The Political Logic of Institutional Choice: Taiwan in Comparative Perspective*

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Abstract

This article seeks a political explanation of institutional origins and changes by examining the case of Taiwan in choosing its form of government during the period of regime transition. It synthesizes two schools of new institutionalism—rational choice and historical institutionalist approaches—to address both context-bound elements in this case and a more generalized political logic involved in the process of democracy building. It spells out two contextually related factors, the preexisting institutionalization of power (or structural legacy) and the mode of transition, in tracing the sources of institutional preferences that major political forces hold, and the political process of bargaining in reaching institutional compromises. This study of Taiwan’s constitutional choice also aims at presenting an integrated framework for a comparative purpose with important analytical dimensions, including structural legacy of the ancien regime, the mode of transition in the institutionalization process, strategic calculations and interactions of competing elites, as well as political manipulation of constitutional ideas.

Key words: institutional choice, structural, mode of transition, institutional engineering, strategic interaction

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I. Introduction

The research agenda of comparative politics in recent years has been dominated by important issues in democratic transition and consolidation, such as the mode of transition and its impact on the configuration of party system, the choice of constitutional arrangements, reconstruction of state capacity, institutionalization of cleavage management, and the subordination of the military to elected civilian government (Karl & Schmitter, 1991; Horowitz, 1991; Mainwaring, et al., 1992; McGarry & O’Leary, 1993; Geddes, 1994). Among these important issues, the choice of government system between presidentialism and parliamentarism is fundamental. Scholars have paid much attention to consequences of various constitutional choices with regard to political stability, ethnic accommodation, economic performance, and government effectiveness (Horowitz, 1991; Lijphart 1991; Linz, 1990; 1994; Shugart & Carey, 1992; Stephan & Skach, 1993; Weaver & Rockman, 1993). Aside from few scholarly defense for presidential system (Mainwaring & Shugart 1997), there exists an academic preference for parliamentary democracy.

According to Linz (1990), presidential systems create severe perils as follows: (1) Dual legitimacy of the president and the congress tends to yield legislative-executive deadlock and immobility. (2) Presidential democracy entails a rigid political process due to the fixed term of office. (3) The zero-sum game of presidential election is not conducive to consensus-building, coalition-shifting, and compromise-making. These are particularly urgent tasks in deeply divided societies. Arend Lijphart (1990: 76) adds two more serious problems of presidential democracy: (1) Its majoritarian predisposition is incompatible with consociational arrangements of coalition government and power-sharing. (2) It runs risks of degenerating into dictatorship and authoritarianism. Furthermore, Lijphart indicates that the combination of parliamentarism with proportional representation should be an especially attractive constitutional choice for emerging democracies (Lijphart, 1991).

In general, recent arguments on constitutional design by leading
political scientists have predominantly stressed the superiority of parliamentary democracy over presidential one. The supposed inherent perils of presidentialism are mainly drawn from the experience of unstable Latin American presidential democracies. The stable West European parliamentary democracies and Spain’s choice of parliamentarism are invoked by Linz as evidence to support his pro-parliamentarism position. Spain’s wise choice of parliamentary democracy is often attributed to its smooth transition to democracy.

Yet in reality, constitutional engineers in new democracies seem to favor presidential or hybrid systems rather than parliamentary one. In Russia, where institutional rivalries between the parliament and the president led to all-out violence in October 1993, which resulted in governmental paralysis and threatened to undo democracy (Zielonka, 1994: 87; 89). In December 1993 the Russian voters ended this chaotic situation by approving a new constitution that, like the French model, provides for a parliament with a strong presidency directly elected by people. In Eastern Europe, the constitutional choice of a new government system has also been intensely disputed by Communist party and pro-reform forces. With the exception of Hungary, which has clearly adopted a pure parliamentary system, other countries in the region have chosen various kinds of mixed systems. In Latin America, Brazilian people decided to retain their presidential system and rejected the parliamentary option in the April 1993 national referendum, which was held to resolve the pending issue left by the 1988 constitution (Bruneau, 1990). Taiwan has also confronted the crucial choice among presidentialism, parliamentarism, and hybrid systems. After a series of constitutional revisions, the current version of constitution emerged as a hybrid presidential system.

Some puzzles arise here: why did architects of these new democracies not head in the direction of the pure parliamentary system, a better choice in the eyes of mainstream political scientists? How and why have these constitutional choices been made? To answer these questions, one has to go beyond the normative tone of constitutional debates. In other words, a new analytic angle is required in order to account for the political logic of institutional choice. Rather than arguing for any regime type as the best
option, this paper seeks a realistic explanation of institutional choice by drawing upon Taiwanese experience, and ultimately attempts to sort out comparative implications from this case.

II. A Realistic Perspective on Institutional Choices

As mentioned above, the constitutional debate over regime types has carried a strong prescriptive and normative message: which democratic institutions are the best? To judge which institutional arrangement is best, political scientists have unavoidably entangled the issue of institutional choices with the desirable norms and values they pick up. However, it is well known that one desirable goal is often attained at the cost of another, such as the trade-off between representativeness and efficiency. Therefore, although hotly debated, the theoretical disputes over this issue are inconclusive. As Emerson Niou and Peter Ordeshook (1993: 6) point out, we can hardly achieve an objective assessment whenever the advantage of a particular system cited by one person appears as a disadvantage by another. For example, a fixed presidential term can be judged as contributing to regime stability, while others may condemn its rigidity. Someone may perceive the majoritarian (or pluralitarian) rule of a presidential system as a fundamental principle of democracy; others could be worrisome about the possibility of a majoritarian tyranny. The judgement of what is the “best” political institution thus distracts proper attention from exploring what is likely to emerge given the current balance of power among political forces.

