After Hegemony: State Capacity, The Quality of Democracy, and the Legacies of the Party-State in Democratic Taiwan

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Taiwan is one of the resounding success stories of the Third Wave of democratization. Beginning in 1986, it transitioned over a 10-year span from a repressive autocracy to one of Asia's most liberal and vibrant democracies. Although it has faced some challenging moments since, today Taiwan's democracy appears to be of high quality and well-consolidated. In 2017, Taiwan was ranked "free" by Freedom House (2018) with an overall score of 93/100, second in East and Southeast Asia only to Japan's score of 96, and significantly better than Mongolia (85), South Korea (84), the Philippines (62), Indonesia (64), East Timor (69), Hong Kong (59), Singapore (52), Thailand (31), Myanmar (31), and Cambodia (30). Findings are similar for other democracy barometers such as the Polity IV project (2016), the Varieties of Democracy (Huang, 2017), and the Bertelsmann Transformation Index (2018). Taiwan also scores high to very high on rule of law (World Bank, 2015; GAN, 2016) and freedom of media indicators (Reporters without Borders, 2017), consistently leading the region on the latter.

As both a "late developer" and an even later democratizer, Taiwan is a case that appears to fit nicely with the sequentialist argument laid out in the introduction and Chapter 2 of this volume: to get high-quality democracy, first build state capacity, and then (and only then) introduce popular elections.[1] The consolidation of Taiwan's democracy has clearly been aided by the prior existence of a high-capacity state. Most notably, well-run elections, the unquestioned supremacy of elected civilian leaders over unelected ones, and a highly-institutionalized party system are major strengths of the contemporary democratic regime on Taiwan that can be directly linked back to the character of the state in the pre-democratic era. But the Taiwan case does not necessarily contradict the alternative, nexian perspective, either: the high capacity of the state appears to have had at best no effect, and at worst actively undermined the establishment of, a robust rule of law and protections for civil liberties. These have improved in Taiwan despite, not because of, the legacies of the authoritarian era, and for the most part have trailed, rather than preceded and facilitated, democratic deepening. Indeed, arguably the most important lesson to be taken

[1] Or at least, elections for the central government. The regime on Taiwan allowed contested elections for local offices beginning the early 1950s, even as the central level remained off-limits.

from the Taiwan experience is the power of initial conditions to shape the quality of democracy over the long run. There is remarkable path-dependence in the Taiwanese regime's democratic evolution: most of the prominent strengths and enduring weaknesses of Taiwan's democracy can be traced directly back to the survival of the former hegemonic party, the Chinese Nationalist Party or Kuomintang (KMT) at the advent of democratization over 30 years ago, and to the gradual, legacy-preserving way that the transition unfolded.

At the beginning of the democratic era, the state in Taiwan had at least four distinct features that set it apart from the other cases in this volume: a "bifurcation" between a high capacity, high autonomy central government and deeply socially embedded local governments, a fused "party-state" regime, a vibrant but fragmented and shallowly-rooted civil society sector, and a business community with only limited influence over the central government. These features have together shaped a distinct kind of democratic political regime in Taiwan. On the positive side, the comprehensive extension of state authority into the furthest reaches of Taiwanese territory during the early martial law years in the 1950s, along with the high professional capacity of the state's agents and its population registration system, combined to enable the development of a very high-quality system of election management even under martial law (1949-1987). In addition, the Leninist-style fusion of party and state ensured the thorough penetration of and control over military and security agencies by the civilian (party) leadership, so that at the advent of the transition to democracy the top leaders of the KMT regime enjoyed uncircumscribed authority over all parts of the state. And while these leaders were unaccountable to Taiwanese citizens until the 1990s, the introduction of full, direct elections for the legislature (in 1992) and the president (in 1996) settled this matter for good; national elections now confer on their winners the fully effective right to rule, with no reserved domains for unelected officials.

The gradual nature of the transition to democracy, and especially the survival of the hegemonic ruling party into the democratic era, also had some surprisingly salutary consequences for the quality of the subsequent regime. The KMT was able to preserve the vast organizational and financial resources it built up during the pre-democratic era for use in fully contested elections, giving it a systematic advantage over opposition party challengers and helping it stay in power (cf. Hellmann, 2013). While this legacy presented an obvious stumbling block to democratic consolidation, it also had some beneficial effects (cf. Loxton, 2015). Chief among these was the institutionalization of the party system: the KMT was willing to allow open contestation for elections that it expected to win, and unlike in Korea, opposition to the regime was channelled into electoral mobilization rather than mass protests (Cheng and Hsu, 2015; Hellmann, 2011: 67-96; Mobrand, 2014). The opposition party also prioritized expansion of political rights and a relaxation of restrictions on campaigns, and the KMT leadership acceded to these reforms because of its electoral strength (cf. Slater and Wong, 2013). As a consequence, Taiwan's democracy now exhibits broad respect

for the full array of political rights, including freedoms of speech and assembly, the right to start new political parties, to organize and demonstrate for political goals, and to campaign for office unhindered.

On the less positive side, Taiwan's civil rights regime, while well-regarded today, continues to suffer from weak legal foundations. In the pre-democratic era, the KMT and the state dominated the judiciary and subsumed legal decisions under party and bureaucratic control (Chisholm, 2014). The transition to democracy occurred well before the consolidation of an impartial rule of law regime, and as a consequence, reform of the judicial branch has continued to lag behind progress in other areas (Chang, 2018). Likewise, horizontal accountability has been incompletely institutionalized, despite the regime's formal separation of powers. The main check on the executive branch in practice comes from the legislature, not the judiciary, and legislators in turn are motivated mostly by partisan concerns rather than institutional ones. When the same party controls both branches, as has been the case since 2008, horizontal accountability is significantly weakened. Thus, Taiwan's highly developed state at the beginning of the democratic era appears to have had at best no effect, and at worst actively undermined establishment of a robust rule of law and protections for civil liberties. These have improved in Taiwan despite, not because of, its state capacity, as partisan influence over the judiciary has gradually waned.

1. Thinking about Taiwan's Democracy as "Partial Regimes."

1.1. Rating the "Partial Regimes" of Taiwan's Democracy

In a 2004 piece in the journal *Democratization,* Wolfgang Merkel (2007) criticized the then-prevailing tendency of scholars to treat democracy and autocracy as a simple dichotomy, and of some global rankings organizations to focus on narrow, procedural definitions of democracy over broader, richer and multifaceted ones. As an alternative to the minimalist approach, Merkel proposed what he termed "embedded democracy." In this formulation, liberal democracy consists of five "partial regimes" which depend upon and reinforce one another: *elections*, *political rights participation, civil rights, horizontal accountability,* and *effective power to govern.* Merkel argues that high-quality democracies meet best practices in all five of these areas, ensuring that elections are meaningful, and that those who win elections will govern in accordance with constitutional principles. When democracies fall short in one or more of these components, they are "defective" in some way.

