
ELECTORAL MALPRACTICE in ASIA

BENDING THE RULES

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Taiwan: Raising the Bar

Kharis Templeman

ELECTIONS IN TAIWAN ARE SOME OF THE BEST-MANAGED IN THE WORLD today. There are few effective limits on the right to vote, the participation of opposition parties and candidates, or campaign advertising and canvassing for votes, and the process of voting and counting is low-tech, transparent, efficient, accurate, and fair. Elections are competitive and fiercely contested, but winners and losers alike nonetheless accept the results as decisive and conferring the legitimate right to rule, and there are no reserved domains in which unelected officials exercise undue influence over government policy.

Comparative indices confirm these qualitative impressions. Taiwan ranks near the top of countries in Asia in the most recent Perceptions of Electoral Integrity index, above Australia and Japan and slightly behind only Korea and New Zealand. The Varieties of Democracy project Electoral Democracy Index score for Taiwan has risen in recent years to near the maximum, close to those of Korea and Japan. Freedom House gives Taiwan its highest score for electoral processes, and 15 out of 16 on political pluralism and participation. And the Bertelsmann Transformation Index ranks Taiwan third among all countries in its database for Political Transformation, behind only Estonia and Uruguay, including perfect scores for free and fair elections and association and assembly rights.

Taiwan was not always such a paragon of electoral integrity. As late as 1992, unelected officials held the presidency and the majority in the legislature, and only a single party, the Chinese Nationalist Party

(Kuomintang [KMT]), had ever controlled the central government. Taiwan's elections regime included signification restrictions on campaign activities and the media, vote buying in elections was rampant, and the judiciary and prosecutors were under the sway of the ruling party. Nevertheless, the professional management of the electoral process under the aegis of the Central Election Commission (CEC) was already a hidden strength of Taiwan's emerging democracy, one that smoothed the way for the transition to multiparty politics and the introduction of competitive elections for the central government. Unlike in many other third-wave democracies such as Indonesia and the Philippines, the independence and integrity of Taiwan's CEC was never in question during this transition, and both the ruling and opposition parties could be confident that the votes would be counted fairly.

In this chapter, I consider how this evolution occurred. Many of Taiwan's current exemplary election practices were actually introduced by the hegemonic KMT itself during the authoritarian era. From 1949 to 1987, Taiwan was under martial law, opposition parties were banned, and the central government was not subject to direct elections. But contested local elections were still held, and they were important for both the foreign and domestic legitimacy of the regime. Though the KMT initially engaged in blatant manipulation of these elections during its early years on Taiwan, over time it shifted tactics, eschewing the most egregious violations in favor of more subtle interventions in the rules of the electoral game. As the reputational costs of arresting non-KMT candidates and stuffing ballot boxes rose, the KMT leadership pivoted toward the cooptation of the opposition and the use of vote buying and patronage to win elections.

A key moment in this process came in 1980 with the passage of the Civil Servants Election and Recall Act and the establishment of the Central Election Commission to oversee all elections in Taiwan. With these reforms, the KMT leadership sought to eliminate electoral fraud, ensure a free and accurate count of the vote, and bolster the domestic legitimacy of elections—and they largely succeeded. At the same time, the party center was more willing to introduce these crucial reforms because they themselves were still not vulnerable to electoral defeat at the national level, which remained walled off from electoral competition, and because most of the party's candidates enjoyed massive resource and advertising advantages over the nascent political opposition. Only later, well after the improvements in voting and ballot counting procedures, were other important reforms introduced: the liberalization of speech and assembly laws, the relaxation of restrictions on

campaign activities, improvements in campaign finance regulation, changes to the electoral system, and finally the prosecution of vote buying, which led to its gradual decline in prevalence and effectiveness. Thus, the Taiwan case demonstrates how a high-quality system of election management can be established even under a repressive autocracy.

Electoral Integrity and Taiwan's Political Evolution

The KMT began its time on Taiwan as a party in exile. It lost control of mainland China to the communists in 1949, fleeing with over a million refugees across the Taiwan Strait and reconstituting the Republic of China on Taiwan with its “temporary” capital in Taipei. After the declaration of martial law, elections were suspended indefinitely for the top bodies of the Republic of China (ROC), including the National Assembly (which chose the president, Chiang Kai-shek) and the Legislative Yuan. Nevertheless, in part to retain the support of the United States, the regime also wanted to maintain at least the façade of democracy, and so shortly after stabilizing the security situation on the island in 1950, it introduced contested elections for offices below the central government level.

Although it was not threatened with electoral defeat at the central level, the KMT nevertheless immediately faced a disadvantageous demographic situation: the “mainlanders” who had come over with the party in 1949 dominated the party and state but made up only about 15 percent of the electorate in Taiwan. Thus, the KMT sought from its earliest days on Taiwan to incorporate native islanders (*benshengren*) into its party networks. Contested local elections helped serve this purpose: they channeled potential opposition to KMT rule into competition that did not threaten the regime, helped identify popular local leaders to recruit into the party, and provided information to the leadership about its overall level of popularity.

Elections in Taiwan went through three distinct periods under KMT rule. During the “hard authoritarian” years of the 1950s and 1960s, local electoral competition was allowed, but the KMT leadership frequently employed the security apparatus to arrest or intimidate potential opponents it did not like. For instance, in 1960, the liberal critic (and mainlander) Lei Chen, the founder of a newspaper called *Free China*, attempted to start a new political party in contravention of the ban then in place. Rather than allow the new party to compete, Chiang Kai-shek simply ordered it to be shut down and had Lei

arrested and sentenced to a long prison term. In other instances, party agents engaged in blatant fraud during the vote-counting process. For instance, in 1954, the independent candidate Kao Yu-shu won the Taipei mayor's election, becoming the most prominent non-KMT officeholder in Taiwan. When he ran for reelection in 1957, however, he was defeated through what was almost certainly widespread electoral fraud—sudden power failures during the vote count in polling stations provided an opening for party agents to stuff ballot boxes with additional votes for his opponents. This event led to widespread distrust of the counting process, and the KMT leadership later sought to increase confidence in election results by allowing each candidate to nominate their own poll workers to count votes. Helped by this change in the rules, Kao ran for and won again the Taipei mayor's office in 1964, when his poll workers in addition to those of a friendly opponent's were able to prevent a repeat of the 1957 fraud.¹ But Kao's victory was the exception; in most elections, the KMT's official nominees won without much suspense.