The call for shifting the focus from discussions of constitutional ideals to politics of institutional choices was made compellingly by Frederick van zyl Slabbert, president of the Institute for a Democratic Alternative for South Africa, in 1989:

“There are many ‘constitutional experts’ who have written South Africa into a democracy in their studies. South Africa has been inundated with ‘constitutional solutions’: consociational democracy, federalism of various degrees, meritocracies, partition, etc. Nor does it serve much useful purpose to logically transplant some European constitution on to
the South African situation and argue away the empirical contradictions with questionable ‘if only’ clauses. Constitutional preferences have to be related to real political forces and only then can one begin to anticipate the elements of a likely or probable democratic constitution for South Africa” (quoted in Sisk, 1995: 5).

In the same vain, this paper aims at providing a realistic perspective on institutional choice in Taiwan and attempts to address both context-bound elements in this case and a more generalized political logic involved in the process of democracy-building. I argue that institutional choices are not made in a political vacuum. They are made in a critical historical juncture of the transition from the ancien regime to democracy. At this moment, along with the redistribution of power, major political forces are redefining their political interests and relocating their institutional niches. In this process, strategic elites would propose competing institutional packages wrapped with legitimate constitutional ideas to forge winning coalitions and reach desirable institutional compromise (Ikenberry, 1993: 58). Institutional choice in the context of regime change concerns not only politicians’ bargaining over the rules within the established institutional framework, but also the fundamental design of the game, including clearing the barrier to entry for previously excluded political forces and structuring the institutional arena to reflect the new political equilibrium. In the perspective, political interest, rather than economic efficiency, is the underlying cause for the institutional formation and changes.  

For the case of Taiwan, the well-institutionalized and organizationally coherent party-state system was hardly conducive to reform, particularly in the absence of a major economic crisis that would jeopardize the political establishment. It is predictable that ever-dominant elites who had enjoyed political priviledges in the old system for four decades would resist any fundamental redistribution of power and reallocation of resources. Therefore,

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1 This is exactly the situation, as George Tsebelis notes, when the game itself is a variable (Tsebelis, 1990: 96, fn.6).
a political explanation of institutional changes or choices has to trace the political process of how veto players of the old system struggle to maintain their institutional niche and how reformers seize strategic positions to establish new rules of the game (Thelen and Steinmo, 1992: 7).

The gradual mode of regime change in Taiwan inevitably resulted in an incremental and fragmented approach to constitutional reform. Reformers could only move step by step by seizing any possible opportunities to change the system. The relative positions of potential winners and losers in the future game were repeatedly contested and negotiated. Institutional vested interests were working to preserve themselves. The outcome of institutional compromises was thus an institutional patchwork that contained both old and emerging institutional components. Here I spell out two contextually related factors: the preexisting institutionalization of power (or structural legacy) and the mode of transition. These are important intervening variables that affect the politics of institutional change, along with the more generalized explanation in terms of politicians’ self-interested calculation.³

Searching for genetic explanations of the initiation of democratic institutions also poses several theoretical challenges to analysts, including how to situate rational choice analysis into a specific historical context and sketch causal mechanisms between structures, institutions, and individual choices.⁴ The following analysis of the case of Taiwan attempts to integrate

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⁴ As Karen Remmer 91997: 59) points out, institutional analysis developed from research on stable democracies tends to treat institutional arrangements as relatively sticky and stable that can provide great predictability to explain its political consequences. For recently democratized or redemocratized countries, however, the established institutional analysis appears too static to address some other important research questions in context such as sources of institutional formation and change. I suggest that a synthesis between parsimonious rational choice reasoning and thick historical narrative be a mutually enriching and illuminating research strategy. See
several important dimensions in constitutional choice: structural legacy of the ancien regime, the mode of transition in the institutionalization process, strategic calculations and interactions of elites, as well as political manipulation of constitutional ideas.

III. The Case: Politics of Institutional Choice in Taiwan

In this section, I will first identify strategic elites who having occupied pivotal positions in the authoritarian regime, and thus possessed significant institutional resources that made them veto players in the democratization process. Next, I will indicate how critical constitutional issues were tackled under the principle of gradualism and in a certain sequence. I will then undertake an in-depth analysis of how strategic elites redefined their interests and preferences with the reversal of distribution of power between majority Taiwanese and minority mainlanders. Accordingly, competing forces made use of their respective institutional resources to sabotage or facilitate political change. In this context, it would reveal that institutional choices are highly political and susceptible to manipulation. This also points to the central dilemmas of institutional design: conflict between theory and practice, contradictions between politicians’ short-term calculations and long-term consequences, and the gap between desirability and feasibility.

(1) Preexisting Institutionalization of Power and Strategic Elites in Transition, 1988-1990

The structural configuration of party-state authoritarianism in Taiwan remained robust when Chiang Ching-kuo died and Lee Teng-hui succeeded him as president in January 1988. In Spain, “when Francisco Franco died, he left behind the decaying remnants of an authoritarian regime in which not

even the official political organization, the Movimiento, could be properly called a party” (Gunther et al., 1988: 1). By contrast, Taiwan’s institutional network of party, state, military, security and intelligence sectors had no sign of decay or destruction. Political power was still concentrated in the hands of the mainlander elites who held a coherent ideology and occupied strategic positions capable of blocking any action that would overturn the existing configuration of power. The only consensus reached between the conservatives and reformers in the KMT concerned the gradual and limited opening of political space to native Taiwanese.