One can use this five-part framework to assess Taiwan's contemporary democracy. To do so, I draw on the latest Freedom House Freedom in the World (2018) country report,[2] supplemented with other

[2] Available at https://freedomhouse.org/report/freedom-world/2018/taiwan.

quantitative and qualitative evidence from the literature on democratic practice in Taiwan. As I noted above, the FH aggregate democracy score for Taiwan was 93/100 for 2017, an increase from 91 in 2016 and 89 in 2015. That result puts Taiwan's democracy among the most democratic in Asia, second only to Japan's 2017 score of 96/100. If we drill down into the five partial regimes, we can get a better sense of the strengths and remaining weaknesses of embedded democratic practice in Taiwan.

First, what of Taiwan's electoral regime? Freedom House gives a perfect score for electoral processes, noting that direct elections for the president and legislature have generally been free and fair since their introduction in the 1990s, and that these elected representatives hold real authority in their respective branches of government. Likewise, the most recent Electoral Integrity Project report rates Taiwan at the top of the region, tied with South Korea for the best electoral processes and pluralism in East Asia (Norris et al., 2018). An important reason for the high integrity of elections is that the Central Election Commission, Taiwan's election management body, was professionalized and given significant autonomy well before the end of the martial law era (Y.T. Su, 2017; Templeman, 2017a). Today it remains independent of control by any political party, and election irregularities are rare. Since the transition to democracy, the one persistent threat to electoral integrity—one that shows up in comparative ranking systems such as the Varieties of Democracy Project as well as in Taiwan case studies—is vote-buying. But that, too, has waned since the mid-2000s thanks to increased media scrutiny, an aggressive campaign by prosecutors' offices, and tighter enforcement of anti-corruption laws (Göbel, 2016; Huang, 2017; Wang, 2016).

Freedom House is also quite positive overall about Taiwan's political rights regime, as are most scholars who evaluate Taiwan comparatively.[3] Citizens "have the right to organize in different political parties," and the political system is "free of undue obstacles to the rise and fall of these parties…" There is vigorous electoral competition between the KMT and DPP throughout most of Taiwan's jurisdictions, and smaller parties have been able to operate "without interference" and have contested both the most recent presidential and legislative elections. The opportunity for opposition parties to increase their support and take power through elections was powerfully demonstrated in 2016, when the DPP won a decisive victory over the KMT in the presidential election and captured a majority in the legislature for the first time. Taiwan's media "reflect a diversity of views and report aggressively on government policies and corruption allegations," freedoms of assembly, speech, and the academy are all consistently respected, and NGOs and other civil society groups can organize and operate without government interference. One concern about

[3] Rigger, 2018: 153. For other recent work that assesses Taiwan's democracy against comparative benchmarks and finds it generally compares well, see Dickson 2018; Chang, Chu, and Huang, 2011; McAllister, 2016; Mobrand, 2014; and Sanborn, 2015.

political rights highlighted in the FH report and in recent writing about democracy in Taiwan is the threat that mainland Chinese influence poses to the public sphere; some media owners have significant business interests in China, "leaving them vulnerable to pressure and prone to self-censorship" on sensitive topics.[4] But media regulators have also blocked proposed mergers that would have concentrated media outlets in the hands of China-friendly ownership (Rawnsley, Smyth, and Sullivan, 2016).

Taiwan's civil rights regime appears to be the most problematic of the five "partial regimes," although it has in recent years followed a "nexian"-style trajectory of gradual, piecemeal improvements pushed via civil society activism, media reporting, and electoral campaigns. Recent critiques of civil rights practices in Taiwan note several continuing areas of concern related to the rule of law, including inconsistent application of eminent domain laws to seize property, poor legal protections for foreign migrant workers, and inadequate enforcement of special protections for the land rights of indigenous peoples (Freedom House, 2018). Violence against women remains a "serious problem," although FH notes gradual improvement in procedures for reporting and punishing rape and sexual assault. There is also still no official recognition of same-sex marriage in Taiwan, although a constitutional court decision in 2017 cleared the way for its implementation within the next two years. On the positive side, a number of scholars have noted that Taiwan's judiciary is now reasonably independent and its rulings generally are free of political interference; that violations of criminal defendants' rights have decreased in frequency in recent years; and that constitutional protections for due process and safeguards against arbitrary police detention are largely respected (e.g. Garoupa, Grembi and Lin, 2011; Ma, 2015; Lewis and Cohen, 2013; Wang, 2010). The role of the Council of Grand Justices, Taiwan's constitutional court, has been especially positive in moving the country toward a more liberal civil rights regime over the last 20 years (Chang, 2015; Chen, 2011; Chen and Hsu, 2016; Ginsberg, 2002), although there remains considerable debate over how to reform other aspects of the judicial system to improve citizen trust in its decisions (e.g. Chang 2015; Lewis, 2017; K.P. Su, 2017).

What of horizontal accountability in Taiwan? Here the picture is also mixed. As FH notes, the executive and legislative branches are elected separately, generally operate independently of one another, and often come into conflict over policy changes and budget politics. The constitutional court has in the past issued important interpretations that have clarified the balance of power between the other branches, and these decisions have in most cases been respected and followed in subsequent interactions (Ginsberg, 2003:106-157; Chang, 2007; Lin, 2016). The prosecutoriate and the rest of the judiciary have become increasingly independent and professional, and have been particularly aggressive in recent years about

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[4] In addition to the Freedom House Report, see the Reporters Without Borders Press Freedom Index (available at: https://rsf.org/en/world-press-freedom-index), and Hsu, 2014.

combatting vote-buying and public corruption (Wu and Huang, 2004; Chen and Hsu, 2016; Göbel, 2016; Wang, 2012; cf. Lo, 2008). On the downside, one potential weakness in horizontal accountability is that the legislature and president are now elected concurrently; since the change to a more majoritarian electoral system for legislative elections, this feature has greatly increased the chances that both branches are controlled by the same party, as has indeed been the case since 2008 (Chu et al, 2016:10). In addition, the conduct of legislative business within the Legislative Yuan remains under-institutionalized—in particular, the minority parties routinely violate the normal rules of order to enhance their own bargaining power in inter-party negotiations (Huang and Sheng, 2016; cf. Diamond, 2001). A particularly serious breach of regular order occurred in 2014, when student protestors occupied the legislative floor for two weeks in response to a dispute over the procedures used to consider a trade agreement with the PRC. While interpretations of this event, which came to be known as the Sunflower Movement, vary widely, it clearly demonstrated weak institutionalization of the legislative process and reflected poorly on the Taiwanese political system's ability to resolve confrontations through regular institutional channels.[5] The legislature as a whole also lacks the professional capacity to effectively monitor the executive branch or to draft detailed legislation on its own, instead often relying on government ministries for legislation (Templeman, 2017b:25).

On the final dimension, effective power to govern, Taiwan's democracy looks very good. Since 1996, when the president was directly elected by the Taiwanese electorate for the first time, the executive and legislative branches have been fully under control of elected representatives. There are no reserved domains for unelected bodies such as the military (Croissant et al., 2012; Kuehn, 2008) or religious authorities. Moreover, the power of the state extends to all corners of Taiwan's territory (though the Republic of China regime has not renounced its now-symbolic claims to mainland China, which it does not control). The one element of this partial regime that might be considered defective is Taiwan's limited recognition in the inter-state system. Pressure from the PRC, combined with Taiwan's need to keep on good relations with the United States, places significant practical limits on the country's sovereignty; for instance, Taiwan is formally recognized today by only 20 other countries, and efforts to adopt a new constitution or hold a referendum on Taiwanese independence from China have in the past been strenuously opposed not only by the PRC but also by the United States.

