified and disciplined KMT, his power base is in turn dependent on whether the party can win future elections in both the executive and legislative branches. Scholars on Taiwan always protested this move as a shortsighted reform effort. They claimed that a clear-headed reformer should follow the logic of constitutional choice, that is, choosing the executive-legislative relations

⁷⁸Sartori, *Comparative Constitutional Engineering*, 84.

first and then choosing a means to select the president, not the other way around.⁷⁹ Politicians, however, usually think more about power struggle than theoretical logic. In both the KMT and the DPP, popular support for a direct election of the president defeated theoretical considerations at every level. All the pacts built within and between parties were based on considerations of power rather than critical research findings. This is the main reason for the existing gap in the literature on constitutional choice. Vanberg and Buchanan make a distinction between an *interest* component and a *theory* component of the concept of constitutional preferences. They state that:

A person's constitutional theories are about matters of fact. They are his predictions (embodying assumptions and beliefs) about what the factual outcomes of alternative rules will be. . . . His constitutional interests, on the other hand, are his own, subject *evaluations* of expected outcomes, evaluations to which attributes like true or false, correct or incorrect can not be meaningfully applied.⁸⁰

According to this distinction, the constitutional choice in Taiwan was a typical case where the interest component of the rivals overshadowed the theory component in the reform process.

The potential institutional instability: After the adoption of a directly-elected presidency, as opposed to a president elected by the National Assembly in the old setting, the constitutional system of the ROC leaned closer toward the premier-presidential system with diluted confidence relations. Although the relations between the executive and legislative branches and between the president and the premier remained unchanged, the move has had a number of effects on the operation of the system. First, as a result of the change, a parliamentary system is increasingly less likely to emerge, unless there is another dramatic, unexpected change. The Taiwanese case is an excellent illustration of making constitutional choice by establishing a positive focus in the agenda. Rather than making a decision on the issue of presidentialism or parliamentarianism, as the current litera-

⁷⁹For Hu Fo's criticism, see *Xin xinwen zhoukan*, no. 174 (1990): 43. Another scholar, Lin Chia-cheng, expressed the same opinion in the DPP's people's conference for constitution-making in 1991.

⁸⁰Viktor Vanberg and James M. Buchanan, "Interests and Theories in Constitutional Choice," *Journal of Theoretical Politics* 1, no. 1 (1989): 50-52.

ture emphasizes, decision can be made by focusing on certain aspects of the issue. The move was less controversial to the participants. The focus can bring stability into the process of the *genesis* of the system on the basis of pact-building, but might not guarantee the stability of the *function* of the system. Second, this change clearly created a separated electoral mandate for the president. The system has begun to move away from the typical parliamentary system where the executive and legislative branches share the same electoral mandate. Although many powers granted to the president during the extraordinary period were removed in the early stage of reform efforts, the new mandate for the president helped raise the position's legitimate claim to ruling powers. Third, the adoption of a directly-elected presidency has also opened the possibility for governmental gridlock when the president and the majority of the legislative branch belong to different parties. Jaushieh Joseph Wu expresses his concerns that: "Unlike the French setup, the failure of the constitution to specify the relationship among the president, the Executive Yuan, and the parliament means that a crisis is bound to occur when the president's party loses its majority in the legislature or the presidency is taken over by another party."⁸¹

Following the fourth stage of constitutional reform in 1997, the ROC system is leaning toward, in Shugart and Carey's sense, the premier-parliamentary system in which a premier depends on the ongoing confidence and a popularly-elected president. This is because the president does not have the independent power to dissolve the legislature under this scenario but is granted the full authority to appoint the premier. The system more and more resembles the French system where, depending on the support of the legislative majority, the executive power base is alternating between the president and the premier. As a result, if the KMT wins the 2000 presidential election, the popularly-elected president will still be the key figure who determines major policies and resolves the conflict between the executive and legislative branches on Taiwan. However, if the KMT loses the 2000 presidential election, a new era of divided government or cohabitation will put the new system to its ultimate test. The outcome of such a situation

⁸¹ Jaushieh Joseph Wu, "The 1994 Elections in Taiwan: Continuity, Change, and the Prospect of Democracy," *Issues & Studies* 31, no. 3 (March 1995): 106.

