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# The Choice of Constitutional Amendments in a Young Democracy – From Indirect to Direct Election of the President in Taiwan

Liao Da-chi and Chang Hui-chih

**Abstract**: This paper attempts to determine the kind of constitutional rule preferred in a young democracy when an institutional opportunity for constitutional change occurs. It adopts the standpoint of collective decision-making. This approach involves two crucial theoretical elements: the calculation of the interests of the political elite and the masses' comprehension of what democracy is. The case studied here is Taiwan's constitutional choice between the direct and indirect election of the president during the period from 1990 to 1994. The paper first examines how the political leaders might have used both the logic of power maximization and of power-loss minimization to choose their position on the issue. It then demonstrates that survey results indeed showed that respondents better understood the direct form of electing the president and therefore supported it over the indirect one. This support helped the direct form to eventually win out.

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**Keywords**: Taiwan, constitutional amendment, direct election of the president, young democracy

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## Introduction

Currently, "democracy" may be the most prevalent and successful political belief in the world. It is such a predominant value for many modern states that they cannot help but uphold it; still, its true nature and the form of government that upholds it can vary. However, no democracy can thrive without a constitution. How a constitution should be formulated so as to realize democracy has also been the subject of numerous debates.

For old democracies, their traditions and their long historical experience in living the so-called democratic life play quite an important role in legitimizing what their constitutions contain. Take choosing the head of a nation as an example. Both the United Kingdom and the United States of America do not require a direct popular election to choose their national leaders. The Queen, by tradition, is the head of state in the U.K., and president of the U.S. is elected by the Electoral College; the popular vote has no final say on this matter. These two old democracies have maintained these traditions while choosing their national heads for a long time. No formal amendments to these practices are likely to be attempted in the foreseeable future.

In young democracies, constitutions usually do not have the necessary foundations to protect their legitimacy. Power struggles between opposing or confrontational elites may easily lead the blaming of the constitutional rules that arrange power but are not deeply imbedded in the societies of young democracies. Furthermore, some authoritarian legacy may substantially frame the constitution of a newly democratized country, and this also constitutes fertile ground for nurturing power struggles among elites with different interests in the new regime. Thus, the revision of certain constitutional clauses could be an irresistible temptation for some young democracies, as long as the amendment procedures outlined in their constitutions are not too rigid.

Revisions or amendments to constitutions have indeed become quite common among many newer democracies. For instance, Brazil has undergone seven (the most recent was in 1988); Chile, seven (1989); Ecuador, 15 (1979); and Mexico, six (1999) (Maddox 1995). Among some third-wave democracies, revising the constitution is also quite a prevalent phenomenon (CIA 2009). According to an orthodox institutional approach, the amendment procedures may be viewed as a crucial factor in understanding how and why a constitution can be revised more often than not. This paper, however, focuses on young democracies. It

assumes that their constitutional rules are not that consolidated and are, therefore, more a dependent than an independent variable, though the degree of rigidity in each constitution still, to a certain extent, influences the opportunity to revise it (Liao, Chien, and Chang 2008). However, the paper will not elaborate on institutional influences but will rather focus on the role of elites and the situational factors. How might a young democracy amend its constitutional rules? What kind of new rules would be preferred?

The paper approaches these questions mainly from two theoretical perspectives: the role of elites and the constraints of environment. The rationale underlying the adoption of these two perspectives is twofold. On the one hand, decision-making theories, including the rational comprehensive theory, the disjointed incremental theory, the bounded rationality theory, and the garbage can theory (see a summary and application of these theories in Kingdom 1984: 75-95), commonly emphasize these two crucial elements in the process of making choices. On the other hand, a formal constitutional amendment is by all means a choice made by a collectivity under certain circumstances. Thus this paper views a constitutional change primarily as a public choice among different amendment proposals. It further utilizes these two elements in the following way: First, it takes the elites' interests into account because the so-called rational-choice approach claims that their interests are solely responsible for the occurrence of a certain constitutional choice. However, the elites' interests are also constrained by the masses' needs and the dominant social values. There exists what is referred to as historical institutionalism, which also emphasizes the historical path that constrains elites in the calculation of their interests (Hall and Taylor 1996). Yet what the historical path actually consists of has always been quite vague and tautological. Thus, the paper does not use this concept but rather uses ideas generated from a synthesis of decision-making theories. Although elites usually make judgments from a privileged position on how a certain amendment may better reflect the dominant social values and cope with the masses' needs, they must put forth an interpretation that is not beyond the masses' understanding.

