

Constitutional Design In Taiwan: Presidential versus Parliamentary Systems

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With calls for greater democratization, the debate over constitutional reform now preoccupies Taiwan's political agenda. One component of that debate is about the selection of president. Although many details remain to be decided, it now seems evident that Taiwan is headed for some form of direct voting for president. Although such a procedure suggests the implementation of a presidential form of government, a number of persons continue to express a preference for a parliamentary system with proportional representation. Indeed, until the relative powers of the president are determined, we cannot exclude the possibility that a prime minister will be the crucial political figure in the ROC. Thus, before elaborating on certain key points about election procedures, we first want to consider whether a presidential system is preferable to a parliamentary system.

In offering our evaluation, we realize that history and politi-

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cal theory teach us that a stable democracy can take many different forms, and that there is no electoral mechanism that satisfies all possible criteria we might deem desirable. A considerable body of theoretical and empirical research has established that every electoral mechanism suffers from certain defects. And the stability of different forms across countries suggests that political institutions can be molded to suit historical and cultural experiences. There is nothing inherently unreasonable about any system provided that it is not manipulated to benefit one sector of society at the expense of another. Nevertheless, we argue that the ROC ought to prefer a presidential system over a parliamentary one and that procedures that encourage parties to seek intergroup compromise and accommodation are preferable to those that seek to ensure proportional representation.

Presidential versus Parliamentary Systems

We begin by defining terms. First, we assume that a Presidential system has two components. The first component is a separation of powers among legislative, executive, and judicial branches, where the authority and power of these branches is approximately coequal. The second component, which fits this form of separation, requires that the selection of a president be made in an election that is independent of the selection of members of the legislative branch. Although the rules of such an election can vary, in their simplest form a candidate for president is declared

the winner if that candidate receives more votes in a direct national election than every other opponent. Typically, direct elections also require that this candidate receives more than some pre-specified percentage of the popular vote (generally, 40%), so as to preclude a candidate from winning with an overly small base of support. If no candidate receives 40% of the vote, the final selection is made by the legislature of requiring a runoff election between the two strongest candidates. (Later we will discuss the consequences of allowing the National Assembly to act as a mediator between the popular vote and the selection of president).

In contrast, a parliamentary system leaves the executive branch subsidiary to the legislature, because it requires that the legislature (parliament) selects the chief executive officer. A president, if such an office exists at all, is of secondary importance to the prime minister who heads the state at the discretion of the legislature. In turn, proportional representation is secured by requiring that seats in the legislature be allocated among political parties on the basis of each party's share of the vote in a national election--the party-list PR system. Some "cutoff rule" is usually employed so that parties receiving less than some pre-specified percentage of the vote are not given any representation in the legislature (for example, 1% in Israel, 5% in West Germany). A large number of variants of proportional representation exist, but we will focus on the simple one just described.

Naturally, choosing between these two political systems requires that we consider a great many issues. But because we are concerned here with the means whereby the national government's chief executive officer is chosen--president or prime minister--we focus on three issues:(1) the processes whereby a political system allows for compromise;(2) the mechanisms whereby the legitimate rights of minorities are represented and protected; and (3)the sources of political stability and instability.

1. The Process of Compromise

Aside from the political advantage they may see for themselves in a particular arrangement, those who advocate a presidential system place emphasis on the necessity for a check and balance among branches of government, while simultaneously arguing that the direct election procedures it admits are more "democratic" because they allow for a direct expression of the "will of the major." Advocates of parliamentary government, on the other hand, argue that power ought to be centered in the legislature selected using some method of proportional representation, because the only power based on a proportional representation of interests in society is "fair." Both of these arguments, however, are questionable. First, proponents of direct election typically abide by an overly simplistic view of democracy. To put the matter simply, although majority rule, in one form or another, is at the heart of all democratic politics, any stable political system must be prepared to deal with the fact

that oftentimes no policy proposal, no candidate, or no coalition government is most preferred by a majority of voters or legislators to all other possibilities. What, for example, is the "majority will" if 40% of the electorate prefers policy X to Y to Z, if 30% prefers policy Z to X to Y, and 30% prefers Y to Z to X? We might believe that policy X ought to be selected because it is preferred by the most people. However, notice that a majority prefers Z to X. But to further confuse matters, notice also that a majority prefers Y to Z and yet another majority prefers X to Y. So the social preference is circular and undefined. Hence, to build a political system on the assumption that there is always a well defined "majority will" that elections must measure and which is identified by simple majority voting is to build on sand (Arrow, 1963; Riker, 1982a, Ordeshook, 1991)