1.2. Taiwan's Democracy in a Nutshell

To sum up, democracy in Taiwan today is excellent on Merkel's electoral and political rights partial regimes, good and improving on civil rights, good but with enduring weaknesses on horizontal

[5] For two contrasting views, see Chu, 2015, and Ho, 2015.

accountability, and excellent on effective right to rule. The democratic defects that global rankings organizations such as Freedom House are able to identify are fairly minor: inconsistent respect for due process in eminent domain, some remaining concerns about vote-buying and political corruption, under-institutionalized horizontal accountability, and the possible chilling effects of Chinese influence over the public sphere, especially media.

These concerns look rather trivial when contrasted with the obvious democratic defects in most other regimes in the region. These include restrictions on freedom of speech, campaigning, and assembly in the Republic of Korea (You, 2017), media self-censorship due to government pressure in Japan (Fackler, 2016), widespread extra-judicial killings and threats against journalists and activists in the Philippines (Human Rights Watch, 2017), and a disputed presidential election in Mongolia (Organisation for Security and Cooperation in Europe, 2018). From this perspective, the real question raised by the state of Taiwan's contemporary political regime is not why minor defects remain, but instead why Taiwan has developed and retained enough strengths across all of Merkel's partial regimes to support a robust liberal democracy.

The central motivation of this volume is to explore whether, and to what extent, features of the state affect the quality of democracy across Asia. To answer that question in the Taiwanese case, we first need to consider the state in Taiwan in more detail.

2. Characteristics of the Taiwanese State in the Post-War Era

2.1. Origins of the Taiwanese State

In comparison to most of the other case studies in this volume, the Taiwanese state stands out for its especially high capacity and autonomy from society. It is also a counterexample to claims that the most effective modern states in the developing world rest on the legacies of older, pre-modern ones (Bockstette, Chanda, and Putterman, 2002; Comin, Easterly, and Gong 2010; Michalopoulos and Pappaioanou, 2013). Taiwan's state has a weak pre-modern foundation. For most of its history as a possession of the Qing empire in China, Taiwan was on the periphery—a frontier land where traditional Chinese social order and bureaucratic authority were weak. Although Qing rule was strengthened and extended by the 1800s, it was in practice limited mostly to the western plains of the island, and never fully reached the indigenous tribes that inhabited the mountains and east coast. Nor was the power of local Han clan-based groups ever completely subjugated by Qing administrators.[6]

[6] For more on the territorial limits of Qing-era rule on Taiwan, see Barclay, 2018.

Yet, in the post-World War II era, the Taiwanese state was strong enough to oversee the transformation of the island's economy and society and catapult it into the developed world within 30 years. So where did this vaunted "developmental state" come from? The answer is already well-established by an expansive literature, and I will summarize it only briefly here.

The first part of the answer is the island's Japanese colonial legacy.[7] Taiwan was a Japanese colony from 1895 until 1945, when the Republic of China assumed control, and the intensive efforts by the Japanese to transform Taiwanese society, economy, and administrative systems during this period dramatically strengthened the "stateness" of Taiwan. The Japanese colonial administration established a civil police service, conquered and pacified the indigenous mountain tribes, and created modern systems of administrative control. The colonial authorities also fundamentally reshaped Taiwan's infrastructure, founding new cities, building rail lines and paved roads around the island, and setting up telegraph and telephone service. They instituted a full primary education system, so that by the end of the colonial era a majority of Taiwanese below the age of 20 could read, write, and speak Japanese. And they transformed Taiwan's economy, creating modern joint-stock corporations and state-run enterprises, improving irrigation systems and introducing cash crops, and eventually constructing heavy industrial plants as the Japanese empire ramped up for military expansion in World War II. The colonial legacy left by the Japanese created a sturdy foundation for a capable state where there had previously been none.[8]

The second part is the lasting legacy of an uprising against KMT rule and the subsequent military crackdown on Taiwan.[9] After Taiwan came under the control of the KMT-led Republic of China in 1945, public opinion quickly turned against the deeply corrupt and venal KMT officials who arrived to rule the island. Local grievances erupted in 1947 into a violent riot against KMT authorities, known colloquially as the 2-28 Incident, which grew into an island-wide revolt that was ruthlessly suppressed by troops sent from mainland China. Somewhere between 6,000-30,000 people were killed in the uprising—many of them among the pre-1945 Taiwanese elite. The remaining Taiwanese, known as "local provincials" or

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[7] For a succinct introduction to the Japanese colonial origins of the Taiwanese state, see Lamley, 1999. Chang and Myers, 1963 describe the policy motivations of and resources used by the first colonial leaders to build up quickly the state's administrative and security capacity. Kohli,1994 makes a similar argument about the Japanese colonial impact on Korea. For a comparison of the systems of political control employed by the Japanese in the two colonies, see Chen, 1970.

[8] A carefully researched study from the early postwar era of the Japanese colonial legacy is Barclay, 1954. See also Ka, 1995; Lamley, 1999; Morgan and Liu, 2007; and Myers and Ching, 1964.

[9] Phillips, 1999 provides an overview of this period. On the postwar economic boom and its relation to the *benshengren*-mainlander divide during this time, see Gold, 1986:122-134.

benshengren in Mandarin Chinese, were intimidated into silence. This division between mainlanders and *benshengren* persisted for decades afterwards, and fundamentally shaped the nature of state-society relations well into the transition to democracy in the 1990s: the mainlander-dominated state remained highly insulated from domestic social forces, and thus able to devise and execute policy changes opposed by local interests (Gold, 1986:47-55).

The third source of the strong Taiwanese state was the reorganization of the ruling KMT and institutions of the Republic of China on Taiwan.[10] The KMT retreated to Taiwan in 1949 after losing the Chinese civil war to the Chinese Communist Party, bringing more than a million refugees from the mainland to the island. Once its survival appeared ensured by the US—the outbreak of the Korean War in 1950 drastically changed US policy toward Chiang Kai-shek's regime, and US aid again started to flow after being cut off the previous year—the KMT gained breathing room to set about rebuilding itself. Chiang reasserted firm control over the party and institutions of the Republic of China, and with most of his rivals in the party either in exile or sidelined, he had a free hand to reshape the regime. The KMT was fundamentally reorganized and its membership reconstituted, and key ROC institutions reformed with new appointees. Under Chiang's rule, the regime on Taiwan enjoyed unusual autonomy from both Taiwanese *benshengren* and mainlander emigres, and as a consequence state institutions operated at a considerable remove from the corrupting personal networks that had brought about the KMT's demise on the mainland. That, along with substantial US assistance and pressure,[11] enabled the regime to undertake a far-reaching land reform that greatly improved the distribution of wealth and income on the island (You, 2014), and it also provided the political basis for a switch to an export-oriented development strategy that drove Taiwan's sustained economic boom from the 1960s through the 1990s (Gold, 1986; cf. Greene, 2008).