As increasing numbers of the permanent mainlander representatives who held seats in the Legislative Yuan became incapacitated or died of old age, the KMT decided in 1969 to introduce what they termed "supplementary" elections to that central government body. This reform marked the beginning of a transition toward a period of softer authoritarian rule in Taiwan. By the early 1970s, the KMT was less able or willing simply to arrest all opponents to its rule, and it was also acutely sensitive about its declining international and domestic legitimacy. In 1971, the ROC lost control of the China seat in the United Nations Security Council to the People's Republic of China (PRC), and in 1972, US president Richard Nixon traveled to Beijing in a sign of warming ties between the former enemies. In 1975, Chiang Kai-shek himself died and was succeeded as party leader (and eventually, president) by his son, Chiang Ching-kuo. The younger Chiang accelerated a process of "Taiwanization" of the KMT, seeking to increase the numbers of *benshengren* who held high-level posts, and he refocused the regime's energies on development at home rather than preparing for a war to reconquer mainland China. He also placed greater emphasis on the presence of regular, contested elections as a demonstration of the regime's "democratic" credentials to foreign audiences.

Under these changing external conditions, summary arrests of opponents and blatant electoral fraud became more costly to the party leadership. They also led to an increasing divergence of interests between the party center and local KMT factions, which had few com-

punctuations about manipulating the electoral system to ensure their candidates won. A particularly dramatic illustration of this changing dynamic occurred during local elections in 1977. In Taoyuan County, a former KMT member named Hsu Hsin-liang defected from the party and ran as an independent for the mayor of Chungli City. As the votes were being counted in his race, rumors began to spread that KMT agents were once again stuffing extra votes in ballot boxes, and a large riot broke out. In the end, Hsu was declared the winner in the mayor's race over the KMT nominee, probably helped by the public protests. Hsu's win was especially concerning to the KMT because it was also the first time that independent candidates attempted to coordinate their campaigns with one another across the island; to get around the prohibition on new political parties, they began calling themselves the "Dangwai," or "outside the party." Dangwai candidates won four county executive races in 1977, an all-time high, and KMT leaders interpreted this outcome as an indication of the party's declining popularity and of a need to rethink its recruitment and nomination strategies.

The pressure to improve electoral administration increased further when the US announced in December 1978 that it was switching diplomatic recognition to the PRC. Shocked by this surprise move by the ROC's staunchest ally, Chiang Ching-kuo indefinitely suspended the supplementary legislative elections planned for later that month. On the one-year anniversary of the suspension in December 1979, Dangwai supporters took to the streets to call for the reinstatement of elections, the lifting of martial law, legalization of opposition parties, and introduction of direct elections for the central government. The regime cracked down hard. It arrested the leaders of the protest and other Dangwai figures, and many were subsequently sentenced to long prison terms, dealing a significant short-term blow to the budding democracy movement in Taiwan.

Nevertheless, over the same time period, the KMT leadership started a parallel effort to shore up its domestic and international legitimacy by improving the integrity of elections. In early 1980, the KMT-dominated legislature moved forward with two important reforms to the electoral process. The first was the passage of the Civil Servant Election and Recall Act, which centralized and codified what had previously been a mishmash of electoral administrative executive orders, practices, and norms and gave them the force of law. The second was the creation of the Central Election Commission, the first "independent commission" to be established under the ROC constitutional system. The CEC assumed legal authority for managing all aspects of the electoral

process, including determining the voter registration lists, setting the terms of candidate eligibility, regulating campaign activities, setting up polling stations and recruiting poll workers, designing ballots and ballot boxes, and overseeing the voting and counting on election day. These activities had up to that point been handled by county-level commissions supervised by the Ministry of Interior and had been much more susceptible to interference by KMT local party branches. Together, these two laws transferred election management out of the hands of local county and city governments and into the authority of the new CEC, which was staffed by central government appointees.

With these reforms, KMT leaders sought to eliminate electoral fraud, ensure a free and accurate count of the vote, and bolster the domestic legitimacy of elections. At the same time, the party center was willing to introduce these crucial reforms in part because they themselves were still not vulnerable to electoral defeat at the national level, which remained walled off from electoral competition. In addition, a fair count was actually beneficial to most of the party's candidates: they already enjoyed massive resource and advertising advantages over the nascent political opposition, including plenty of funds to buy votes and a pliant judiciary willing to look the other way when they did.

The third period of KMT rule coincided with Taiwan's gradual transition to democracy. That transition began in September 1986 with the founding of the Democratic Progressive Party (DPP), which was established by a group of Dangwai leaders gathering to decide on their nominations for the year-end supplementary legislative elections. Rather than crack down on the new party, which was technically illegal, Chiang Ching-kuo decided to allow the DPP to organize and compete for votes under their new banner, and the next year he announced the lifting of martial law and the legalization of opposition parties. Other important reforms followed: the release of political prisoners, gradual liberalization of speech and assembly laws, relaxation of restrictions on campaign activities, improvements in campaign finance regulation, and changes to the electoral system and other political institutions, including the direct election of the president.

One reason that the KMT leadership (headed by Chiang Ching-kuo until his death in January 1988, and Lee Teng-hui after that) was willing to allow greater electoral competition was that it still enjoyed a massive resource advantage over the opposition. It also had a long track record of running in and winning contested elections at the local level. Ironically, the KMT's ability to buy votes also made it more willing to risk allowing elections for the presidency and national legislature, and

to lift most restrictions on campaign activities. In the 1980s the CEC still imposed strict limits on public election rallies, leafleting, and advertising, which made the regulatory scheme at the time look much closer to that of present-day Japan or Korea. But the opposition DPP made these regulations a central target of its pro-democracy protests, and as part of the gradual liberalization of the political system, the KMT leadership eventually agreed to remove some of the remaining martial-law-era prohibitions on speech and assembly. Taiwan's constitutional court also issued several rulings in favor of a broad interpretation of civil and political rights, making some of the remaining limits unenforceable in practice and moving Taiwan toward a much more *laissez-faire* electoral regulatory regime.