The essential component of a democracy, then, cannot be its ability to represent some ill-defined majority will. Rather, that component is something simpler--specifically, a democracy is a system of government that allows citizens to use majority rule in some form to periodically review public office holders and to replace them if necessary (Riker, 1982a). In other words, democracy legitimizes revolution but renders the act of revolt civil and subject to preset procedures.

In defining democracy in this way, however, we can use our example to establish that the institutions that guide this process of review and replacement must be designed with the realization

that even if voters are perfectly informed about all matters, there is rarely a simple translation of public opinion to public policy. Regardless of whether we select alternative X, or Y, or Z, or some alternative in between, one or more groups in society must be prepared to compromise -- must be prepared to demand something less than their ideal preference. Hence, negotiation and compromise are essential parts of politics and in designing any democratic system, we should suppose that majorities -- both in an electorate and in a legislature -- are constructed from minorities, where each minority must be willing to compromise on issues it holds dear.

The relevance of this fact to the debate over presidential versus parliamentary systems is that each type of government forces the process of compromise to a different point in the political system. The direct election component of presidential election systems, because of the competition it establishes among parties, generates powerful forces for the emergence of a two-party system. Owing to the necessity of securing a positive plurality of the vote in order to win the chief prize -- the presidency -- parties must expand their electoral base by eliminating third parties either directly by absorbing the members of such parties or indirectly by coopting the policy positions of these parties (Downs, 1957; Duverger, 1954; Riker, 1982b). Even if great economic or social upheavals produce third parties, their presence on the scene is temporary -- they or their policy platforms

are either quickly absorbed by one or both major parties, or they themselves absorb a preexisting party so that only two survive. We note, by way of example, that even during the great depression of the 1930's, minor parties in the United States never secured more than 8% of the vote in any national election.

This process of absorption and reformation, much of it anticipated by the two major parties so as to block viable third-party opposition, has compromise at its root. As each party seeks to secure a majority of the national popular vote, it must necessarily participate in and even foster political compromise, because absorption and cooptation requires that preexisting interests within the dominant parties negotiate the policy positions associated with their party.

Parliamentary systems are different. In them the necessity for compromise is postponed until that time at which a government must be formed in the legislature either through the selection of prime minister and the formation of a governing coalition. With the demands for compromise lessened in the electoral stage, parties remain ideologically pure, unwilling to compromise their identity in the electoral arena (Hermens, 1972). Moreover, no longer feeling the necessity for majority control as the sole basis of political representation, parties can proliferate and sustain themselves with even small shares of the vote. After all, even a small party can hope that it will be pivotal for creating or dissolving a government in parliament.

In presidential systems parties perform the task of compromise that the legislature performs in a parliamentary system, so that one advantage of a presidential system is that this compromise process is moved closer to voters and even affords them the opportunity to participate in it. The advantage of parliamentary systems, on the other hand, is that it makes the process of compromise more visible -- this process is directed less by the "invisible hand" of electoral competition than it is by the explicit negotiation among competing and readily identifiable blocks of politicians represented by distinct subsets of voters.

There are no simple criteria for deciding that compromise at one point is preferable to compromise at another. Our prejudice with respect to the Republic of China of Taiwan, however, is to prefer compromise at the earliest stage possible. At present, the most serious division in the society is an "ethnic" one between "mainlanders" and "Taiwanese" and it is best if such a division is not cemented permanently into the political system in the form of parties designed to reflect it. Moreover, because implicit compromise is less likely to arouse those inflamed passions that might destabilize a political system, we are led on these grounds to prefer a presidential system with a direct election over a parliamentary system.