During Chiang Ching-kuo’s final years, the decision-making structure of the party-state had evolved into an oligarchical type of collective leadership shared by multiple senior mainlander politicians. Since the thirteenth Party Congress in July 1988, the KMT party machine was dominated by Lee Huan, the state (the executive branch) headed by Yu Kuo-hua, the military subordinated to General Hau Pei-tsun, together with the security sector under President Chiang’s control. Vice president Lee Teng-hui was not even incorporated in the power circle and his presence had more to do with symbolically placating the native rather than with developing a genuine power figure as a successor. The highly institutionalized and deeply penetrating nature of the party-state regime, and the enormous political and economic resources it possessed, provided strong incentives for politicians to pursue their interests and career promotion through collaboration and exchange. Power struggle was thus contained and resolved within the established structure, as in Mexico. Politicians’ political survival had been associated with the perpetuation of the authoritarian institutions. The institutional legacy made it almost impossible to end authoritarian rule through electoral competition or limited political liberalization.

As I argue above, the power structure of the party-state system after Chiang’s death was, in essence, an oligarchical one in which a handful of strategic elites occupied the core institutions. The political logic of an oligarchical structure is that each oligarch must “cooperate enough to maintain their collective hold of power” (Ramseyer & Rosenbluth, 1995: 42). This is particularly true for mainlander politicians, given their lack of
constituency connections with and societal support from the Taiwanese populace. The collective interests of strategic mainlander elites in a closed power circle was to preserve the established system as much as possible, and to divide political resources among themselves. The only route to democratization, as Lee Teng-hui perceived, was to “transform the structure from within.” The presidency was the only institutional position in the structure available for Lee to maneuver.

The party-state institutional legacy set the parameters for Taiwan’s regime transition as a controlled political transformation “from above” and “from within” [the KMT]. Ironically, the only political force capable of facilitating democratization came from the mainstream faction of the KMT. The choices of political institutions and democratic rules were, from the very beginning, linked to the shifting configuration of power between mainlanders and Taiwanese in the authoritarian establishment, as well as unstable tactic alliances between the KMT reformers and the opposition DPP. The prospect of forming a stable and lasting coalition between the KMT reformers and the DPP to undertake complete political reforms was hindered by their intense electoral competition associated with gradual political opening. Acting as both “reformer” and “status quo keeper,” the KMT’s reformers were reluctant to “reform themselves out of power” by fully collaborating with the opposition. Thus they adopted a vacillating position swinging back and forth between the KMT’s conservatives and the opposition. “Playing the middle” has become the KMT reformers strategy not only in the democratization process, but also in making institutional choices.

Under the party-state establishment, the president could not effectively exercise his power without simultaneously holding leadership in the party machine. Lee’s triumph in succeeding to the KMT’s acting chairmanship in 1988 was merely nominal. The then powerful old guard did not consider Lee as a serious threat. Mutual competition and the lack of trust among them

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5 The KMT’s mainstream-faction was mainly ethnic Taiwanese in the party machine and the state sector, who shifted loyalty to Lee Teng-hui. Some mainlander elites also chose to join this faction led by Lee as they saw the trend of democratization made the rise to Taiwanese to power inevitable.
during the succession struggle prevented any of them from winning the chairmanship. In the name of compliance to the party’s tradition and norms, Lee was thus elevated to the position of KMT’s chairman. Under the quasi-Leninist system, habitual obedience to party authority had been the norm that characterized political elites’ behavior (Volgyes, 1995: 15). In the turmoil of power transition, the legacy of that authoritarian norm temporarily constrained strategic elites’ covert actions against the president, who was also the chairman of the KMT. Lee cleverly made use of the brief moment of uncertainty, and manipulated contradictions among competing elites. He employed power endowed in the president by constitution to play the old guard’s interests against each other. From 1988 through 1990, Lee gradually consolidated his leadership in the executive branch by exerting presidential power in nominating and changing the premier, and in forming the cabinet.

In June 1989 he first nominated Lee Huan, the influential party figure, as the premier in order to remove him from influence over the KMT’s party machine. Lee then appointed Hau Pei-tsung in November 1989, a general who held the military as his turf for long time, as the Minister of Defense. By appointing General Hau as a civilian minister, Lee was indeed forcing Hau to retire early from his military career, thus paving the way for the president to regain command over military affairs. Step-by-step, within the confines of the authoritarian constitution, Lee consolidated his power and claimed legitimate presidential command in the areas of defense, foreign affairs, mainland policy, and selection of premier and cabinet.