would determine the survival of the Taiwanese democratic polity in the future.⁸²

The Strategic Aspect of the Focus

In considering issues of constitutional reform, politicians continuously evaluate the strategic values of alternatives in order to stay in power. The focus on a popularly-elected presidency was a result of the strategic interactions among rivals.⁸³ For the KMT, especially President Lee, the popularly-elected presidency was a means to decentralize the authoritarian power base and institutionalize the strongman legacy. For the purpose of maintaining KMT rule and executive domination in the political arena, this move was a necessary step, with only one condition: that President Lee be able to win the presidential election. Because of President Lee's charisma among the Taiwanese people, there was no doubt that he would have the greatest chance of winning the first direct presidential election. From the viewpoint of the KMT internal power struggle, the adoption of a directly-elected presidency was a winning strategy for the mainstream faction for two reasons. First, most power-holders in the KMT do not have a popular power base for their power. They are unlikely to win elections at the local level. By contrast, most members of the mainstream faction of the KMT are Taiwanese with a power base at the local level. They are not afraid of elections. Second, the DPP's initiative for a popularly-elected presidency opened up a possibility of cross-party coalition building for the mainstream faction to gain a majority outside its own party. The non-mainstream faction of KMT power-holders obviously stood on the losing side.

For the DPP, focusing on a popularly-elected presidency during the

⁸²For a summary on the issue of divided government, see Morris P. Fiorina, *Divided Government*, second edition (New York: Macmillan, 1996), and Chen Don-yun and Huang Tong-yi, "Divided Government: A New Approach to Taiwan's Local Politics," *Issues & Studies* 35, no. 1 (January/February 1999): 1-35. For the issue of cohabitation in France, see Jean Poulard, "The French Double Executive and the Experience of Cohabitation," *Political Science Quarterly* 105, no. 2 (1990): 243-67.

⁸³A similar situation could be found in South Korea in 1987. See David I. Steinberg, "The Republic of Korea: Pluralizing Politics," in *Politics in Developing Countries: Comparing Experiences with Democracy*, ed. Larry Diamond, Juan J. Linz, and Seymour Martin Lipset, second edition (Boulder, Colo.: Lynne Rienner, 1995), 382-88; and Han Sung-Joo, "South Korea in 1987," *Asian Survey* 28, no. 1 (January 1988): 52-57.

reform process had three benefits. First, as mentioned in previous section, the search for the fastest way to achieve governance has dominated the mind of the elite in the DPP. The DPP's successes in the county magistrate and city mayoral elections have made them confident that their chance of winning in a one-on-one election is greater. Also, because the KMT still controls the mass media and local electoral machine, the chances of gaining power through a direct presidential election would be higher and possibly happen more rapidly. Second, the issue could be used as a weapon to exploit the internal power struggle of the KMT. In other words, the weaker the KMT, the greater the chance that the DPP could take over the regime through winning elections. Third, the DPP has partially succeeded in internationalizing the Taiwan issue by pushing for a popularly-elected presidency. The military exercises of the PRC during the 1996 Taiwanese presidential election also ironically contributed to this effort. The United States was forced to send two aircraft carrier battle groups to the region.⁸⁴ Thus, because of the presidential election and its related events, the United States and the PRC required an urgent review of their respective policies on Taiwan as well as Sino-U.S. relations.

Furthermore, if DPP members focused only on the first consideration—winning the presidential election, they might not have been willing to compromise with the KMT due to President Lee's popularity. The issue of Taiwan's independence is an important exogenous factor behind the agreement to focus on the question of the presidential election system. For the Formosa faction, the issue was always a vital weapon to weaken the unity of the KMT. For the New Tide faction, this focus met their needs of proclaiming an independent Taiwanese state. The focus was a perfect choice to push for independence without damaging the DPP's electoral base.

The Idea of Popular Sovereignty: An Enforcement Mechanism

Even if the focus on choosing the presidential election system co-

⁸⁴John O'Neill, "U.S. Sending More Ships to Taiwan Area in Warning to China," *New York Times*, March 11, 1996, 5. A history account of the Taiwan question in the international context can be seen in Gu Weiqun, *Conflicts of Divided Nations: The Case of China and Korea* (Westport, Conn.: Praeger, 1995), 93-132.

ordinates political rivals, how can this issue keep them together? The idea of popular sovereignty is the key here. Beyond a doubt, a popularly-elected presidency is a clear demonstration of the meaning of popular sovereignty. The demonstration effect of American presidential elections has inspired many who have struggled for democracy in their own land as the ultimate democratic experience. Direct presidential elections are a clear message sent to the people of the nation, as well as of the world, that a certain nation is democratized. This populist aspect has an important function in the Taiwanese case. It is an enforcement scheme for all three pacts established during the process for two reasons. First, such a system is seen as an important expression of the general will, which is the key to establishing the legitimacy of a regime. Second, the expression of the general will can also satisfy the longtime demand for self-determination among independence activists. Every important political group can find its own position in a popularly-elected presidency, in substance or in title.