As a result, by the 1990s the main form of electoral malpractice in Taiwan was not abuse of the voter registry, vote fraud, campaign restrictions, libel laws, or selective prosecution of opposition figures, but vote buying. Only much later, after the KMT lost the presidential election in a shock upset in 2000, did vote buying begin to decline in prevalence and effectiveness. That final step on the path to high electoral integrity was helped along by two developments. First, under the first DPP president Chen Shui-bian (2000–2008), local prosecutors were given more discretion and resources to investigate vote buying. The number of cases reported and charges brought soared during the 2000s, and several prominent elected politicians were convicted and removed from office. As a result, the risks to candidates of buying votes increased. Second, the KMT and DPP both supported reform of the electoral system used to elect the legislature. Prior to 2008, legislators were chosen using the single nontransferable vote (SNTV) system from large magnitude districts. This system, which was also used in Japan until 1993, and Korea prior to democratization, has several well-known drawbacks. Chief among them is that it heightens *intra*-party competition and weakens party discipline: it incentivizes candidates to develop a personal (as opposed to party) vote, and it promotes the development of vertically integrated factional structures that are only loosely under the control of the party. In Taiwan, this system has also been widely blamed for the pervasiveness of vote buying: candidates who cannot be confident of support from their own party's base have turned to monetary exchanges, either with local vote-brokers or individual voters themselves, to ensure they will win enough votes to secure a seat. The 2008 electoral reform replaced SNTV with a mixed-member parallel system, raising the share of the district vote a candidate needs to win a seat and reducing the marginal value of vote buying

relative to other, more legitimate ways to make mass appeals. As a consequence, vote buying, too, appears to have declined in frequency and effectiveness over the last decade.

In the rest of this chapter, I review the strengths and weaknesses of each step of the electoral process in present-day Taiwan: how the electorate is defined, how electoral competition is regulated, and how voting and counting are conducted. The most apparent weaknesses of Taiwan's electoral process today are related to malapportionment and disproportionality of the electoral system, and to the regulation of campaign finance and vote buying. Nonetheless, these problems are not especially severe by comparative standards, and vote buying has noticeably declined in prevalence and effectiveness over the past two decades to the point where it is no longer a consistent threat to electoral integrity. Moreover, many other electoral practices in Taiwan are consistent with best practices around the world: voters are registered automatically and voter rolls are accurate and up to date; there are few restrictions on forming new parties, registering to run, or holding campaign activities; parties and candidates receive public subsidies which help level the financial playing field; and the voting and counting processes are exceptionally transparent and efficient.

Defining the Electorate

The first stage of the electoral process at which electoral malfeasance can occur is in how the right to vote is defined and enforced. Around the world, malpractice at this stage usually occurs through two processes: inequitable registration and access to polling stations which effectively disenfranchise parts of the electorate; and malapportionment, gerrymandering, or other manipulations of the electoral system which systematically benefit some political groups over others. Neither is very severe in Taiwan today.

Voter Registration and Access

Taiwan's voter rolls are generated twenty days prior to election day from the comprehensive national household registration system. This system, known in Chinese as the *hujia zhidu*, assigns every citizen a national identification number that is linked to a unique "household" (*hujia*) at an address within the territory of the "free area" of the Republic of China (in addition to the island of Taiwan, this includes the offshore islands of

Kinmen, Matsu, Penghu, Green and Orchid Islands.) The system is maintained and regularly updated by agents of the Taiwanese state, and it is how citizens access state services and benefits such as health care, unemployment, social security, and public education.

As a consequence, the *huji zhidu* provides as close to a complete accounting of all eligible voters as possible, ensuring that each voter is registered in one (and only one) jurisdiction, that newly eligible voters (those turning twenty years of age by election day, or acquiring citizenship) are automatically registered to vote, and that those who have exited the electorate (through death, or suspension² or termination of their household registrations) are dropped from the rolls. The direct link between national identification cards and the registration system also ensures that all voters already have an official identification to show³ when they arrive to vote—they must present it to receive their ballots—and impersonating another voter is exceptionally rare.

The main drawback of this system is the lack of an absentee ballot or early voting option. Voters who do not live at their official place of residence (and there are many Taiwanese who do not) have to return there to cast their ballots—in some cases necessitating long and arduous journeys back to their hometowns for election day. The practical effect of this rule is to increase the burden of voting on the subsets of the electorate who are typically absent from their official households: students away at college, active-duty military personnel, overseas residents (including in mainland China and further abroad), businesspeople on trips, and so forth. However, two other features of Taiwan's electoral process mitigate this problem somewhat: elections are typically held on Saturdays from 8:00 A.M. to 4:00 P.M.,⁴ and most anywhere on the island is accessible within a day's travel, so that casting a vote can usually still be accomplished with a weekend trip home.⁵

Malapportionment, Gerrymandering, and Disproportionality

The second way electoral integrity can be undermined at this stage is through the electoral system itself, via malapportionment, gerrymandering, and disproportionality. On this dimension, practices in Taiwan are not ideal, but these problems are also not particularly severe by comparative standards. At every level of government, from the president to county magistrates and city mayors, town and township heads, and village and ward chiefs, executives are elected to a four-year term by a simple plurality vote. Thus, malapportionment and gerrymandering only

affect legislative and council elections, and they are most severe in the elections to the Legislative Yuan, Taiwan's national parliament.

The Legislative Yuan is a unicameral assembly which since 2008 has been elected using a mixed-member parallel system, with voters casting two separate votes, one for a candidate in their district, the other for a national party list. The single-member district (SMD) seats comprise a little under two-thirds of the total (73 of 113) and are elected using simple plurality rule. The party list seats make up about 30 percent (34 of 113) and are distributed under closed-list proportional representation using the Hare quota (largest remainder) formula with a minimum threshold of 5 percent. The remaining six seats are reserved for indigenous representatives, elected by indigenous voters from two separate three-seat multi-member nation-wide constituencies using the SNTV system.