2. Minority Rights

The issue of mainlanders versus Taiwanese conflict, however, moves us to the second issue -- minority rights. Advo-

cates of parliamentary government argue that proportional representation is somehow fairer than direct election because, by giving representation to significant minorities, we provide a firmer guarantee of minority rights. Proportional representation, then, seems to accommodate the fact that although public opinion many, from time to time, be sufficiently uniform so that there is a clear majority preference, democracy must recognize that minorities have legitimate rights that must not be allowed to be abrogated by any majority. None of us should regard Nazi Germany's extermination of Jews as legitimate, even if we believe that a majority of Germans would have approved of such an action or even if Hitler had been elected in a direct popular vote (and almost certainly Hitler would have won election in 1938).

The presumption that the multi-partyism of parliamentary systems better serves the interests of minorities, however, is not obvious to us. First, although minorities cannot establish viable parties that match their views in a two-party system, they nevertheless can force the two major parties to respect and even champion their interests. For example, American politician would rarely forsake the opportunity to appear more "pro-Israel" than his election opponent despite the fact that Jews constitute only a small percentage of American society (and despite anti-semitic assertions of the existence of a "Jewish conspiracy" in the form of election campaign contributions and of politicians bought and

sold, the data prove otherwise). Thus, although the representation of various minorities in the compromises that must be negotiated in a democracy occurs explicitly in parliamentary systems through minor parties, we should not assume that a similar systems through minor parties, we should not assume that a similar representation cannot occur in a direct election, two-party system -- the sole difference being that in a direct election system the process of compromise and accommodation of minority views occurs informally within the structure of the two major parties.

It is sometimes asserted, nevertheless, that although this argument for direct democracy is correct for a large society such as the United States, it cannot be valid for a smaller entity such as Taiwan. The United States consists of countless interests that divide the population in every conceivable way -- indeed, nearly every American can be said to belong to many minorities simultaneously as identified by race, religion, ethnic origin, occupation, income, and hobby. With minorities so numerous, no interest can, by itself, command a majority, and in such a system, informal compromise and accommodation are natural (Dahl, 1956). Americans understand and appreciate the process of compromise because their society would cease to exist without it. In such a heterogeneous society, the argument continues, a political system that allows formally for proportional representation in the legislative branch of government would only lead to

incoherence and eventual paralysis.

On the other hand, in a more homogeneous society such as Taiwan's proponents of proportional representation argue that minority rights are less well protected by the informal devices of party competition. The problem for advocates of proportional representation, though, is that they appear to be arguing that the appearance of representation is itself a goal rather than a means to some end. They ought to be concerned with the fact that explicit representation guarantees nothing -- minorities in the electorate will remain minorities in the legislature. And there is no reason to suppose that if an interest is not pivotal in the electorate -- if it is ignored by the major parties -- it can nevertheless be pivotal in legislature (Horowitz, 1991). What is the precise logic whereby we can assert that some minority interest is not so powerful in the electorate that the major parties in a direct vote would feel secure in ignoring it in the rush to win an election, but that somehow the simple representation of this interest in a parliament guarantees its supporters greater influence over policy? Thus, for example, although no Jew or Black has ever been nominated for the presidency by either the Democratic or Republican party in the U.S., the political platforms of both parties with respect to civil rights and Israel remind us that politicians in both parties view Jewish and Black voters as critical to their electoral success. Neither group's political effectiveness is hurt by the fact that there is neither a "Jewish" nor a "Black" po-

litical party in the United States competing for the presidency or for seats in Congress.

We understand, of course, that symbolism is a powerfully important factor in democratic processes, and perhaps the symbolism of representation afforded by a multi-party proportional representation system has value. Certainly, Jews, Blacks, Italians, and women take some pride in the fact that they are represented in the U.S. Supreme Court as well as in Congress. But it should be understood that the presumed importance of this symbolism has as its base an incomplete argument about how minority rights are guaranteed in a democracy. Parliamentary proportional representation seeks to provide a guarantee by a purely mechanical means, although its guarantee is insecure owing to the fact that some minority must lose in the parliamentary process of government formation. Direct election, on the other hand, bases its guarantee on competitive imperatives that are much like the forces that drive economic markets to efficiency. To paraphrase Adam Smith, in a direct democracy it is neither the well tuned constitutional phrase nor the goodwill of the politician that preserves the liberties and rights of minorities -- rather it is the necessity on the part of politicians to secure the support of minorities in the competition for public offices.