The DPP, on the left, pronounced the election a victory of the Taiwanese people over Chinese aggression. Some DPP members have even claimed that Taiwan had already become an independent nation after the election.⁸⁵ Critical has been the reunification/independence issue in the democratic transition on Taiwan, having had immense potential to cause permanent damage to the system from within. The reality of a popularly-elected president has helped politicians to find a delicate balance among all the divisive elements within the system beginning with the pact built between the Formosa and New Tide factions. A strong message sent out by an elected Taiwanese president was enough to bring a potential anti-system element within the opposition to the bargaining table with the KMT.

The non-mainstream faction in the KMT on the right did not deny this effect on the democratization of the Taiwanese political arena, although most of its members still favored parliamentarianism with clear partisan motives to counterbalance President Lee's power. The faction—later to become the New Party—also agreed with others that the change was a major expression of the ROC's democratic identity. In order to avoid possible

⁸⁵Tyler, "Tough Stance Toward China Pays off for Taiwan Leader," A1.

conflict with its policy of reunification with China, however, the non-mainstream faction refused to extrapolate the tacit agreement further. This implicit consent between the two factions helped the pact within the KMT to hold.

Lastly, the mainstream faction in the KMT in the middle benefited from winning the first direct presidential election. The KMT also claimed a major contribution to the process of democratization on Taiwan.⁸⁶ The pact built between the mainstream faction and the Formosa faction was reinforced by their electoral advantages within their respective parties. All the rivals in the process reached a tacit consent on the idea of popular sovereignty, though with different interpretations to satisfy their strategic and moral needs. The idea bound rivals together around the focus of a popularly-elected president as a feasible solution to the complicated game induced by the process of constitutional choice.

Conclusion

The emergence of the "focal point" position of a popularly-elected presidency during the Taiwanese transition has roots in the inherited choice environment imposed by the KMT, and has structural as well as partisan causes behind it. After Chiang Ching-kuo's death in 1988, the ongoing effort since 1986 to break with the old order through liberalization and democratization accelerated. The structure created many opportunities for power contenders to explore. As major rivals interacted with one another in the process of constitutional reform, they began to realize the benefits of such a focus. The DPP leaders unquestionably played a crucial role pushing for intra-party and inter-party coordination on the presidential election system. As a result, the constitutional system on Taiwan moved further away from parliamentarianism.

There are three lessons that we can derive from the Taiwanese experience. First, in the process three pacts were built to ensure the estab-

⁸⁶President Lee clearly took the credit for the change in a news conference held on February 23, 1996. See *Zhongyang ribao* (Overseas edition), February 25, 1996, 2.

lishment of the focus. These pacts were based on considerations of power struggle within or between parties, rather than principles of constitutional design. The participants' pact-building efforts were all aimed to exploit President Lee's inherited strongman position for advancing partisan interests. As Niou and Ordeshook observed the constitutional reform in the ROC on Taiwan, they discovered that:

The most commonly cited arguments over the advisability of choosing one or the other of these two forms [i.e., presidential and parliamentary systems] are, for the most part, theoretically meaningless and are largely rhetorical devices for rationalizing prejudices about preferred governmental structures and the state's role.⁸⁷

Second, the many facets of the idea of popular sovereignty behind a directly-elected presidency became a vital enforcement mechanism to bind all parties together. That, in turn, helped to sustain the "focal point" position of a directly-elected presidency as a unique solution to a very complicated coordination game. Although ensuring stability along the choice process, the focus might not guarantee a stable function of the system in the future. This argument leads to a final point. Because the focus was selected as an instrument for rivals to contest for power, and a means to stabilize the reform process by establishing a center of power, the president will unlikely be simply a figurehead in the political arena. After winning the first direct presidential election, President Lee Teng-hui, with his KMT chairmanship, still rules the nation through the party's decisionmaking hierarchy. In other words, the popular mandate helped President Lee to institutionalize a ruling structure which he did not inherit from the old regime. As a result, President Lee is still the center of power of the constitutional system on Taiwan. After the fourth stage of constitutional reform in 1997, the ROC system is leaning toward, in Shugart and Carey's sense, the premier-parliamentary system in which a premier depends upon the ongoing confidence and a popularly-elected president. The system more and more resembles the French system where, depending on the support of the