Legislative Yuan districts vary a lot in population size. The Civil Servants Elections and Recall Act discourages severe malapportionment of single-member districts, but it also lists the even distribution of voters as only one of several competing goals, including keeping together significant communities of interest and guaranteeing that every county and city is represented by at least one legislator. As a consequence, the actual number of voters in each constituency varies significantly across the country. For instance, the offshore islands of Penghu, Kinmen, and Matsu are all in separate counties and therefore entitled to their own representatives, even though Penghu has less than 90,000 voters, Kinmen has less than 120,000, and Lienchiang County less than 11,000, putting the electorate there at less than one-twentieth the size of the median district on the main island of Taiwan, which has about 250,000 voters. At the other extreme, the most populous electoral district, Yilan County, has over 362,000 voters. As a consequence, in the 2020 Legislative Yuan election, the legislator elected from Yilan represented over thirty times the number of people as the legislator from Matsu. The same rule leads to malapportionment elsewhere as well, although not quite so severe: the rural counties of Taitung and Hualien, for instance, are each represented by their own legislators, despite the size of the electorate falling significantly below the median in both.

Another source of malapportionment, albeit one that is more defensible on other normative grounds, are the indigenous reserved seats. About 2.4 percent of Taiwanese hold official indigenous status, but the reserved seats make up 5.6 percent of the total in the Legislative Yuan—so the vote of an indigenous voter is worth more than twice as much as a voter in the median nonindigenous legislative district.⁶

This inequality in the size of Taiwan's legislative districts is especially problematic because it maps onto the partisan divide in Taiwan: the smaller districts of Kinmen, Lienchiang, Taitung, and Hualien, as well as the indigenous reserved seats, tend to be much "bluer," or pro-KMT, than the electorate as a whole.⁷ Thus, since 2008, the KMT has enjoyed a modest bonus of between three and five seats in the legislature from this malapportionment—one that helped deliver the party a supermajority in the legislature in 2008, and cushioned the blow of its defeats in 2016 and 2020.

At lower levels of the political system, representatives are still chosen under the old SNTV system in multimember districts (MMDs). In clear contrast to Japan, where malapportionment among multimember districts played an important role in keeping the Liberal Democratic Party (LDP) in power until the electoral reform in 1993,⁸ in Taiwan seats have routinely been added or reallocated to ensure a roughly equal distribution of representatives. As noted earlier, the SNTV system has other well-known drawbacks that continue to bedevil local council elections: it creates stronger incentives for candidates to buy votes and sort into factions within parties, and it generates difficult coordination problems for both parties and voters, which can result in a distinct advantage to the party that more accurately forecasts its expected vote share and gets its supporters to evenly distribute their votes across all the party's candidates. But on the whole, the apportionment of seats across local council districts has remained reasonably equitable.

In contrast to Malaysia and Singapore, gerrymandering has been only a minor problem for electoral integrity in Taiwan. Since the switch to the two-vote system in the 2008 legislative election, the manipulation of SMD borders to maximize partisan advantage has generally been kept in check by the Central Election Commission, which has authority over how district boundaries are drawn. This is not for a lack of trying: in the first round of districting in 2007, both the KMT and DPP pushed aggressively for the CEC to draw the boundaries that were most favorable to their own electoral prospects. In the end, the parties and the CEC resolved the issue by drawing lots; the KMT's map for Pingtung County was adopted, while the DPP's was for Taoyuan, and the map of the small Taiwan Solidarity Union (TSU) for Taipei County.⁹ Nevertheless, the requirement that townships and districts serve as (relatively large) building blocks for districts within counties and cities has meant that there are simply not many different ways to manipulate boundaries for partisan gain, and gerrymandering is not especially severe despite the use of SMDs to elect most legislators.¹⁰

A potential concern for the future is that the CEC has recently proven susceptible to pressure from incumbent legislators who have opposed changes to their constituencies. Article 35 of the Civil Servants Elections and Recall Act requires that the CEC reapportion electoral districts at least once every ten years. In the most recent adjustment before the 2020 elections, the CEC shifted two seats to account for changes in population: Tainan and Hsinchu County gained a seat, while Pingtung and Kaohsiung each lost one, which necessitated completely redrawing the districts in these four localities. However, the CEC did not adjust the boundaries anywhere else to account for population changes, even though in some localities the electorate has become increasingly unevenly distributed across constituencies. In New Taipei, for instance, eligible voters per legislative district in 2020 varied from only 216,000 (Legislative Yuan sixth district) to about 355,000 (Legislative Yuan first district). In 2018, the CEC apparently gave in to demands from incumbent legislators not to redraw their constituency boundaries,¹¹ all but guaranteeing that this malapportionment will continue to get worse; without reapportionment in the future, this trend could eventually lead to severe violations of the principle of one person, one vote even within counties and cities.

The Legislative Yuan electoral system is also majoritarian in its net effects, though not to the extreme degree of Malaysia and Singapore. The proportional representation (PR) tier of Taiwan's mixed-member system makes up only a little under one-third of all seats, and it is not compensatory—that is, the PR seats are not used to “compensate” parties that are underrepresented relative to votes won in the SMDs, but instead are allocated solely based on each party's share of the second ballot votes. This design allows for significant divergence between overall party vote and seat shares in the legislature. The most extreme election outcome to date was in 2008, when the KMT won 72 percent of the seats in the Legislative Yuan on only 53 percent of the district vote, while the DPP won only 24 percent of the seats on 39 percent. In 2016, this advantage was reversed: the DPP won 60 percent of the seats on 45 percent of the district vote, while the KMT won only 31 on 39. This disproportionality has contributed to “manufactured” majorities in the Legislative Yuan as well: in 2020, the DPP won 55 percent of the seats and maintained its majority despite winning only 46 percent of the district vote, and 33 percent of the PR vote—the latter a 10-point drop from 2016.

Nevertheless, the PR tier is still large enough to mitigate somewhat the majoritarian effects of the SMDs. It has tended to bolster the over-

all seat share of the party that comes in second in the most district races, and it also provides an opportunity for small parties that cannot compete in most SMDs to win seats via the second ballot. Thus, despite macro-level incentives driving Taiwan toward a two-party system—a president directly elected without a runoff, a unicameral legislature now elected concurrently with the president, a long-standing unidimensional cleavage between pro- and anti-China camps, and an increasingly nationalized party system—at least two smaller parties have held enough seats to form their own party caucuses in every legislative term except for the seventh, from 2008 to 2012.