The institutional battle between the reformist president and conservative premier surfaced initially due to personal strife. The unclear division of power between president and premier under the 1947 Constitution finally evolved into serious conflicts in late 1989, then sowing the seeds of heated constitutional debate concerning the choice between presidentialism and parliamentarism. The upcoming indirect presidential election by the National Assembly in 1990 triggered open fire between reformer and conservative factions in the KMT. Lee Teng-hui, the KMT’s expected presidential candidate, turned down premier Lee Huan’s request for the position of vice president and insisted on picking his own running mate. The disillusioned conservatives tried to mobilize senior National Assemblymen to endorse
The struggle between two pairs of presidential candidates directly resulted in the split of the KMT into two rival factions: the Mainstream versus Non-mainstream factions. Lee allied with James Soong, a pro-reform mainland politician, to take control of the KMT party machine. The party machine took on mixed measures of forceful persuasion, material promises, and covert threats, to seek assemblymen’s vote for the mainstream presidential candidates. Senior National Assemblymen were hesitant in supporting non-Mainstream candidate with considerations of their own political risks and material costs had they defied. In the end, the Mainstream faction gained the upper hand in winning the obedience of senior National Assemblymen. Lee Teng-hui was elected as the president in March 1990.

The conservatives’ maneuvering in the 1990 presidential election backfired, however. It gave the KMT reformers an excellent chance to reveal and exploit latent ethnic tension between majority Taiwanese and minority mainlanders. During the presidential campaign, the blunt and blatant power struggles between two factions were exposed in details by press reports. Furthermore, in the convention period, senior Assemblymen’s attempt at extending their political privileges and extorting more material rewards in exchange for their compliance to the KMT’s mandate stirred up public resentment. A massive student protest in March 1990 was the harbinger of the people’s pressure to end authoritarian rule and its institutional foundation. Students in protests strongly demanded abolition of the National Assembly and normalization of constitutional structure. The opposition DPP also seized the chance to pressure the KMT. The societal protests against the authoritarian rule and pressure from the opposition were subtly exploited by Lee. He was therefore ready to put on the agenda of constitutional reform the “retirement” of old representatives and the holding of completely democratic elections for both institutions. In August 1990, Lee terminated the “Temporary Provisions for the Period of Communist Rebellion,” which was the extraconstitutional source of the president’s emergency powers. On the other hand, in May 1990, Lee nominated a new premier, Hau Pei-tsun, a leading figure in the non-mainstream faction, to co-opt and divide the conservatives’ opposition to further democratization.
The preceding historical introduction recollects the 1988-1990 succession struggle constrained by the institutional legacy of the party-state system. Before turning to the prolonged process of constitutional revisions in the 1990s, I will conduct a preliminary explanation of how the modes of transition, in terms of the number of major political forces (or parties) and their balance of power, affect important institutional choices regarding government structures.

(2) The Mode of Transition: Number of Players and the Balance of Power

The game of one man (outsider Lee Teng-hui) versus the mainlander oligarchy in the transitional political structure in Taiwan raises an interesting parallel with Japan’s transition from the imperial period to the promulgation of the Meiji Constitution. If a logical causality could be established between the modes of transition and the choices of certain types of institutional arrangements, researchers may obtain a more generalized perspective that would better predict the direction of institutional choices and foresee the possible institutional changes associated with fundamental shifts in the distribution of power.

According to Ramseyer and Rosenbluth (1995), Japan’s oligarchy controlled the choice of institutional arrangements and electoral rules in designing the Meiji constitutional structure. Their choice of a parliamentary system with a nominal emperor suggests that a parliamentary system be the best option for oligarchs to ensure their own political survival. Ramseyer and Rosenbluth (1995: 6-7) indicate that the number of major political actors make a difference in shaping the future political game. If it were not the oligarchy but a dictator who controlled the design of the future game, the result would be completely different; centralization of power would be the most likely institutional outcome.

Following this line of reasoning, it is no longer puzzling why the KMT’s conservative elites insisted that the 1947 Constitution be a parliamentary system in constitutional debate and accordingly, attempted to
endorse such a regime type to diminish the role of the president to merely a symbolic figure. When no single oligarch ascends to predominance in the power circle, the parliamentary system serves the oligarchs substantially to retain their collective power-sharing, even under democratic procedures, without breaking up the oligarchical structure (Ramseyer & Rosenbluth, 1995: 31).

Japan’s experience shows that the parliamentary system in combination with the SNTV (Single Non-transferable Voting) electoral rule is not conducive to the creation of a single, centralized executive power; on the contrary, SNTV’s personalistic electoral competition facilitates the tendency of splitting political rents among politicians, while parliamentarism provides nation-wide resources held by the executive for the service of clientelism. This institutional combination provided incentives for Japanese politicians to divide political resources to cultivate their supporters. In sum:

“The party controlling the Prime-ministership, in other words, would use its control over the government to build its candidates’ personal networks and thereby divide its votes. In post-war Japan, the ruling LDP used government-dispensed pork, cash and in-kind gifts, and bureaucratic services” (Rasmeyer & Rosenbluth, 1995: 52)

The division of the political arena into oligarchical or factional power-sharing helped perpetuate the status quo and contributed to political stability. In addition to the number of major veto players in a political transition, I propose that what kind of equilibrium existed among them also makes a difference. If no single political force in the preexisting ruling bloc dominates the transition, or in other words, if there exists a balance of power among key veto players, they would favor institutional arrangements that will not unseat any of them from their current positions. Even after democratization, that institutional choice will maintain a balance of power between competing interests. The adoption of a parliamentary form of government in Japan and in the following case, Spain, suggests that this constitutional choice has a logical link with the continuous existence of an oligarchical structure of power, which survived the transition to democracy.
If so, the excessive normative expectation projected by advocates of parliamentary democracy may have to be reconciled with a more realistic perspective. An alternative question needs to be addressed here: To what extent has “political stability,” a virtue often associated with parliamentary democracies, been maintained exactly because the preservation of the old oligarchical distribution of power was served by this regime type?