2.2. Features of the Taiwanese State at the Advent of the Democratic Era

These historical patterns of state-building in Taiwan left at least four distinct legacies at the advent of the democratic era that have shaped the regime's subsequent evolution in ways both good and bad. The first is an unusual "bifurcation" of the institutions of the state between central (*zhongyang*) and local (*difang*) governments (cf. Lernam, 1977). Before the transition to democracy began, the highest offices in the Republic of China regime were not subject to direct elections from Taiwanese constituencies. Instead, both the Legislative Yuan, which confirmed the premier (the formal head of government), and the National

[10] On the reorganization of the KMT in the early 1950s, see Dickson, 1993 and Myers and Lin, 2007. For the broader set of reforms and their consequences, see Wang, 1999.

[11] On the US role, see Lee, 2017.

Assembly, which chose the president, were both filled with permanent representatives elected from mainland constituencies before 1949—the vast majority of them loyal supporters of the KMT.

As a consequence, the central government was effectively walled off from direct accountability to the population over which it held sway. "Technocrats" trusted by Chiang Kai-shek (and later, Chiang Ching-kuo) were granted broad autonomy to shape economic and social policy, and at key moments were able to shift policy in the face of opposition from business interests (Booth, 2011; Greene, 2013; Cheng and Chu, 2002). The recruitment and promotion of civil servants, ranging from policemen to schoolteachers to foreign service officers, was done through a standardized, impartial system of civil service examinations that precluded opportunities to use personal connections or bribery to get ahead. And this system was supplemented by a variety of internal monitoring bodies that kept tabs on civil servants and limited opportunities for abuse of public office for private ends (Greitens, 2016:75-111). The overall effect was to sustain a central state with impressive capacity and autonomy.

At the same time, a large number of positions within local government were directly elected, ranging from county-level mayors and magistrates, city councillors, township heads and representatives, down to village and city ward chiefs and even farmer's association and irrigation council representatives. These elected politicians were by and large KMT members, but they varied a great deal in their dependence on, and loyalty to, the ruling party. In many cases, the election winners belonged to or derived critical support from local *benshengren* factions—groups of individuals with some kind of personal ties who worked with one another in informal, loosely hierarchical groups to capture and retain local power. Because of the KMT's origins on the mainland and need to extend its control across Taiwan, its leadership sought to incorporate these local power-brokers into the party hierarchy. To this end, local elections provided an effective way to identify new political talent, channel and regulate political ambition, and encourage cooperation with the KMT regime. To make participation in elections worthwhile, however, the offices had to provide something of value to the winners. So local elected officials could exert influence over budgets, deciding what government projects to prioritize in their districts. These offices also provided opportunities for rent-seeking in domains under local government control, particularly via bids for construction projects and decisions about land-use regulation (Kuo, 1995).

Thus, at the beginning of the democratic era, the quality and character of the state in Taiwan varied significantly between the central and local governments. At the central level, and in ministries that exercised full, vertical control over local civil servants, the professionalism, competence, and impartiality of the bureaucracy was relatively high. But at the local level, and in state ministries such as agriculture that had

limited authority over local institutions like farmer and irrigation associations, bureaucratic quality varied a great deal. In many localities, the exploitation of local public resources for private ends was ubiquitous.[12]

Second, it is quite difficult in the pre-democratic era to distinguish between "the state" as a set of independent institutions on the one hand, and the regime created and led by the KMT. The ruling party was founded on a Leninist model: its leaders sought to penetrate and ultimately control all state institutions as well as non-state, "independent" organizations, typically by ensuring that the power-holders in these institutions were loyal party members who would follow KMT orders and discipline (Cheng, 1989). In practice, many if not most of the "state" personnel in Taiwan in the post-war era were also KMT personnel. Thus, much like the Chinese Communist Party in the People's Republic of China (PRC) today, it is hard to pinpoint precisely where the party ended and the state began in the pre-democratic era. A key issue of contention in the transition to democracy was precisely this issue: drawing a sharp line between the interests, personnel, and resources of the ruling KMT, and those of the nominally non-partisan state apparatus.[13] One unfortunate legacy of this opaque intermingling of party and state personnel, interests, and resources can be seen today, as a DPP-created committee is currently investigating KMT-controlled assets that may have been transferred illegitimately from the state to the party during the martial law era (Brown, 2017; cf. Loxton, 2015).

Nevertheless, the most important post-transition consequence of the fusion of party, regime, and state was the development of a well-institutionalized party system. The KMT's massive resource advantage, combined with its long experience running in and winning contested local elections, helped ensure its survival in power through the transition to democracy and beyond. In this, it is unusual among authoritarian ruling parties (Hicken and Kuhonta, 2015)—it not only permitted democratization but succeeded in retaining power in the new regime, and surviving as a major political force even after it lost the presidential election in 2000. In order to challenge the KMT's formidable political organization in elections, the DPP built its own centralized, hierarchical and relatively disciplined party organization, one that, in an ironic twist, copied its basic form and incentives from the KMT (Rigger, 2001: 55).

Together, these two political parties have dominated the Taiwanese political scene since democratization. One or the other has always controlled the presidency and/or the legislature, and almost all local elected mayors and county magistrates belong to either the KMT or DPP. Partisanship has grown rapidly in Taiwan as well.[14] While political polarization has at times threatened to bring the political system

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[12] For a good overview of this system's political consequences, see Wu, 1987.

[13] This was a special challenge in the military and security sectors; see Tzeng, 2016.

[14] For a recent data-rich study of this growth in partisanship and its consequences for Taiwan's political system, see the chapters in Achen and Wang, 2017.

to a halt, the rise of partisan attachments has also increased the responsiveness of the two main political parties to shifts in public opinion, as national elections are increasingly decided by shifts among a relatively small group of swing voters. Thus, party system institutionalization brought about by the authoritarian legacy of the KMT has aided the development of electoral accountability during the democratic era (Cheng and Hsu, 2015; Templeman, 2018).

The third legacy of the pre-democratic state is related to its effect on civil society. Because of its Leninist origins, the KMT sought to control and manipulate all major civil society groups, or in some cases to create its own as substitutes—prominent examples of KMT-founded "civic" organizations include the Republic of China Red Cross, the China Youth Corps, the National Women's League, and the ROC Public Service Association. The party's penetration of most other large organizations, from industrial unions to university professors associations, effectively prevented civil society from developing as a major force outside the state under martial law (Cheng, 1989).

As the regime began to liberalize in the late 1980s, this pattern changed: a huge number of new, independent groups sprang up to challenge state policies and advocate for all manner of causes, from women's and labor rights to environmental protection. Many of these organizations were loud, confrontational, and ambitious, and in some cases they achieved major changes in state policy or practice (Ho, 2010; Hsiao, 1990, 2011). But these apparent successes overshadow the important fact that civil society as a whole was quite fragmented: most groups were small, dominated by a handful of elite activists, and had few or no grassroots branches or other ways to connect to the broader public (Huang, 2016; Wright 1999). Instead of developing these connections, most of these activist groups tended in the early transition years to make common cause with the DPP, which in turn developed its *own* local branches and grassroots networks. Particularly notable is the weakness of labour unions, which struggled to overcome the enervating legacy of KMT penetration during the authoritarian era and never developed into a significant independent political force in Taiwanese politics (Lee 2011).