Finally, it is worth noting that Taiwan has long had a gender quota for all multi-member districts. For the Legislative Yuan, this quota is now enforced in the party list tier, where at least half of all party nominees must be women. This rule guarantees that at least 17 of 113 legislators will be women—a significant drop from the previous rule under the old SNTV system in place before 2008, when the quota was 25 percent of seats in each multimember district. Nevertheless, Taiwan's share of female legislators is still quite high by comparative standards: in the term beginning in 2020, 41 percent were women. At lower levels, councilors and township representatives are still elected using the old SNTV system with a 25 percent gender quota. There is good evidence that the existence of these quotas has helped gradually to increase women's participation in politics, to the point where the share of female officeholders far surpasses the minimum requirements now in Taiwan's national parliament.¹²

Regulating Electoral Competition

In contrast to Japan and especially Korea, Taiwan's campaign regulations are quite lenient in practice. It is relatively easy to establish a new political party, run for office, hold campaign events, advertise for one's campaign, and canvass for votes. The electoral rules on the books still impose quite strict limitations on campaigning for office—a holdover from Taiwan's authoritarian era—but in practice most of these restrictions have long ceased to be enforceable. For instance, the official campaign period for the presidency is still only thirty days long, but under Taiwan's liberal free speech and assembly regime, candidates can and frequently do hold election rallies, parades, and demonstrations well before that period. Indeed, Taiwanese politics often feels like it is in a state of a permanent election campaign, with public appeals and rallies

and prominent displays of campaign posters months or even years before the date of the next election.

Registering Parties and Candidates

Since the late 1980s, it has been straightforward under Taiwanese law to establish a new political party. Registration of a new party requires holding a founding assembly, drafting a party charter, and submitting a membership roster of at least a hundred people. The ease with which new parties can be founded means that they have multiplied over the past thirty years, so that in 2019 there were over 300 political parties on record.¹³ A new Political Parties Act was passed in 2017 that tightened the requirements for political parties to retain legal standing, including holding a party assembly at least once every four years and submitting a declaration of party finances that meets actuarial standards. Parties are also prohibited from investing in or managing for-profit businesses—a provision aimed at the KMT, which for many years used assets from its party-linked businesses to fund its party activities.¹⁴

In order to qualify for the ballot, individual candidates must register with the CEC and pay a deposit. The requirements for registration vary based on the type of office. The rules for the presidential election are the most restrictive: prospective candidates must be at least forty years old, must have maintained a residence in the ROC free area for at least fifteen years, and cannot be a naturalized citizen (the electoral law explicitly rules ineligible naturalized immigrants from mainland China, Macau, or Hong Kong). Access to the ballot is also restricted for presidential elections and favors candidates of the major political parties. All parties which obtained at least 5 percent of the party list vote in the previous Legislative Yuan election, or which ran a ticket that won at least 5 percent in the last presidential election, have an automatic presidential ballot line. Other aspiring candidates are required to collect valid signatures equivalent to 1.5 percent of the total electorate within forty-five days to qualify. All candidates must also pay a large deposit of NT\$15 million, or about US\$500,000, that is to be refunded within ten days after the election unless the candidate fails to win at least 5 percent of the vote.¹⁵ (Any fines that the CEC assesses for violations during the campaign can be withheld from this deposit.) The signature and deposit requirements are high enough that independent candidacies are rare: not since 2000 has an independent managed to qualify for the presidential ballot.¹⁶

For legislative district elections, candidates must be at least twenty-three years old and reside in the district where they intend to run at the

time of registration (though not once they are elected). They also cannot be active-duty soldiers, electoral personnel, or serving jail time for a serious crime. Most candidates are nominated by a political party, but party affiliation is not required to run, and many district races include several independent candidates as well as the major party nominees. Legislative district candidates must pay a deposit—set by the CEC at its discretion—that is subject to forfeit if they do not win more than one-tenth the vote share of the winner. In practice, this rule means that many candidates lose their deposits after the votes are counted. Nevertheless, the deposit requirement remains low enough that many independent candidates with little shot at winning still run. In the 2020 Legislative Yuan election, for instance, the CEC set the deposit amount at NT\$200,000 (about US\$6,250), and in over half of the single-member districts, at least five candidates qualified for the ballot. In the most extreme case, in Kaohsiung’s third district, eleven candidates ran; of these, six won less than 1 percent each, and so had to forfeit their deposits. (As in the presidential race, the CEC also can withhold part of these deposits to cover any fees it has assessed for campaign violations.)

For the legislature’s proportional representation seats, parties must meet at least one of the following criteria for their list to appear on the ballot:

1. The party nominated a presidential ticket in the last election, and its candidate won at least 2 percent of the total vote.
2. The party has won at least 2 percent of the party list vote for the last three consecutive legislative elections.
3. The party has at least five legislators in the current legislative term.
4. The party has nominated at least ten candidates across all geographic districts.

In recent years, these criteria have forced new parties, most notably the New Power Party (in 2016) and the Taiwan People’s Party (in 2020) to nominate additional “sacrificial” candidates in districts to qualify their party list for the ballot, adding to the financial and logical hurdles that new small parties face in competing for the legislature.

Candidates also cannot run for more than one type of election at the same time. This clause (Elections and Recall Act, Article 25) precludes the possibility of so-called best loser or zombie candidates for the Legislative Yuan—a common phenomenon in Japan, where candidates who lose their district races are sometimes still able to enter the Diet by simultaneously running on the party list.¹⁷

Below the national level, similar rules apply: candidates must meet residency and age qualifications and submit a deposit in order to register, but there are no other practical barriers to running. The CEC has the discretion to set the size of the deposit. In recent years it has ranged from NT\$200,000 for city/county executive races to NT\$2 million for special municipality mayors, and from \$12,000 for city and county councilors to NT\$200,000 for special municipality councilors.¹⁸

Overall, Taiwan's candidacy rules appear to strike a reasonable balance between allowing access to the ballot for serious candidates, including from the leading opposition parties, while still discouraging completely frivolous ones. They also include several provisions that increase the value of belonging to a political party, and they tend to privilege the larger, longer-established parties over smaller ones and independent candidates.