Spain’s transition to a parliamentary democracy after Franco’s death has been praised as a classic example by advocates of parliamentarism. Salvador Giner and Eduardo Servilla’s (1980: 208) study of the Spanish transition from despotism to parliamentarism reveals the flip side of the story. They point out that it was the same ruling coalition “in representation of the industrial, financial, and land-owning oligarchs,” which backed the forty years of Francoist dictatorship, and then controlled the establishment of Spain’s new parliamentary state as a new political formula for their continued domination.

The loose ruling coalition in Spain was actually willing to dismantle political arrangements that they previously embraced but turned against their continued domination (Giner & Sevilla, 1980: 204). The change of regime from Francoist dictatorship to parliamentary democracy did not really shatter the same ruling coalition; negotiation of democratic rules was basically a game of intr-elite bargaining. This is also why the parliamentary government structure is more often promoted by consociational theorists, such as Arend Lijphart. The underlying political logic of parliamentarism and consociationalism is compatible. In the context of regime transition, both could be viewed as conducive to the maintenance of an oligarchical elitist distribution of power.

In light of this perspective, to overturn the robust party-state domination by conservatives, the mainstream faction of the KMT was politically clever at exploiting the historical grievance between Taiwanese and mainlanders, and successfully positioned themselves as representing the oppressed majority. Lee Teng-hui’s native background has been his weapon and asset to distance the KMT reformist from the tarnished past. The oligarchical structure of the power circle was doomed when ethnic division between
majority Taiwanese and minority mainlanders was cultivated into the most salient political cleavage. The cleavage structure of majority versus minority reoriented competing political forces in shaping their institutional preferences in debating the choice of regime type. Taiwan’s course of constitutional choices was thus similar to South Africa’s path to democracy in a fundamental way.

The cleavage formation even mitigated the voices of protest from repressed workers and peasants against the authoritarian state in that most workers and peasants identified themselves from the view of ethnic division (Taiwanese) rather than class-based interests. The tendency of the current electoral rule, SNTV, to induce proliferation of political parties, has been curtailed by the ethnic cleavage. The fragmentation of the party system is prevented, however, at the cost of political polarization in terms of uncompromising national identity disputes.

The above cases illustrate logical linkages between the pre-existing institutionalization of power, modes of transition, and their impacts on the choices of democratic institutions. The following sections will provide a detailed analysis of Taiwan’s story.

(3) Legacy of the 1947 Constitution

Taiwan’s institutional restructuring was loaded with historical legacies and institutional vested interests. From the outset, the battle between revising the 1947 Constitution (limited reform) and writing a new constitution (wholesale reform) had been involved with a fundamental competition between two identity assertions made by mainlander irredentists and Taiwanese nationalists. The dominant player, the KMT reformists, chose a middle position and adopted a gradualist approach to constitutional revisions. Compromises were unavoidable and prolonged negotiations were predictable.

6 In the wave of political opening, Labor Party was formed in 1987 as the first political party claiming to represent the interests of labor. But the capital versus labor cleavage never became a winning strategy for this party. It remained marginal in electoral competition and finally vanished from the political stage.
The “muddling through” approach invited troubles in and added complexity to building a clear-cut constitutional framework. Disputes over presidentialism and parliamentarism triggered several rounds of battles. Given the fact that the choice of government structure has a profound impact on the redistribution and institutionalization of power, competing political forces focused on this issue. Other important institutional reforms such as electoral reform and bureaucratic adjustment were neglected until the most crucial constitutional revision, the popular election of president, was made in 1994.

The institutional framework imposed on Taiwan since 1949 was an awkward political arrangement. A constitution designed for a huge continental state was transplanted to a small island. The 1947 Constitution itself was a hybrid arrangement that “combines elements of Leninist, presidential, and parliamentary systems in an ambiguous but adaptive amalgam” (Winckler, 1984: 485). It contained Leninist components because the party chairmanship was the center of authority to coordinate the entire party-state and to select all institutional leaders (Winckler, 1984: 485-6). When the party chair occupied the presidency, the system turned into a presidential one as was the case in the Chiang Kai-shek era. As the strong man Chiang Ching-kuo became the prime minister in the process of succession, the system functioned as a parliamentary one in which the cabinet was the center of decision-making and the president was the ceremonial figure (Kao, 1993: 53; Wakabayashi, 1994: 178).

This ambiguous institutional arrangement was itself a product of deliberate political compromise and prolonged bargaining mainly between the KMT and the CCP (Chinese Communist Party) from 1936 to 1947. As the KMT attempted to dominate the constitution-making, the CCP and its ally, the Democratic Alliance, were in constant confrontations with the KMT. The most powerful party, the KMT, favored the institution of a majoritarian presidency. This is consistent with a generalized proposition drawn upon East European experience that a dominant party will benefit from a strong presidency and thus its institutional preference will be shaped accordingly (Geddes, 1995: 261). Other small parties would better their chances of political survival in a parliamentary system in which the occupation of a pivotal position might give them great political leverage.
The lack of any previous electoral experience, however, led to high uncertainty under which each party had difficulty calculating its chances (Frye, 1997: 523). When various political forces gathered in 1946, their uncertainty about the future political landscape motivated them to design a mixed system that combined substantial presidential and obvious parliamentary components to secure their chances in the future games. Once the rival political force seized the presidency, the position of premier, the Legislative Yuan, and National Assembly could provide other institutional bases to split political resources or to countervail president. Accordingly, under the 1947 Constitution, the Legislative Yuan could not force the premier to resign if his bills were rejected; the Executive Yuan had no power to dissolve the legislature. Most presidential powers could not be exercised independently without premier’s countersignature and the Legislature’s checks (Ching, 1992: 470). Another tentative proposition may be drawn from this historical account, that is, facing great uncertainty about the relative strength of major political forces and about their electoral chance, a dominant party would tend to compromise with other smaller parties in choosing a hybrid institutional arrangement, under the condition that there exists at least two other small parties in spite of the dominant one.