One final note is in order with respect to the issue of the fair representation of minorities. One of the critical decisions that must be made in designing a parliamentary system is how small a

share of the vote a party is allowed to receive before it is excluded from the parliament. If we set this cutoff "too high," we exclude minorities from representation and thereby negate the system's presumed benefit. On the other hand, if we set the cutoff "too low," the parliament will be fractured in a potentially incoherent mass of minor parties. In fact, if we set the cutoff low so as to allow many minor parties, we can inadvertently give the major parties too much bargaining power. With multiple minor parties, the largest parties can play one off against the other as they negotiate to form a government and thereby limit their bargaining power until, in the end, the interests these parties represent are reduced to nothing.

3. Political Stability

Turning now to our third issue -- political stability -- it is useful to discuss why the framers of the U.S. Constitution, despite their aversion to a king, established a presidential system whereas European democracies subsequently opted largely for parliamentary systems with some form of proportional representation. Although the original thirteen American colonies encompassed a large geographical region compared to most European states, they constituted an essentially uniform society with a strong ethnic tie to Britain. Dutch and Germanic minorities existed along with a variety of religions, but these divisions were not salient; and with a consensus over the necessity for separating church and state, there seemed little reason to require propor-

tional representation for any group. For Americans at the time, the source of factions within the society was not ethnic, class, or religious cleavages, but rather the distinctions that arose naturally from variations in wealth, property, and the different ways in which people pursued their livelihood. European society, on the other hand, had long been characterized by far deeper social divisions, and the negotiations leading to the formation of constitutional democracies could not overcome the demands for a formal representation of conflicting interests that were believed to be the elementary components of society. Subsequently, considerable instability characterized many of these governments. The extent to which societal cleavages were at the root of this instability remains a subject of debate, but it is evident that parliamentary systems embodying proportional representation were designed more with an eye towards allowing the continued representation of those cleavages than they were towards forcing their eventual dissolution. Political stability, of course, cannot by itself be an ultimate goal since authoritarian dictatorships are oftentimes stable -- at least during the natural lifetime of the dictator. On the other hand, although it seems evident that presidential systems that are unstable (e.g., several Latin American republics) would be no less unstable under a parliamentary system, there are reasons for supposing that those parliamentary systems that have exhibited instability at one time or another (e.g., Israel, Italy, France) would have been more stable if they abided by a

presidential system. The roots of instability in Latin America lie in the authority afforded the military. The instabilities of European parliamentary democracies, on the other hand, derive from the fact that compromise in a parliamentary system is less permanent than the compromise that occurs within the political parties of a two-party system. In this instance, then, there seems to be a constitutional cure for instability of both sorts -- a meaningful presidential system.

The issue for Taiwan, then, is whether mainland-Taiwan ethnic conflict should find formal recognition in the structure of its political parties, or whether the ROC should design its political system so as to seek the long term dissolution of this issue. We believe that this issue, regardless of the substantive form it might take in terms of economic interests, is transitory, and that the ROC ought to adopt a political system that ignores this temporary feature of its society -- a system that will act to hasten its elimination as a salient political issue.

Direct election Procedures

Having thus argued for a presidential system with some form of direct vote for president, we now want to turn our attention to some of the details of presidential election procedures.