Campaigning

When it comes to campaigning for office, there is significant divergence in Taiwan between the letter of the law and accepted practice. In theory, the Elections and Recall Act places strict limits on the length of the campaign periods for each type of elected office. The longest, for president, is only thirty days. Candidates for the Legislative Yuan, mayors and county executives, and city and county councilors are allowed only fifteen days before the election to campaign, and candidates for lower offices, only five.¹⁹

In practice, however, these restrictions have been superseded by Taiwan's liberal constitutional protections for free speech and assembly. The CEC has not attempted in the democratic era to regulate the speech or political activities of candidates before the official start date of the campaign—and if it did, it would probably end up losing in court. Candidates can still hold public rallies, advertise, or solicit support ahead of party primaries as well, and in practice they are allowed to (and usually do) put up campaign billboards and flags well before the official campaign period begins.

There remain a handful of important restrictions that the CEC does continue to enforce during the official campaign period. Campaign activities are limited to between the hours of 7:00 A.M. and 10:00 P.M. Civil servants cannot participate in campaign activities, and campaign offices cannot be located in public buildings.²⁰ Campaign materials cannot be displayed on public property, including roads, bridges, and parks, except as explicitly permitted by the local government. The CEC continues to

enforce a polling blackout for the ten days prior to the election—no polls can be announced during this period, although campaigns and other pollsters can still conduct them privately (Article 53)—and no campaign activities of any kind are allowed on election day itself (Article 56).²¹

Rather than attempt the quixotic task of preventing campaign rallies or forbidding advertising on private billboards, Taiwan's election regulators instead have focused much of their limited capacity on trying to detect, deter, and punish the most pernicious violations of campaign laws—especially vote buying. Candidates are not allowed to provide “gifts” to a voter worth more than NT\$30 (about US\$1); they may pass out pens, tissue paper, notebooks and other cheap merchandise as campaign publicity, but are forbidden to distribute anything more substantial. Election law also explicitly forbids the exchange of money for a promise to vote a certain way (Articles 99 and 100). Taiwan has a long tradition of candidates paying people for their votes, especially for local offices, and this practice became extremely pervasive in the early 1990s as the island democratized and the KMT nomination was no longer sufficient to deliver victory to its candidates. But over the past two decades, local prosecutors have made investigating vote buying allegations a top priority, and several winning legislative candidates have subsequently been convicted and stripped of their seats.²² Indirect evidence suggests the effectiveness and prevalence of vote buying has steadily declined over the last two decades, though it likely continues to be practiced in some local elections and in the remaining indigenous SNTV seats.²³

Campaign Finance

One area where limits and enforcement remain quite lax in practice is in campaign financing. The Political Donations Act (PDA), first adopted in 2004, permits individuals, political parties, civil associations, and businesses to donate to individual political campaigns, though public-owned enterprises and businesses seeking government contracts cannot. There is also now an explicit ban on donations from foreign individuals and businesses (Article 7), including those based in mainland China, Hong Kong, or Macau. Campaign donations to all candidates are capped at NT\$300,000 (about US\$10,000) for individuals, NT\$2 million for businesses, and NT\$1 million for civil associations, of which at most US\$100,000 (NT\$1 million, NT\$500,000) can go to any one candidate (Article 18). Donations under NT\$10,000 (about US\$500) are not required to be reported (Article 14). Donations directly to political parties are also permitted, and capped at NT\$300,000 per individual, NT\$3

million per business, and NT\$2 million per civil association (Article 17). Notably, the period of time in which donations can be made to individual candidates (though not to political parties) is limited by law: to one year prior to the election for aspiring presidential candidates, ten months for the legislature, eight months for county- and city-level offices and township heads, and only four months for township and village representatives (Article 12). Separately, the Elections and Recall Act imposes a cap on campaign spending, enforceable via fines levied by the CEC.

Nevertheless, in practice the reporting and disclosure requirements for these donations and expenditures are quite weak, undercutting the effectiveness of spending limits. The PDA gives the authority to collect information about campaign donations to the Control Yuan, which has few enforcement powers. Candidates are supposed to submit a comprehensive list of their campaign donations and expenditures within seventy days after the election, and to keep all donations in special accounts monitored by the Control Yuan. There are few penalties for misreporting, however, and when campaigns exceed the donation caps, the Control Yuan can only impose fines. In addition, the Control Yuan does not make the detailed campaign reports public, allowing donors to contribute anonymously.²⁴ In practice, this design means that most campaign reports have only the roughest approximation to the true amount of funds, their sources, and the total expenditures, and enforcement of campaign finance restrictions, to the extent it does occur, comes mostly from prosecutors investigating candidates and parties for violations of other laws—especially vote buying and covert foreign influence—rather than from the CEC or the Control Yuan.

Taiwan also provides public funding for political parties and individual candidates. For political parties, this funding is distributed annually based on the party list vote in the last legislative election: NT\$50 per vote earned, for all political parties obtaining at least 3.5 percent of the vote. For candidates, a one-time subsidy is provided after the election: all candidates winning at least one-third of the winning candidate's vote share receive NT\$30 per vote, paid out at least thirty days after the final results are certified.²⁵ The practical effect of these subsidies is to give the large parties, and candidates who run under their banners, a significant financial advantage over new parties, small parties, and independent candidates.

Media Regulation

Since the transition to democracy, Taiwan's media regulators have had a very light touch, and news outlets have been free to publish contro-

versial stories and critical editorials without fear of censorship or retaliation. No state body oversees print media, and the National Communications Commission (NCC), an independent agency responsible for regulating television and radio broadcasting, has generally not interfered with programming. This *laissez-faire* approach to the media industry has changed somewhat in recent years, as the ruling DPP has become increasingly alarmed at allegations of PRC interference in election campaigns and close coordination between some traditional media outlets and Beijing—particularly during the 2018 local elections. In response, the executive branch has stepped up enforcement of foreign influence laws to combat the spread of disinformation online, the DPP-led legislature has passed several new laws and amendments tightening reporting requirements, and the NCC has become more assertive about fining TV outlets for unbalanced news coverage.²⁶ In November 2020, it also took the unprecedented step of denying a license renewal to a deep blue, pro-unification news channel, CtiTV, effectively taking a news station off the air for the first time in the democratic era.²⁷ While there were fears that this shift in the NCC's approach would eventually lead to a significant chill in freedom of expression and the press, in hindsight it appears to have been a reasonably calibrated reaction to a serious outside threat to the integrity of Taiwan's electoral process.