The political deadlock and immobilism were overcome by the introduction of extraconstitutional measures and by the reliance on strong party discipline in the dominant KMT throughout the authoritarian period. In 1948, the KMT enacted the “Temporary Provisions for the Period of Communist Rebellion” that significantly expanded presidential powers by giving the president emergency powers to rule by decree. The Provisions also offered the legal ground for the president to retain his tenured position without being subject to term restriction (Wu, 1994: 201). It also allowed the president to set up a “National Security Council” behind which he could manipulate and eschew checks from the legislative branch. The hybrid design of the 1947 Constitution and unconstitutional presidential power prescribed by special provisions made institutional restructuring formidable.

(4) Politicized Ethnicity and Institutional Preferences
In May 1990, Lee Teng-hui was elected to the presidency by senior Assemblymen. An ordeal of institutional restructuring has unfolded ever since. Lee’s mainstream faction faced double challenges: resistance of mainlander elites to fundamental political changes as well as demands from the opposition party DPP for reform. The former held key veto positions in the KMT party machine, National Assembly and the Legislative Yuan, while the latter periodically mobilized supporters and organized protests against the authoritarian regime. This is a dilemma well portrayed by Machiavelli:7

“---for the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit from the new order, this lukewarmness arising partly from the incredulity of mankind, who do not truly believe in anything new until they have had actual experience of it. Thus it arises that on every opportunity for attacking the reformers, his opponents do so with the zeal of partisans, the other only defend him half-heartedly, so that between them he runs great danger” (The Prince, chapter 6)

In the turmoil of transition, according to E. E. Schattschneider, “the outcome of the game of politics depends on which of a multitude of possible conflicts gains the dominant position” (Schattschneider, 1960: 62). To better position themselves in the emerging political spectrum, elites of rival political forces attempted to exploit, cultivate, and consolidate the possible lines of cleavage to their advantages. Mainlander elites who had been attached to the old order attempted to maintain their domination. The long excluded political forces were eager to break down the KMT’s political monopoly by appealing to democracy’s majoritarian rule.

For Lee and his reformist faction, the only way to reverse the disadvantageous structure was to transform the transitional game into a majority versus minority conflict. Therefore, the Taiwanization of the KMT was a necessary transformation. For mainlander elite in the KMT, their first priority strategy was to insist on Chinese nationalism under which Taiwan is

7 Here the situation described by Machiavelli that highlights the reformers’ dilemma was identified by Lee Teng-hui himself in one of his public speeches. It was also mentioned in Stephan Haggard’s Pathways from the Periphery (1990: vi).
only one province of China so that the constitutional framework set up in 1947 would be preserved.

In other words, preserving the status quo provided by the 1947 Constitution was the mainlander elites’ first priority strategy; a power-sharing arrangement of any kind would be their second institutional preference. For Taiwanese in the opposition DPP, a majoritarian democracy built upon a presidential system was their first priority preference; a compromise of a hybrid system was their second choice to make in seeking the KMT reformers’ collaboration. As to the KMT’s mainstream faction, the best positioning strategy was muddling in the middle, portraying both rivals as extremists, and shifting alliances with both sides depending on different issues at hands. It is no wonder that the KMT’s mainstream faction never revealed its accurate constitutional preferences in advance since flexible maneuvering required no constitutional principles but precise calculations of power and interests at critical choice junctures.

In this context, elites defined and redefined their political interests in choices of political institutions by initiating ethnopolitics and national identity competition as instruments. Politicized ethnicity and national identity contests sneaked into battles over institutional choices (Chu & Lin, 1996). From the 1990 National Affairs Conference to the 1996 National Development Conference, Taiwan went through several rounds of constitutional revisions. In the process, the configuration of the party system and the equilibria of political forces underwent dramatic changes. By changing the KMT’s internal rules for electing party representatives, Taiwanese local politicians acquired great representation within the KMT,

which gradually marginalized the influences of the non-mainstream faction on party’s decision-making. Significant portions of the non-mainstream members formed the New Party in 1993.

Yet in examining the constitutional proposals presented by the New Party and the DPP, the majority/minority cleavage was still decisive in explaining their institutional preferences for parliamentarism and presidentialism respectively. At the bottom, politicians’ self-interested calculation underlies their institutional preferences.

(5) Presidentialism, Parliamentarism, or a Hybrid System?

As discussed above, the 1947 Constitution was actually a hybrid product that was designed out of a Machiavelli strategy adopted by constitutional makers to avoid miscalculation of interests and to deliberately increase the institutional ambiguity. Facing the new opportunity structure that emerged with the transition to democracy, politicians of competing forces who were attached to the preexisting institutions began to examine this government structure and calculate their chance of winning offices in the hybrid framework. Consistent with findings from comparative studies, the mainstream faction of the KMT, a potentially dominant player, tended to favor a strong presidency (Easter, 1997; Geddes, 1996: 22). This institution would endow Lee’s faction with tremendous resources. However, having been saddled with an uncertain outcome of internal struggle, the KMT reformers had kept their preference hidden until the DPP’s preference for strong presidency was clearly made public.