Assuming that a president is elected in a direct popular vote without the intervention of the National Assembly, we now study the properties of such an election procedure. One issue con-

cerns its influence of the role of public opinion polls. Suppose, for example, that there are three candidates, A, B, and C, suppose that 30 percent of the electorate ranks A first, C, second, and B last; suppose 25 percent prefers C to A to B; and suppose that 45 percent refers B to C to A. Thus, in a simple direct election candidate B wins 45% of the vote against 30% for A and 25% for C. Notice, though, that some voters, on the basis of pre-election polls, may cast their votes strategically for their second choice in order to avoid voting for certain losers. Specifically, voters who most prefer C might realize that voting sincerely allows their least preferred candidate, B, to win, in which case some or all of these voters might choose to vote for a second choice, A. Thus, to the extent that voters use polls in deciding whether or not to act strategically, we should anticipate that parties and candidates will exert considerable effort at manipulating pre-election polls in order to influence the result of the first election. In other words, direct elections can politicize public opinion polls in ways that we might prefer to avoid.

The issue of strategic voting, however, is inconsequential when compared to some other possibilities that direct voting admits. Looking once again at our example, even though the number of voters who rank B first exceeds the number who rank A first or who rank C first, we should ask whether the election of B is fair. In particular, notice that we have constructed an example in which although only 25% rank C first, no one ranks C

last. Consequently, a majority of voters prefer C to B, and a majority prefer C to A. in fact, B loses even when paired against A. It seems, then, that a simple direct vote can select the "wrong" candidate. Moreover, what is especially disconcerting is that such possibilities are most likely whenever two "moderate" candidates (A and C) divide their support so as to allow an extremist candidate (B) to win.

Another related detail concerns the cutoff provision. It would, of course, be satisfying if every president could be elected with a majority of the popular vote, but even unimportant parties can preclude this possibility in close contests. The fact that persons such as Lincoln, Truman, and Kennedy would not have been elected to the U.S. presidency under a requirement that a person receives a clear majority of the vote warns us of the mischief that can be exercised by small parties and otherwise irrelevant candidates. Lowering the vote quota required for election to something less than 50% decreases the influence of such small parties. However, the example of the Marxist victory of Salvador Allende in Chile in 1972 and the subsequent dissolution of democracy there at the hands of a military junta, reminds us of the dangers of a direct system that fails to impose any minimum vote requirement. Thus, a number such as 40% can be viewed as a reasonable compromise.

In the event that no one receives the required vote quota, there are two options:(1) a runoff election between the two can-

vote share that a victorious candidate must secure, it is not unreasonable to conjecture that we are simultaneously increasing the incentives for the formation of third parties who prefer to block the straightforward election of a president on a single ballot (Duverger, 1954; Riker, 1982b). The incentive here, of course, is that such minor parties might seek to force the two major parties to bid subsequently for their support. Although such bidding can be a normal part of democratic process, it can also appear unseemly and present itself as an undesirable source of corrupt negotiation.

Next, we consider whether the direct election of president should in fact be direct popular vote or whether it should be mediated by the National Assembly. If members of the National Assembly were all elected in a single year, the Assembly could operate in the same way as the electoral college operates in the U.S. The idea of the electoral college, as originally envisioned, was that voters would select informed representatives who would in turn choose a president -- a procedure presumed to be necessary in a geographically diverse society with voters insensitive to issues outside of their region. Technology and the invention of political parties undermined the electoral college's purpose in the U.S. And although Taiwan is too small an island and its citizenry too well informed to worry about such matters, a purpose for such an indirect election mechanism can still be envisioned on the mainland.

didates with the largest initial share of the vote; and (2) selection by the legislature. Of these two options, the second seems most open to political intrigue that can undermine a president's authority. Even today historians refer to the selection of John Quincy Adams in the U.S. as president over Andrew Jackson in 1824 by the House of Representatives, even though Jackson secured a larger share of the popular vote than Adams, as the "corrupt bargain." The additional strategic complexity that legislative selection introduces is that if a party's strength in the legislature does not correspond to its electoral support -- if the party that controls the legislature believes that it is about to lose the presidency -- that party may have reason for encouraging the candidacy of a third-party candidate so as to force the election into the legislature.

Requiring a runoff election between the two top vote-getters if neither receives a prespecified share of the vote has been regarded as a refinement of the direct election. Even the strongest advocates of direct election admit that such refinement is desirable. But notice that candidate C, even though it is excluded from the runoff, still defeats both A and B in pairwise votes.