The reorientation of Taiwanese politics from a pro- versus anti-regime cleavage to one centered on the China question—what Taiwan's relationship with mainland China should be—also hampered the development of broader civil society coalitions with deep roots in local communities. By the end of the transition to democracy in 1996, civil society groups had ended up in a secondary political role, sometimes working in concert with the DPP and sometimes at cross-purposes, but operating almost always at the elite rather than the mass level. Those groups that did have large memberships and extended their organizational reach across most of the island, by contrast, tended to be apolitical—religious organizations, for instance, such as Protestant or Catholic churches or the Tzu-chi Buddhist foundation (Madsen, 2007).

This pattern of shallow, fragmented, and elite-driven civil society groups has persisted. In notable contrast to Korea, today it is still the major political parties, rather than autonomous civil society groups,

that continue to serve as the primary organizations linking ordinary citizens to the democratic political process (Lee 2014). Even the recent Sunflower Student movement, which in March 2014 succeeded in mobilizing hundreds of thousands of Taiwanese to take to the streets of Taipei to protest a trade agreement with the PRC, has had its most lasting impact via electoral politics and the party system. The protests were converted into a groundswell of electoral activity that swept the KMT out of power in local elections across the island in late 2014, and movement leaders then founded the New Power Party, which won five seats in the 2016 election and became the third-largest party in the current legislature.

Fourth, at the beginning of the democratic era, the Taiwanese state was unusual in how limited its connections were to large business groups, and how little influence private (as opposed to party- or state-controlled) businesses had over the central government (Cheng, Haggard, and Kang, 2007). Taiwan's economic take-off was due in large part to the incorporation of small and medium-sized Taiwanese firms into multi-national production chains, where their remarkable dynamism and adaptability allowed them to thrive as contract manufacturers (Hamilton and Kao, 2018; Lam and Clark, 1999; Skoggard, 1996). Yet the KMT-led state had limited interest in actively supporting these firms, even though they came to form the most efficient sectors of the Taiwanese economy; for instance, most family-level firms could not secure bank loans (banks, too, were under state control.) Instead, state economic planners pursued a top-down industrial policy that focused on promoting high-tech industry, including electronics manufacturing and, later, semiconductors (Greene, 2013). As a consequence, most private business groups did not get very big, and wielded much less collective influence over the central state than, for instance, *chaebols* in South Korea or *keiretsu* in Japan. The commanding heights of the economy remained under central government control via state-owned enterprises, and the civil servants who regulated most industries were able to resist lobbying from private businesses and pursue policies with much longer time horizons (Cheng et al., 2007; Gold, 1986: 97-111; Greene, 2013; Kuo and Myers, 2012).

This pattern of "arms-length" relations between state agents and private business stems from a couple different sources. One is simply the small size of the median Taiwanese firm, which typically operated at the level of the family or the community—with so many firms competing for market share, no one company could exercise disproportionate influence on the central state. But a second is the ethnic divide between mainlanders and *benshengren* (Kang, 1995: 571). Under the regime that the KMT set up in the early 1950s, the Taiwanese *benshengren* land-holding elite were initially denied access to political power, and in many cases much of their land was confiscated and redistributed as part of the KMT's land reform project. In return, however, they received compensation in the form of stock in SOEs or cash payments. This capital served as the basis for starting new enterprises, and a number of *benshengren* built up large business groups in the post-war era, including the founders of Formosa Plastics and Evergreen Corporation (Gold, 1986: 71-2). This growth was tolerated but not favoured by state regulators, and it often brought

them into conflict with state-owned enterprises specializing in the same areas. The privately-owned Formosa Plastics Group, for instance, struggled for two decades to win government approval for construction of a naptha cracker plant, which would have competed with the state-controlled China Petroleum Corporation's existing plants (Chen and Ku, 1999: 84-5).

2.3. The Evolution of the State after Democratization.

As the KMT-led regime on Taiwan gradually liberalized and then transitioned to full democracy between 1986 and 1996, some of these features of the state changed dramatically. Among the most important was state-business relations, which became more symbiotic, but in a rather peculiar way. In particular, KMT-owned or controlled business groups grew rapidly in the 1990s as part of a fundamental shift in the political economy of the regime. The introduction of competitive elections for the National Assembly, the legislature, and the presidency vastly increased the KMT electoral organization's demand for resources that could be used to win these elections—primarily via vote-buying, payoffs to local factions, and promises of patronage or preferential contracts. This increase in demand, in turn, spurred the creation and growth of KMT-linked businesses that could help fund the party's campaign activities (Fields, 2002). Some non-KMT business groups that had previously been kept at arms-length also were willing to provide funding to the ruling party in return for special benefits and treatment from state agents, who were ultimately accountable to the KMT leadership and thus had to made accommodations. Many of the KMT-linked businesses became highly profitable because of these special arrangements; the money these businesses made, or at least some of it, was then plowed back into the party organization and used to help win the next elections—increasingly with the involvement of organized crime groups as well, in a pattern that became known in the local parlance as "Black Gold" (*heijin*). Thus, Taiwan's scores on most anti-corruption and rule of law indicators actually show a decline during this period, as the strict wall between the state, business and electoral politics broke down, and the judiciary and civil society were too weak or divided to effectively counteract this trend (Chin, 2003).

The surprise victory of the DPP candidate Chen Shui-bian in the 2000 presidential election put a stop to this pattern and set off a mad scramble among KMT-linked businesses to protect their interests. With the executive branch now actively hostile to many of these businesses, their profitability declined dramatically—five of seven major KMT holding companies suffered losses of at least US$40 million after tax in 2001 (Wang, Chen, and Kuo, 2016:252). Most of these companies eventually became a political and financial liability for the KMT and were sold off in the following years. Chen Shui-bian also sought to break the broader clientelist system that had grown up around KMT rule; in state-owned and state-controlled enterprises, the DPP government managed over its eight years in office to replace more than 7,000 appointed positions with its own supporters, including presidents, general managers, boards of

directors, and boards of trustees. In some cases, these changes brought improved performance—in 2002, for instance, several prominent SOEs reported substantial profit growth. Chen's efforts to foster closer ties between the DPP and private business conglomerates, however, were less successful, and in his second term, especially, he alienated the leaders of many large internationally-oriented firms with his increasingly strident rhetoric about cross-Strait relations and a policy that favoured domestic protectionism over cross-Strait trade and investment (Lee and Chu, 2008; Wang, Chen and Kuo, 2016: 254-7).