The DPP’s advocacy of a strong presidency has gone through several stages of strategic considerations. In the 1990 National Affairs Conference, although still indecisive between the American and French models, the DPP basically endorsed a strong presidency, leaving some space for allying with the KMT’s mainstream faction. From the electoral outcomes of the local executive offices, the DPP discovered that the electoral law of plurality benefits the DPP much more than the SNTV in the legislative elections. Put differently, when competing for the majoritarian political institutions, such
as mayorship and governorship, the gap between the DPP and the KMT appears rather narrow. The road to the presidential palace can be a short cut for the DPP to seize the regime, while under SNTV, with its tendency for overrepresentation of the biggest party, the DPP’s chance to win the majority of legislative seats is much smaller.

On the other hand, the non-mainstream faction, a passive defender of the old order, proposed different institutional options in safeguarding their diminished space in the new polity. As an elite group, the non-mainstream faction and later the New Party predictably argued against the majoritarian nature of presidency. They at first insisted that the 1997 Constitution be a parliamentary system under which the president is only ceremonial. Yet, by means of recruiting key mainlander figures into the position of premier, Lee’s co-optation strategy worked to dismantle this feeble collective front. In the latest round of constitutional revision in July 1997, a hybrid presidential system was created from the collaboration between the KMT’s mainstream faction and the DPP.

IV. Propositions on Politics of Institutional Choice

Until recently, scholars engaged in the study of institutions have focused on exploring the effects of various institutional structures rather than their causes. Even for those who work on the origins of institutional choices, their attention has been preoccupied by cooperation and coordination problems concerned by institutional economists. Arguments have been developed to provide good reasons for which institutional arrangement best produces optimal/efficient outcomes for society as a whole. Nevertheless, political institutions often generate significant distributive consequences for different political parties or forces; in other words, political institutions always create winners and losers depending on how the rules of the game are set up. Therefore, the designing of political institutions tend to reflect the preferences of the most powerful actors in the game of institutional choices (Knight, 1992: 19; McFaul, 1999: 29).

The above historical recollection of Taiwan’s constitutional choices and
the brief sketch of Japanese and Spanish experiences help sum up to a set of propositions that delineates the complicated relationship between the shifting structures of power, politicians' interest and preferences as well as institutional design in the prolonged period before and during regime transition. The pre-existing structural legacy is most sticky in those new democracies in which incremental reforms had prevented an abrupt ending of the ancien regime. During the regime transition, the former ruling parties may crumble, split, dissolve, or transform themselves with new party labels just as many former socialist parties did. Regardless of their ideological stands, in case there is still a dominant political party, a strong presidential institution would be the first institutional priority for the dominant player. Taiwan's KMT and Poland's Solidarity both enjoyed the predominant position in crucial constitution-making junctures; thus not surprisingly, both created a hybrid regime type with the combination of a strong presidency and some parliamentary elements. With the split of Solidarity into several small parties, politicians in the highly fragmented party system have tried to reform its hybrid constitutional system away from strong presidency with the replacement of more parliamentary weights in its decision-making structure.

In case a dominant political party no longer exists, the configuration of power within the opposition camp matters. Party fragmentation would make the strong presidency least attractive to those small parties. In Czechoslovakia, the allied Civic Forum and Public Against Violence were a loose political alliance; their joint victory in the first parliamentary election had made the crystallization of a parliamentary democracy hardly reversible. In Hungary, according to Arend Lijphart (1994: 208), "the Hungarian communists wanted a semi-presidential system in which a popularly elected president, presumably the well-known reform communist leader Imre Pozsgay, could counterbalance the parliamentary opposition majority. However, two of the major democratic parties refused to sign the round table agreement and initiated a referendum, narrowly approved by voters in 1989, which stipulated that parliamentary election take place first and then the president would be elected by the new parliament". The development also set up a parliamentary democracy due to the factor of path dependency.

In sum, some tentative propositions could be drawn from the above
analysis, though still up to more detailed comparative studies to test against their application to other transitional democracies. First, incumbent elites in an oligarchical structure tend to favor a pure form of parliamentarism. Spain, Japan, and the KMT old guards fit into this pattern. Second, when there is a dominant political party survived the regime transition (e.g. Lee Teng-hui's KMT and ex-Communist parties with new party labels in Eastern Europe) or emerged in the process of party reshuffling, elites in this dominant party tend to favor the creation of a strong presidency with substantial decision-making powers, in that they are confident in winning this majoritarian post. In this category, we see Solidarity in Poland strongly advocated a majoritarian institution of presidency, while other smaller parties opted for a parliamentary government in which they could have greater maneuvering power on forming government and influencing policies. Then hybrid regime type was the outcome of their bargaining. The institutional variations of hybrid regimes are originated from the distribution of bargaining powers between the dominant political party and other smaller ones in the constitution-making setting. Poland's round table negotiations in several phases of constitutional changes provided evidence to support the above proposition. With the decline of Solidarity and its later split into several factions and parties, Poland's strong presidency was weakened and the parliamentary elements were strengthened obviously in the 1995 new constitution. Third, as there is no single dominant party and the distribution of power in the multi-party system is fragmented and relatively speaking, equally allocated, as shown in the case of Hungary, a stable parliamentarism could be expected to stay in place and strong presidency would never an institutional preference for politicians of any party affiliation.