At present, however, Taiwanese voters still enjoy access to media offering a wide variety of coverage and opinions that span the political spectrum, from pro-unification to pro-independence. There is no notable state censorship of private media companies, and both parties and individual candidates of all political stripes can appeal directly to voters without facing restrictions.

Voting and Counting

One of the great strengths of Taiwan's election management system are its procedures for voting and for counting the ballots. Polling stations are usually in public buildings, which tend to be centrally located within the precinct—schools, community centers, markets, town halls, and so forth. Because these exist in any town or village, no matter how small or remote, access to them is not systematically different across Taiwan. Election law requires that most poll workers be public schoolteachers or government employees, who if requested must serve in this role, and who are paid a small honorarium for their time.²⁸ They are responsible

for setting up the polling stations, checking identifications against registrations, and ensuring voters receive the right ballots.

All polling stations open at 8:00 A.M. and close at 4:00 P.M. The 4:00 P.M. cutoff is strictly enforced: those voters still waiting in line are permitted to cast a ballot, but anyone still outside is not allowed in the door. During this period, there are strict rules against voter intimidation. Campaign materials are not allowed within 100 feet of a polling place, and voters are not allowed to wear any paraphernalia linked to a campaign. Cell phones are not allowed in the voting booth—though this can now be enforced simply by requiring voters to power them down—and no photography is allowed in or around polling stations (though since 2016, photo-taking and recording has been permitted during the vote count after the polls have closed).²⁹ At least one police officer is posted to each precinct to back up election workers enforcing the rules and to maintain order if necessary.

Taiwan's ballot design is also exemplary. The CEC produces a separate ballot for each type of race, distinguished by color.³⁰ Each candidate's picture, name in Chinese characters, and party affiliation (if any) are listed on each ballot. Candidate and party order is assigned via lottery, conducted by the election commission in each jurisdiction in a public ceremony. The voter indicates her choice by placing a mark in a large blank box below the candidate's name and picture with a special election stamp supplied in each polling booth. The CEC also has generous guidelines for discerning voter intent—if a voter stamps a candidate's picture or name instead, or stamps multiple times in multiple places, the vote is to be counted. If a stamp crosses over into another candidate's box, however, it is invalid. Ballots also cannot be marked with items other than the official stamp, or signed, or otherwise provide markings that could conceivably make it possible to identify who cast a particular ballot. This ballot design, and the permissive guidelines for what counts as a vote, mean that the spoiled (invalid) vote count is quite low, ranging from 0.5 percent to 2 percent in any given precinct.³¹

Control over printed ballots is carefully monitored. They are delivered to the polling place three days before the election and kept under lock and key until the morning of the election. The number of ballots supplied to each polling station is at least equivalent to the total number of voters registered there, plus a small set of extras. (When the count is concluded, the polling supervisor must report the total number of unused ballots as well, and these are returned to the CEC headquarters along with the ballots cast.)

The most unique and symbolically powerful part of Taiwan's elections is the public vote count, which takes place at the polling stations

immediately after the polls have closed. After the last vote has been cast, the poll boxes are sealed and moved to the center of the room. A rope or other barrier is drawn across the room to separate the poll workers from observers (both from the campaigns and any interested members of the public), who are then allowed into the polling place to watch the count proceed. The boxes are then opened, ballots pulled out one by one and held high so that they are visible to all observers, and the name and number of each candidate or party receiving a vote is called out and marked on a paper at the front of the room. The count proceeds until all votes in each box have been recorded, and then the empty box is shown to the audience to confirm no ballots have been missed. The number of votes on each sheet are then totaled up and final counts posted on an official slip outside the polling station, and the poll supervisor calls in the precinct results to the CEC.

The counting process takes, on average, 2–3 hours for a national election, and the results for the entire country are typically finalized in about six hours. The greatest drawback of this system is that it is labor-intensive: the 2020 general elections required over 200,000 poll workers for an electorate of 19.3 million people.³² However, it has many other advantages: it is low-tech, transparent, efficient, fast, and accurate, and nearly impossible to manipulate without being spotted.

The only serious administrative problems to occur during election day in recent years have involved referendums.³³ In December 2017, the legislature lowered the requirements for qualifying a referendum for the ballot, and there was a rush to put this new political tool to use. In November 2018, an unprecedented ten referendums were held on the same day as Taiwan's consolidated local elections, which now feature concurrent elections for all offices below the central government level. Voters received as many as fifteen separate ballots (ten referendum ballots plus up to five for local races), and the voting process slowed to a crawl. Many voters faced long waits and were still standing in line to vote as the counts began in other precincts—an almost unprecedented situation for Taiwan. After widespread criticism and complaints, the head of the CEC resigned to take responsibility, and the legislature eventually amended the law again to require referendum votes to be held separately from other elections.³⁴

Conclusion

The key innovations in Taiwan's electoral process developed over a period of more than seven decades. The household registration system

and the SNTV system were holdovers from the Japanese colonial era, as were the initial stringent limits on campaign activities. The practice of counting the ballot boxes at the polling stations was introduced in the early martial law era by KMT liberal reformers who were mostly given free hand to write the regulations for local elections.³⁵ The requirement that each candidate be allowed to nominate some of the poll workers was introduced in 1960, after Kao Yu-shu's suspicious defeat in 1957, and was partly responsible for his second victory in the Taipei mayor's race in 1964.³⁶ Other reforms were introduced during the "soft authoritarian" period: most importantly, the passage in 1980 of the Civil Servant Elections and Recall Act and the creation of the Central Election Commission, which put election law on a statutory basis and hastened the professionalization of election management. The liberalization of campaign and media regulations came later; they, rather than the independence of the electoral commission, were major points of contention during the long transition to democracy, but they had largely been resolved by the time the first direct presidential election was held in 1996.

These reforms did not completely level the electoral playing field. The KMT still enjoyed enormous resource advantages over the other political parties, and it remained the favorite to win any given race. But the reforms did raise the possibility that the long-time ruling party could actually lose power under the right conditions. In the 2000 presidential election, to the surprise of many, the KMT did in fact lose power, ushering in the next phase of Taiwan's political evolution. The remaining electoral reforms introduced during this period are mostly related to party financing and vote buying, and they have further strengthened the integrity of elections in Taiwan.