The election of the KMT's Ma Ying-jeou as president in 2008 marked another clear shift in the state-business relationship. Ma advocated a largely "neoliberal" approach to economic development, emphasizing the dismantling of trade and investment barriers and relaxation of other regulatory requirements imposed on Taiwanese firms. The central piece, albeit the most controversial one, in this approach was achieving a rapprochement in cross-Strait relations, including signing free trade agreements with the PRC. Ma also, however, sought to reinvigorate bureaucratic capacity and autonomy and restore the state's previous arms-length relationships with big business—most of his appointees to key economic policy positions were either academics or career bureaucrats, rather than party officials or business leaders (Wang, Chen, and Kuo, 2016: 257-260). Ma's vision for a more rationalized, professional economic bureaucracy that would respect free markets and regulate based on the rule of law was a significant departure from any of his predecessors, and it was only partially met (Chu, 2013). As became clear towards the end of the Ma era, the state no longer had wide latitude to design and execute policy changes without first taking into account the preferences of other political actors (Chiang, 2006; cf. Booth, 2011). For instance, even though Ma's own KMT held a large majority in the legislature, his government's efforts to lift barriers to investment by private equity firms, and to imports of US beef and pork—both sensitive issues in the US-Taiwan relationship—were repeatedly blocked by the Legislative Yuan (Dai and Wu, 2015). The Ma administration's plan to impose new business taxes was also shot down by legislators from his own party. And most prominently, the long string of agreements with the PRC finally crashed up against a rising tide of public opinion that opposed new trade deals with Beijing for fear of the threats to Taiwan's economic prosperity and political system (Chen, 2016). By the end of the Ma era, it was clear that the state could no longer direct economic policy with a free hand—the legislature, the media, and civil society groups all had to be won over to implement major changes. Taiwan's state appeared more constrained by social and political forces than at any previous time in the last 70 years (Chu, 2015; Liu, 2015).

Yet in other ways, the state has maintained its formidable capacity since democratization. The recruitment and promotion of civil servants continues to be based on professional qualifications and performance on tests, ensuring a high level of impartiality (though it does not necessarily reward innovation.) The core institutions of the state—the military and police, the central bank, the economic policy planners, the ministries of transportation, education, and foreign affairs—all continue to function at

a reasonably effective level, and to enact policy that is impartial and intended to benefit the public interest, rather than particular and private. What has changed for the bureaucracy is vastly increased scrutiny of its decisions: by opposition parties, the media, and civil society groups who have incentives to play up possible malpractice and criticize state actions or policies for political gain. This constant scrutiny has resulted in a bureaucracy that is timid, cautious, and limited in its ability to carry out controversial policies (Chu, 2006; 2015). But it is also one that is highly attuned to public opinion and shifts in the partisan environment.

3. State Capacity and Democracy Quality in Taiwan

So what can we say about the relationship between state capacity and democratic quality in Taiwan? Does this generally high capacity state have much to do with Taiwan's reasonably successful democracy?

Before we tackle this question in more depth, we should first acknowledge that the existence of a democratic regime in contemporary Taiwan is overdetermined. It is consistent, for instance, with a modernization argument: Taiwan has an advanced industrialized economy, a high per-capita income and a relatively low level of inequality. Its population is very well-educated, and many of the island's political, economic, and cultural leaders spent significant time in North America, Europe, or Japan and continue to be powerfully influenced by democratic practices in those places. The international system in which it is embedded is another factor: Taiwan has had an especially close relationship with and dependence on the United States since the early 1950s, which has provided the U.S. tremendous leverage over the island's political leaders, helped diffuse democratic ideals and practices, and strengthened the hand of the political opposition in its battles with the KMT to liberalize the regime.

Nevertheless, if we consider not just the fact that the current regime on Taiwan meets the minimal standards for electoral democracy, but also consider its *quality*, the distinctive features of the authoritarian era party-state do appear to explain some of the strengths and weaknesses of the current regime. For greater analytical clarity, let us take each of Merkel's partial regimes in order, and consider how Taiwan's "stateness" has shaped these aspects of its democracy.

3.1. State Capacity and the Electoral Regime.

Part of Taiwan's high-quality electoral regime is clearly attributable to its high-capacity state, which is evident at every step of the electoral process (Templeman, 2017a). For instance, electoral rolls are generated before each election from the state's household registration system, or *huji zhidu*. This system, originally set up by the Japanese colonial government and retained by the KMT, ties each citizen of the Republic of China on Taiwan to a household registered at an official address; that address, in turn, is linked

to one's national identification card and other official documents. In this way, the voting rolls are updated to account for citizens who move their official household registration, die, or become eligible to vote between elections.[15]

Polling stations are typically located in state facilities, often schools or civic centers—and because these exist in any official town or village, no matter how small or remote, access to them is equally convenient across the island. Poll workers are volunteers, but traditionally have been public schoolteachers—that is, employees of the state. Much is asked of these workers on election day: they are responsible for setting up the polling station, checking IDs against registrations, and ensuring voters receive the right ballots. As soon as the polls close, these same poll workers are responsible for counting the ballots at the polling place in view of the public, and then reporting the official totals. The whole process is remarkably transparent, efficient, accurate, and fast—final election results are routinely announced for the whole island less than four hours after the polls close. All these features of the electoral regime depend on having a comprehensive, effective system of registering and organizing citizens' formal relationships with the state, as well as a competent, trustworthy group of volunteers to serve as poll workers (Su, 2017).

The high-capacity state has also helped ensure the integrity of the electoral regime in Taiwan through its effect on election-related violence. In short, there is none. Physical intimidation of voters, to say nothing of actual violence against elected officials or candidates, is exceptionally rare—I am aware of only one politically-motivated murder in the last 20 years. In part, this is because violent crime itself is so rare. But it is also due to a well-managed and independent national police administration, which is responsible for ensuring the safe conduct of elections. Policemen are rotated across counties with some regularity (Martin, 2013), and therefore are unlikely to end up supporting local attempts to disenfranchise or intimidate voters, unlike in some of the other country cases in this volume. Candidates for local office have often tried underhanded tactics to come out ahead on election day, but the strength of the state has eliminated all these practices except vote-buying; ballot-stuffing, voter intimidation or impersonation, and fraudulent vote counts are virtually non-existent in Taiwan today.

3.2. "Stateness" and Respect for Political Rights

Taiwan's broad respect for political rights is one of the more impressive aspects of its democratic regime. There are few practical limits on the ability to discuss politics in public, to found new political parties or other organizations, to demonstrate in the streets, or to publish and disseminate political writing. Media regulators operate with a very light touch: lively debates among partisans from all sides can be found

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[15] It also has so far precluded the introduction of absentee voting—all ballots have to be cast in person on election day at one's assigned polling place.

almost every night on the cable news channels, and news outlets pull no punches in reporting on political news—the more scandalous and salacious, the better. Election campaigns also take place in a remarkably permissive environment—as anyone who has visited Taiwan during election campaign season can attest, candidates from all political parties and for all political offices can freely post banners, hold election rallies, run sound trucks through residential neighbourhoods, appear in public spaces to ask for votes, and advertise on TV, radio, television, and the internet.[16]

This partial regime was first established by the end of the transition to democracy in 1996, and it has barely changed in the more than 20 years since. On this dimension, it is difficult to locate explanations for the broad respect for political rights in the character of the Taiwanese state. Indeed, given their impressive capacity to crack down on all these activities, which they demonstrated repeatedly during the martial law era, the considerable restraint of state actors after the transition to democracy is surprising and a bit puzzling.