In light of this realistic perspective on institutional choices, I presented a set of propositions that situated the rational choice-centered contingency explanation in a structural context. There exist some patterns of institutionalization in regime transition that must be explored with considerations of structural legacy and mode of transition. It could not be casually explained away with a simplistic logic of power struggles and strategic interactions between rational actors.
V. Conclusions

Literature on designing or restructuring political institutions for new democracies has shown a dualistic juxtaposition of “interests” versus “ideas” as well as “strategic rationality” versus “normative appeal” (Offe, 1996). While the normative-oriented thinking focuses on norm, values, and morality of institutions, the interest-based reasoning emphasizes the creation of favorable incentive structure conducive to democratic consolidation (Ordeshook, 1995). Appeared dichotomous on the surface, these two approaches to institutional design share a similar voluntarist overtone on “engineering” or “crafting”. As one analyst puts it, “the transition process in the East has been a gift from heaven for social engineers from the West. They have responded with all sorts of models, proposals, and schemes for the development of new institutional arrangements in the region” (Pejovich, 1993: 65-6). However, the “engineering” approach may carry too much wishful thinking.

Even the most realistic-minded work, which centers on how politicians’ purposive rationality dominates the choice of political institutions, does not delve deeply enough about politics of institutional engineering. If two assumptions are true that political institutions are man-made and politicians are self-interested in choosing institutions, how can we expect any politician to transcend their own political interests in creating specific goal-oriented or norm-serving institutions? Here I present a bold proposition: certain kinds of distribution of power or cleavage of interests existing or emerging at the constitutional moment are associated with certain kinds of institutional choice. Structural conditions matter as much as individual politicians’ rational calculation does. Politicians’ institutional preferences are shaped by their pursuit of self-interest; they will not compromise if they can dominate the process of institution building. In case the existing political structure requires them to accommodate conflicting interests, creative solutions are likely to be proposed as the American founding fathers did.

This perspective helps demystify those success stories in which major constitution makers seemed to have both foresight and higher morality in
transcending the innate self-interest and short-sightedness of human beings. True, as claimed by Peter Ordeshook, the Framers of the United States constitution had a keen sense of the political significance of self-interest so that a sensible incentive structure that takes self-interests into account was created. The belief that “ambition must be made to counteract ambition” was substantiated in the constitutional text and became constitutional norms to be followed by new democracies. Deep down, however, it may be the underlying cleavage structure, be it political or economic, that facilitates such creative solutions as federalism and separations of powers. And the ultimate component of an successful institutional design is that an abstract philosophical principle, namely constitutionalism, is formulated and becomes an immortal founding myth that sets up parameters for shaping the world views of ordinary citizens. This line of reasoning is consistent with a positivist theory of ideology coined by Douglass North\(^9\) (1981: 45-58). Only political scientists can take the niche and dig out the political origin of constitutional ideology formation, an important issue often neglected by philosophers, economists, and legal scholars.

The current constitution-making process in new democracies is doomed to be messy and demoralizing in the eyes of observers with yardsticks of western experience. But the democratic latecomers’ experience may reveal and reflect more truth about constitutional politics. No matter what slogans and propaganda are used as a disguise, constitution making is an elite process. Constitutional ideas developed by advanced democracies are taken up by political forces, integrated with other ideological appeals, to enhance their chance of winning public support for the institutional choices they prefer. The political dynamics of regime transition makes certain political interests dominant, certain constitutional ideas most effectively articulated, and consequently, the institutional framework that the predominant interests

\(^9\) North did not delve deeply into political and intellectual entrepreneurship of ideology on which modern economic institutions, notably, the private property system, were built and consolidated. In addition, he did not make it explicit that, in the early development of modern capitalism, nationalism or more specifically, the modern nation-state system, served to overcome the free rider problem, to overthrow an old order, as well as to rationalize and maintain a new order. In fact, the neoclassical explanation of institutional emergence and change sidetracks the “politics” of institutional building.
favor will be most likely to emerge.

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制度選擇的政治邏輯：
比較政治觀點下的台灣

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摘　　要

當前有關制度分析的文獻大多將制度因素視為自變項，據以探索其對個別行為者產生的制約以及對整體政治、經濟與政策的影響。然而，制度究竟是如何產生的？這個探討制度起源與制度選擇的根本問題較少被觸及，一般性的解釋又大多接受經濟學中交易成本的概念架構，將制度的設計視為解決人類合作與協調困境，降低交易成本，並提昇效率的機制。本文認為，制度選擇的政治面向並未得到充份的研究，特別是對於政體轉型過程中民主制度的選擇，並不是在政治真空的理想狀態下作出的，遊戲規則的重新設計直接影響政治資源的重新分配。因此，本文嘗試結合理性選擇途徑與歷史結構分析，提出一個適合解釋政體轉型過程中制度選擇的動態架構，其中，威權體制的結構遺留與民主過渡的模式為最重要的變數，形塑各主要政黨的制度偏好，並制約政治菁英在制度選擇過程中的策略性互動。這個架構嘗試找出結構、制度以及菁英的理性選擇三個分析層次間的因果關係，期望成為另一種比較制度分析的起點。

關鍵詞：制度選擇、結構遺留、轉型模式、制度化工程、策略性互動

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