To further complicate the matter, we argue that a direct popular vote with a runoff provision may affect a country's party system. To see the source of the uncertainty over the effect of a direct vote on the number of parties likely to compete in an election, notice that if, with a runoff provision, we increase the

Using the National Assembly as an electoral college, however, introduces a new issue. This issue concerns how members of the National Assembly ought to be elected. One possibility is that they can be elected on a district-by-district basis (which raises the subsidiary issue of whether districts should be singly- or multi-member). This method tends to magnify the power of the largest party, which gives the impression of a more decisive outcome and perhaps grants greater legitimacy to the victor. One disadvantage is that if members are elected on a district-by-district basis, then drawing district boundaries or determining district size are likely to be perennially divisive issues. In the U.S. it is generally agreed that the use of electors confers some benefit to Republicans owing to how Democratic and Republican voters tend to be distributed across states. However, because this bias is not the consequence of any strategic drawing of state boundaries, it is not regarded as a basis for interpreting current electoral arrangements as "unfair." In Taiwan, on the other hand, National Assembly districts may have less permanence than state boundaries in the U.S. (since changing those boundaries would require a constitutional convention no less sweeping than the one that established the original constitution in 1787), and therefore those districts are more susceptible to manipulation by the party in power.

A second disadvantage, however, is that it leaves open the possibility that someone can be elected without a plurality of the

popular vote. Because if electors are selected on a state-by-state basis, with the popular vote winner in each state being awarded all of that state's electors, distributing one's vote across states in the right way allows a candidate to win a majority of electoral votes with less than a positive plurality of the national popular vote. (For an abstract example, if the U.S. were to consist of only three equally populous states, and if one candidate received 51 percent of the vote in two of those states but none in the third, then this candidate, owing to his plurality in two of the three states, would be elected president even though his overall share of the vote equals 34 percent.) Such events occurred in 1824, 1876, and 1888, and the election between Nixon and Kennedy in 1960 was sufficiently close that it is still possible to argue that Nixon was the national popular vote winner.

Conclusion

To this point the issues we have raised seem to leave us undecided as to which election procedures ought to be preferred. The reader should understand, however, that this discussion is not made with the same force as is our argument for a presidential as against parliamentary system. We offer merely suggestions so as to be certain that the issues we raise are understood and debated. To conclude, we offer one final word of caution. The choice of a presidential selection procedure is only one of the issues that must be considered. Another issue is the role and pow-

er of the president. As we note in this essay's introduction, selection procedures matter little if the president is without power. So to the extent that Taiwan chooses an election system that mirrors that of the United States and towards which the Soviet Union seems to be headed, it must also mirror the remaining components -- a power balance among the several branches of government. To do otherwise leads either to a dictatorial presidency or to a dictatorial legislature, and in either case the ultimate sovereignty of the ROC's citizens is jeopardized.

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論文摘要

隨著民主化的要求，有關憲政改革的辯論成爲台灣當前政治議程中首要之務。在此辯論中的一項議題爲總統產生方式問題。雖然許多細節仍待決定，有跡象顯示台灣將傾向某種型式的“總統直選”。但即使如此的程序意謂著總統制的實行，仍有部分人繼續表示其對內閣制與比例代表制之偏好。事實上，在總統的相對權力量有所決定之前，我們不能排除行政院長仍將扮演關鍵政治角色可能性。因此，除了有關選舉程序的外，本文將考慮總統制是否優於內閣制的課題。

在提供我們的評價時，我們了解：歷史和政治理論告訴我們穩定的民主，是可以採取許多不同形式，而且沒有任何一套選舉制度可滿足我們所冀望所有可能的標準。從許多國家在不同政府形態下所呈現的穩定來看政治體制度可依歷史和文化經驗加以型塑。只要其不是被用來犧牲某些人來成全另一些人，任何一種制度都有其合理之處，而難謂其先天上必有問題。儘管如此，我們認爲中華民國最好能採總統制而非內閣制，因總統制鼓勵政黨尋求團體間的妥協與融通，這應優於內閣制所強調的比例代表性。