Jong-sung You has put forward one plausible explanation: the incentives of the opposition camp in the transition. In a startling comparison of Taiwan with Korea, You documents how much more lenient Taiwan's campaign regulations are despite sharing a broadly similar pre-democratic history and transition process (You, 2017). He explains this difference by highlighting the role of incumbency: all else equal, challengers need much more media coverage than do incumbents to make the electorate familiar with them and their positions; thus, restrictions on campaigning work to the incumbent's advantage. In Taiwan before 1996, most incumbents in most elections were members of the ruling KMT, while most DPP candidates were exposure-starved challengers. Thus, the DPP had a strong collective incentive to focus on liberalizing media and campaign regulations as much as possible—and they largely succeeded in associating regulation of any kind with the bad old days of martial law. Moreover, part of the regime's control over the media was exercised through its permit system for TV and radio stations and newspapers. The only print and broadcast media that were issued licenses to operate were owned by the state or the KMT. Thus, liberalization of this licensing system was one of the first objectives of the pro-democracy forces, and they pushed to eliminate all restrictions on speech content. As a consequence, the state in Taiwan went from incessant state interference with political communication to virtually none at all as the regime transitioned to full democracy.[17]

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[16] For compelling documentation of these practices, see the Asian Network for Free Elections (ANFREL) report on the 2004 legislative election, at: http://aerc-anfrel.org/country/taiwan/mission-reports/.

[17] Feng, 2016 provides a good overview of Taiwan's media and political speech landscape. Because of market pressures on media companies, this unfettered environment has not necessarily resulted in especially high-quality journalism.

By contrast, in Korea, a significant number of incumbents were from the opposition camp, and they also had some incentive to support restrictions on political communication because of worries about facing their own challengers. Korea's more fragmented and volatile party system also made this threat more acute than in Taiwan, where the two major parties could better regulate challenges to their incumbents via their internal party nomination procedures. Thus, whereas the DPP pushed hard for the liberalization of campaign regulations, the Korean opposition did not. (You argues that Japan's situation is somewhere in between.) To the extent one can attribute characteristics of the state in Taiwan to the broad respect for political rights during the democratic era, then, it is only indirectly—through the legacy of an increasingly competitive and highly-institutionalized party system.

3.3 The State and Taiwan's Civil Rights Regime

The protection of life, liberty, and property from arbitrary action by the state—sometimes called "negative freedom"—is a cornerstone of modern liberal democracy. But respect for the rule of law, including due process and equal application of the law regardless of an individual's social status, has long been the weak leg of Taiwan's liberal democratic "tripod" (cf. Ginsberg, 2002). The other two legs are much stronger—as we have already seen, existence of a high-capacity impartial state long predates the democratic era, and democratic accountability via regular elections has been well-established since the first direct presidential election in 1996.

The transition to democracy coincided with significant improvements in Taiwan's civil rights regime, including the ending of prosecution of civilians in military courts, the elimination of the feared and extra-legal Taiwan Garrison Command, and the cessation of labour camps and torture of suspects held in police captivity (Lewis and Cohen, 2013). The security apparatus was also reformed, streamlined, and placed more firmly under a civilian chain of command (Kuehn, 2008; Tzeng, 2016). Most of these improvements, however, occurred as the result of media coverage, passage of new laws, changes in professional lawyers organizations, and via executive orders or changes in bureaucratic protocol or personnel, rather than being compelled by the judiciary itself. In fact, reforms of the courts and prosecutoriate for the most part trailed, rather than led, the transition to democracy (Wang, 2006; Wang, 2010; Winn and Yeh, 1995), and the judiciary as a whole remains a weak spot in Taiwan's democratic regime (Wang, 2008).

One of the reasons for this weakness, ironically, is the highly-developed capacity of party and state accountability institutions. During the martial law era, there was little need for an independent court system to adjudicate inter-branch disputes or check political leaders—the regime's internal systems of monitoring (such as the KMT's Sixth Division of the Central Committee or the Control Yuan) and its collective leadership bodies (such as the KMT's Central Standing Committee) served those roles instead. In short,

party and bureaucratic authority in the executive dominated legal authority in the judicial branch, and left judges and prosecutors with highly circumscribed institutional prerogatives (Greitens, 2016; Wang and Sung, 2017).

Halting but significant progress on the judicial front did occur after democratization in the 1990s and 2000s—in particular, two independent-minded Ministers of Justice, Ma Ying-jeou (in the 1990s) and Chen Ding-nan (in the 2000s) worked to promote younger, more independent, idealistic and professional prosecutors and to change the culture in many prosecutorial offices around the island. Chen Ding-nan also permitted district branch offices to open investigations into affairs that occurred outside their geographic jurisdictions, which set off a kind of competitive dynamic—if the local district prosecutor failed to look into allegations of serious criminal conduct in their own jurisdiction, prosecutors from other offices might still open their own investigations (Chen and Hsu, 2016).

Nevertheless, Taiwan's judicial practices still fall significantly short of the impressive results in other partial domains. Suspects who are an obvious flight risk still frequently are allowed to post bail and then flee the country, avoiding prosecution (Lo, 2008). Punishments handed down by judges tend to vary based on the social status of the defendant, with more influential people receiving much lighter sentences (Wu, n.d.). Prosecutions, or the lack of prosecutions, of public officials still appear in some cases to be politically motivated (US State Department, 2016). And when property is seized by the state via eminent domain law, disputes are typically resolved in favour of the government agency (Chang, 2016).

These practices are the legacy of a hegemonic party-dominated state in which party leaders were the real decision-makers in this realm, and judges and prosecutors operated as a branch wholly subservient to the executive branch of the central government and to the ruling KMT. Thus, further strengthening of the rule of law will require tough reforms that will probably take decades to play out (cf. Chang, 2018).

3.4. Horizontal Accountability in the Taiwanese State.

Formally, the Republic of China regime is set up to ensure horizontal accountability via a separation of powers system, with independent executive, legislative, and judicial branches that are supposed to supervise and check one another. Beyond this standard configuration, there are also two other branches that have co-equal status under the constitution: the Control Yuan, which serves as a kind of auditor and ombudsman, and the Examination Yuan, which has responsibility for recruiting civil service personnel, as well as designing and administering criteria for evaluation and promotion. The original 1947 constitution also provided for two other bodies: the president, who was intended to be a unifying, non-partisan figure with few formal powers, and the National Assembly, which selected the president, confirmed the members of the Judicial and Examination Yuans, and passed constitutional amendments. In practice, however, the president enjoyed extraordinarily broad powers under the terms of martial law, and he also served as the de

facto head of the executive branch via his power to appoint (with confirmation by the legislature) and remove the premier, the leader of the Executive Yuan. His position as chairman of the KMT, moreover, and the dominance of party over state institutions, ensured that the president could exercise unchallenged authority over the regime. After the transition to democracy, additional constitutional reforms introduced direct election of the president, removed the legislature's investiture power but gave it the right to call a vote of no confidence in the premier; and abolished the National Assembly and transferred its confirmation powers to the legislature (Yeh, 2002; Wilson Center, 2004).