Considered in comparative perspective, the Taiwan case demonstrates how past authoritarian practices do not necessarily have to leave a negative legacy for contemporary politics. Indeed, the Taiwan experience suggests the opposite: the KMT regime built a high-quality system of election management precisely because it wanted to strengthen the legitimacy of elections—elections that it was confident it could win in a free and fair contest. One of the great ironies of Taiwanese politics is that such a long period of authoritarian one-party rule has left at least one positive legacy for democracy today.

Notes

1. Ahern and Gates, *The Anthropology of Taiwanese Society*; Su, "Angels Are in the Details." Kao's repeat success was so disturbing to the KMT leadership that

Taipei was then converted into a directly administered municipality, which changed the mayor's office from an elected to an appointed position. Kao was nevertheless allowed to keep his post until 1972, and he later joined the KMT.

2. ROC residents normally must have established residence in Taiwan for the previous six consecutive months to be eligible to vote. ROC passport holders who have lived abroad for more than six consecutive months will have their residency suspended and are not eligible; they may, however, apply at their local government office to be included on the voter rolls for the next election. See Presidential and Vice Presidential Election and Recall Act, art. 12.

3. One exception is overseas residents; they may show a passport in lieu of a national identification card, provided they have applied to vote. Civil Servants Election and Recall Act, art. 14.

4. This practice is by custom, not by law; the Elections and Recall Act does not specify a required date and leaves this decision up to the Central Election Commission.

5. The introduction of absentee balloting is particularly fraught because of the large number of Taiwanese who live and work in the People's Republic of China (PRC). It would be hard to ensure that ballots sent to and from the PRC in the mail would be secure, and that votes cast there would be free of undue interference from the Chinese Communist Party. Moreover, the prospect of several hundred thousand votes cast from mainland China deciding the outcomes of close elections in Taiwan should give pause to even the staunchest advocates of absentee balloting.

6. On the reserved indigenous seats, see Templeman, "When Do Electoral Quotas Advance Indigenous Representation?"

7. See Batto, "Sources and Implications of Malapportionment."

8. On this point, see Scheiner, *Democracy Without Competition*.

9. Shih, "Su, Wang Break Electorate Deadlock."

10. See Batto, "Partisan Politics and Redistricting."

11. See Batto, "The CEC Abdicates Its Duty."

12. Huang, "Gender Quotas and Women's Increasing Political Competitiveness."

13. Huang and Hetherington, "Several Parties Have Yet to Make Charter Amendments."

14. "Legislature Passes Political Parties Act."

15. Presidential and Vice Presidential Election and Recall Act, art. 31. In the most recent presidential election, in 2020, perennial candidate James Soong won only 4.16 percent of the vote, so he failed to meet the threshold and duly forfeited his deposit.

16. This was James Soong, in his first of five attempts at the presidency (he also ran in 2012, 2016, and 2020, and in the vice president slot on the KMT ticket in 2004). This signature requirement also had real political consequences for the 2020 race: the former DPP vice president Annette Lu, unhappy with President Tsai's moderation on cross-Strait issues and nursing a series of other grudges against the party, declared her own independent run for president. There was some speculation that she might pull votes away from the DPP, but in the end she was unable to gather enough signatures to qualify, and she had to abandon her candidacy before it formally began. See Yun, "Annette Lu Withdraws Presidential Bid," p. 3.

17. Pekkanen, Nyblade, and Krauss, "Electoral Incentives in Mixed-Member Systems."

18. The large deposit required for prominent offices briefly became a salient issue in 2018. The social activist Fan Yun declared her candidacy for the Taipei mayor's race but struggled to raise the NT\$2 million (US\$62,500) required for the deposit. She later quit the race, complaining bitterly that this requirement put candidates from small parties, and especially young activists, at a disadvantage. She

proposed changing the law to allow signatures to be submitted instead of a deposit. See Maxon, “Minor Parties Call for End to Election Deposits.”

19. Civil Servants Election and Recall Act, art. 40.

20. These restrictions were introduced in 1980 to forbid what was previously a common practice: KMT officials would use state resources for partisan purposes.

21. This requirement has been quite aggressively enforced. In 2012, for instance, the Facebook page of the campaign of incumbent President Ma Ying-jeou posted a message early on election day reminding supporters to head to the polls and vote for Ma. The CEC interpreted this as a violation of the “no campaigning” restriction and fined the Ma campaign NT\$500,000. See Huang, “2020 Elections,” p. 3.

22. After the 2008 elections, five different legislators were convicted of vote buying and removed from office. One legislator each was convicted of vote buying after the 2012 and 2016 elections—both in the indigenous constituencies.

23. For instance, the Varieties of Democracy project includes a variable measuring the prevalence of vote buying by year; it shows a significant decline in Taiwan since 2008.

24. On this point, see especially Chen, “Money in Taiwanese Politics.”

25. Civil Servants Elections and Recall Act, art. 43; Presidential Elections and Recall Act, art. 41.

26. For more details, see Templeman, “How Taiwan Stands Up to China.”

27. The NCC justified this action by noting a repeated pattern of violations of the terms of its license from CtiTV, including a failure to adhere to a previous agreement to maintain editorial independence and balanced news coverage. CtiTV continues to broadcast via a YouTube channel, and its sister station, CTV, remains on the air. See “NCC Decides to Shut Down CtiTV News Station.”

28. Su, “Angels Are in the Details.”

29. Gerber, “Ban on Photography During Vote-Counting Dropped.”

30. For instance, in the 2020 elections, the presidential ballot was colored pink, the district legislative race ballot yellow, the indigenous highland ballot blue, indigenous lowland ballot green, and the party list ballot white. The different colors help poll workers to assign voters the proper ballots (important for the legislative races) and to sort the ballots during counting.

31. Author calculation, from 2020 legislative election results, available at Central Election Commission website, <https://db.cec.gov.tw/histMain.jsp?voteSel=20200101A2>

32. Chung, “CEC to Have 1,346 More Polling Stations Next Year,” p. 3.

33. The first referendums held in Taiwan, in 2004 and 2008, also sparked heated partisan fights over the voting process and the validity of the referendum power itself.

34. “Civic Group Leaders Slam Referendum Act Amendments.”

35. Su, “Angels Are in the Details,” p. 294.

36. *Ibid.*, pp. 297–298.