⁸⁷Emerson Niou M.S. and Peter Ordeshook, "Notes on Constitutional Change in the ROC: Presidential versus Parliamentary Government" (Cal Tech Social Science Working Paper #869, 1993), 2.

legislative majority, the executive power base is alternating between the president and the premier. As a result, if the KMT wins the 2000 presidential election, the popularly-elected president will still be the key figure who determines major policies and resolves the conflict between the executive and legislative branches on Taiwan. However, if the KMT loses the 2000 presidential election, a new era of divided government or cohabitation will put the new system to the ultimate test. The outcome of such a situation would determine the survival of the Taiwanese democratic polity in the future.

Appendix

Major Events of a Popularly-Elected Presidency on Taiwan

Date	Major Events
1986	
September 28	The Democratic Progressive Party (DPP) is formed.
October 7	President Chiang Ching-kuo announces his reform attempts in an interview by the <i>Washington Post</i> .
1987	
July 15	Martial law is lifted.
1988	
January 13	President Chiang Ching-kuo dies. Lee Teng-hui is sworn into the presidency.
July 7-13	President Lee is elected chairman of the Kuomintang.
1990	
February	Factions in the KMT disagree on the issue of the presidential election. The KMT splits into two factions—the "mainstream" and the "Non-mainstream" factions.
March 16-22	Students and opposition occupy the Chiang Kai-shek Memorial Hall to protest.
March 21	President Lee survives the political crisis and is elected by the National Assembly as president for a six-year term.
April 2	President Lee publicly invites DPP Chairman Huang Hsin-chieh and others to the presidential palace to "have tea." A tacit alliance is formed between the mainstream faction in the KMT and the Formosa faction in the DPP.
June 21	The Council of Grand Justices of the Judicial Yuan issues a ruling that senior members of the First National Assembly elected on the mainland in 1947 should resign by December 31, 1991.
June 28- July 4	The National Affairs Conference is held for one week in Taipei. A nonbinding agreement on presidential election is issued: "The current method of electing the president should be changed. The president should be elected by citizens. The method and procedures for election should be enacted in accordance with legal procedures after consultation with all sectors of society."

Appendix (Continued)

Date	Major Events
1991	
April 8	The Second Session of the First National Assembly is convened. On August 22, the Assembly passes constitutional amendments #1-10 and approves the end of the Temporary Provisions.
May 1	President Lee announces the termination of the Temporary Provisions.
August 24-26	The DPP holds a "People's Conference on Constitution-Making." The members of the New Tide faction prefer a parliamentary to a presidential system.
October	A compromise between the Formosa and New Tide factions is made. Direct election of the president becomes the main party platform in the upcoming election.
December 21	The Second National Assembly election is held in Taiwan. The KMT stresses "reform, stability, and prosperity," and "indirectly-elected presidency," while the DPP runs on a platform calling for Taiwan's independence and directly-elected presidency. The result is a KMT landslide victory. The KMT wins 78 percent of the 325-member body. A 75 percent vote in the Assembly is required for the approval of constitutional amendments.
December 31	All the senior members of the National Assembly, Legislative Yuan, and Control Yuan are "retired" from their posts.
1992	
March 11	A compromise is made within the KMT. The directly-elected presidency becomes a final goal of the constitutional reform.
March 20	The Second National Assembly is convened. The second stage of constitutional reform begins.
May 27	Constitutional amendments #11-18 are passed by the National Assembly. The president is said to be elected by all citizens of the "free area" of the ROC. However, the exact electoral method is to be decided in the next stage.
June 28	President Lee promulgates the amendments.
1993	
August 10	The New Party is formed by splitting from the KMT. Its members are all members of the non-mainstream faction in the KMT.
1994	
May 2	The Second National Assembly is convened again. The third stage of constitutional reform begins.
July 29	The issue of a directly-elected presidency is adopted into the Constitution.
August 1	President Lee promulgates the amendments.
1996	
March 23	The first direct presidential election is held on Taiwan. Lee Teng-hui wins the election with 54 percent of the popular vote.