Thus, today, Taiwan has a regime that looks much closer to the standard three-power presidential model than it did 20 years ago. But it also shows signs of a system that is out of balance: the executive branch remains the most powerful, while the legislature wields veto power over much of the state's activities without having developed additional institutional capacity to handle its increased authority. Most successful legislation, for instance, is based on bills drafted by the executive branch, and then modestly altered by legislators before they approve it, and the legislature still has no independent source of expertise about policy akin to the Congressional Research Service in the United States. Its ability to serve as an effective check on the executive has also been dramatically weakened since a more majoritarian electoral system was introduced in 2008, and presidential and legislative elections were made concurrent. These changes make it likely that the party of the president will also control a majority of the seats in the legislature, as has indeed been the case since 2008. The one saving grace for horizontal accountability to date has been the organization of the Legislative Yuan, which in practice gives minority parties disproportionate influence over the legislative agenda, including the ability to compel ministers to testify and the power to introduce their own bills. But if the legislature should ever become more streamlined in its operation—and it could, since much of the respect for minority party rights is based on convention, not law—the legislature could turn into even less of a check on the executive branch under most circumstances (Rigger, 2011; Sheng and Huang, 2017).

That said, the weakest link in the system of horizontal accountability is not the legislature, but the judiciary (and, if we wish to include it, the Control Yuan). A key problem is the appointment procedure and length of terms of grand justices and Control Yuan members—they are nominated by the president and confirmed by the legislature, and they serve staggered 8-year terms and are not eligible for reappointment. As a consequence, if a president serves two full terms, as Ma Ying-jeou did from 2008-2016, the Council of Grand Justices can consist entirely of his appointees by the end of his time in office, and can hardly be expected to act as a robust check on executive branch overreach. A similar problem bedevils the Control Yuan, which obtained a reputation during the Ma years for crassly partisan behaviour—for instance, four of its members opened an investigative case based on trumped-up accusations against then-candidate Tsai

Ing-wen shortly before the 2012 presidential election, then closed it a year later, after President Ma had won re-election (Shih and Wang, 2013).

Overall, then, the picture of horizontal accountability in Taiwan remains mixed. The Control Yuan, a key institution of accountability prior to the 1990s, has fallen into considerable disrepute during the democratic era (cf. Caldwell, 2018). The legislature has risen in stature and authority, but it remains disproportional and under-institutionalized—in particular, the respect for minority party rights, including some veto rights over policy, that is currently practiced appears vulnerable to an aggressive one-party majority's efforts to streamline policy-making. The constitutional court in the Judicial Yuan has at key moments played a crucial role in adjudicating inter-branch disputes, but its impartiality, too, is threatened by the system of confirmation. Yet through the present, at least, the legislative branch has continued to function as an effective check on executive branch priorities even when the majority is of the president's party.

3.5. Elected Officials and the Effective Power to Govern

Since the first direct presidential election in 1996, elected officials have de facto as well as de jure governed Taiwan. There are no longer reserved domains for unelected bodies, either military or party. This outcome was not foreordained in Taiwan: as we noted earlier, a huge issue in the transition was what to do about mainlander lifetime representatives in the National Assembly and Legislative Yuan. The entire central government effectively functioned as a reserved domain, because these representatives continued to exist and could not be challenged or replaced from Taiwanese constituencies. But by 1996, this question was settled: the permanent mainlander representatives were retired, and the president, National Assembly, and legislature would henceforth be fully and directly elected by Taiwanese electorate.

This partial regime of Taiwan's democracy cannot be linked to state capacity per se; rather, it is due to critical decisions made during the transition to democracy—that all ROC leaders would be chosen by the Taiwanese electorate; that all residents of territory under ROC control would be considered "nationals," and therefore receive full citizenship rights (as opposed to the many more Chinese living in territory outside of ROC control); and that the regime's institutions would be reformed in practice to reflect the reality of a Taiwan-based ROC, while not jettisoning its symbolic ties to mainland China. Nevertheless, the precedent of a very effective state with tradition of civilian partisan control laid the foundation for the current supremacy of elected officials in Taiwan's political system.

4. Conclusion: Taiwan's Lessons for Theories about State Capacity and Democracy

As I have argued at length above, Taiwan is a broadly successful, high-quality democracy: it enjoys an efficient, effective, and trusted electoral regime, broad respect for political rights, a good and improving civil rights regime, reasonable horizontal accountability, and elected leaders who have an uncircumscribed right to rule. This outcome is a bit miraculous, given where Taiwan started out decades earlier. In the 1950s, the Republic of China on Taiwan was, in effect, a police state—its many overlapping security and intelligence agencies had little respect for civil liberties or the rule of law, its leadership was unelected and spent 80 percent of the central government budget on the military, opposition parties were banned, and no other institution dared challenge Chiang Kai-shek's dictatorial rule. In addition, it was a very poor and insecure country in a dangerous neighbourhood—its existence as an independent state was threatened by the communist People's Republic of China across the Taiwan Strait, and it gradually lost diplomatic recognition from the vast majority of the world, so that today it has official relations with only 20 countries. For Taiwan to end up as a significantly higher-quality democracy, with far fewer defects, than the Philippines, Thailand, or even South Korea, is impressive.

But to what degree can we attribute this success to the characteristics of the Taiwanese state? I have argued here that the high-capacity, high-autonomy state of the pre-democratic era in Taiwan can account in part, but only in part, for the nature of its democracy. State capacity appears to have made a significant positive contribution in four of Merkel's five partial regimes: the electoral regime, the effective right to rule, and indirectly via the institutionalized party system, to political rights and horizontal accountability. On the other hand, Taiwan's highly developed state capacity appears to have at best had no effect, and at worst actively undermined establishment of a robust rule of law and protections for civil liberties. These have improved in Taiwan despite, not because of, its state capacity, as partisan influence over the judiciary has gradually waned.

Finally, what can the Taiwan case tell us about the central debate between "sequencers" and "nexians" described in the introduction and in Chapter Two (Tuong Vu)?[18] That is, must one have decent state capacity before the introduction of democracy, or else be locked into a clientelist equilibrium of low-quality state institutions and defective democratic practices? Or can democracy itself enhance state capacity over the long run? On this question, Taiwan provides considerable support for the sequencers: a high-capacity state made it much easier to establish a fair electoral and political rights regime, and to ensure that policies supported by a broad majority of the public could be articulated, adopted, and executed in an effective way. Nevertheless, one can also find evidence that is consistent with a nexian view: the rise of a vibrant media, institutionalized party system, and regular, competitive elections were effective at exposing and punishing the shift toward clientelism under KMT dominance that occurred in the late 1990s, and also

[18] For an introduction, see Anderson et al., 2014.

the political corruption that Chen Shui-bian and the DPP engaged in during his second term. And the combination of media scrutiny, civil society activism, and electoral incentives to spotlight legal injustices have helped nudge Taiwan's civil rights regime toward greater transparency, procedural consistency, and equal protection under the law. Arguably the most important lesson to be taken from the Taiwan experience is the power of initial conditions to shape the quality of democracy over the long run. There is remarkable path-dependence in the Taiwanese regime's democratic evolution: most of the prominent strengths and enduring weaknesses of Taiwan's democracy can be traced directly back to the survival of the former hegemonic party, the KMT, at the advent of democratization over 30 years ago, and to the gradual, legacy-preserving way that the transition unfolded.

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