Moreover, even in a young democratizing society, the interpretation of a certain event or a constitutional idea is supposed to be competitive among different elites. Those who can better convince the masses to accept their interpretation of a constitutional idea should have a better chance of eventually upholding the constitutional amendment they fa-

vour. To look at this another way, the masses' comprehension of events and constitutional ideas is crucial to elite interpretations of these events and ideas if competing elite groups care about winning.

The second theoretical element of the so-called environmental constraints, then, is further concretized as the masses' comprehension of what democracy is. This is because the masses may psychologically embrace democracy in a newly democratizing society, but how well they understand it is questionable.

The paper studies the case of Taiwan's 1994 constitutional amendment regarding the method of electing the president. The president of the Republic of China (ROC), the formal national title for Taiwan, had previously been elected by the National Assembly, a representative organ of the people, in accordance with the original version of the ROC constitution, promulgated in 1947 (Liao 1990; Liao, Chien, and Chang 2008). In other words, the president was not directly elected by the people, but by their representatives. In 1994 this constitutional rule was changed to allow the people of Taiwan to directly elect the president. This constitutional change did not occur without struggles and confrontations between political elites. During the period from 1990 to 1994, how a national leader should be elected was indeed hotly debated in Taiwan. It can be seen that this issue was discussed 561 times in *Lianhe Bao* (联合报*United Daily News*) at that time, far more than other constitutional revision issues that can be data-mined for the same period (see Liao et al. 2008: 7).[1]

This paper first discusses how the political elites, who had discrepant political interests, approached this issue by offering two different options for electing the national leader. It further explores how the masses responded to the two different constitutional designs, and how their level of understanding of democracy played a crucial role in bringing about direct election and in keeping the other, less-direct option out.

Since this study is retrospective in nature, the main method used is the interpretation of documents. All relevant documents – which include the National Assembly Records on Amending the Constitution (国民大会实錄 Guomindahui shilu); the Records of the National Consensus Building Conference (国是会议实錄 Guoshi huiyi shilu), conducted from June 29 to July 5, 1990; news reports; politicians' autobiog-

1 The data-mining results for the issue of the method for conducting presidential elections can be reviewed at <http://140.114.134.219/Politicals2008_1/event. php>.

raphies; and academic papers – have been accessed via the ROC constitution databank set up by Liao Da-chi.[2]

## The Background to and Process of Constitutional Change Leading from the Indirect to the Direct Election of the President in Taiwan

Taiwan started its democratization process roughly around the mid-1980s as the first formal opposition party, the Democratic Progressive Party (DPP), was established in 1986 and martial law was lifted in 1987. One of the most salient issues at that time was how to reform the national representative organs, which consisted of the National Assembly, the Legislative Yuan, and the Control Yuan. This kind of representative institutional design was due to the fact that Taiwan had a quite unique constitutional system that followed Dr. Sun Yat-sen's doctrine of establishing a five-power structure for the central government. The five powers were the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Control Yuan, and the Examination Yuan. The five were supposed to be responsible to the National Assembly. However, since both the members of the Legislative Yuan and those of the National Assembly were directly elected by the people and the members of the Control Yuan were elected mainly by provincial assemblypersons who were also directly elected by the people, these three organs were viewed essentially as one. Most of the representatives in these three organs had been elected in 1948, when the then ruling party, the Kuomintang (the Nationalist Party, hereafter KMT), still reigned in mainland China (Liao 2005). The KMT believed that the 1948 election established the legitimacy of its rule over the mainland and so did not replace these representatives for more than 40 years. Thus, these representatives, tenured almost for life, certainly became a target of reform.

However, in reforming these three representative organs, the issue of how to elect the national leader could not be avoided because the president of the ROC was, at that time, elected by the National Assembly in accordance with the original design of the ROC constitution (Clause 27). If all the national assemblypersons were elected from Tai-

2 The establishment of this databank is the result of a three-year project supported by the National Science Council (NSC). The project number is NSC 96-2410-H-110-009. The URL for this databank is <http://140.117.21.53/pdmcr/>.

wan, they would elect the president accordingly. This bothered some of the KMT elites, who had serious concerns about the legitimacy of KMT's rule over the mainland and the doctrines of KMT's founder (Dr. Sun Yat-sen), on which the five powers of the ROC constitution were founded. They also felt that, at the very least, the five-power constitutional framework should be kept, even if the old representatives had to be replaced. This would mean that the National Assembly would continue to function as a representative organ with the power to elect the president and revise the constitution (Clause 27).

On the other hand, some political elites, both within and outside of the KMT, did not share these concerns. They advocated that the National Assembly be abolished because they believed that it did not do anything good for the people and that it's members mainly asked for all kinds of benefits while fulfilling their duties either revising the constitution or electing the president. These elites also suggested that if the National Assembly were to be abandoned, the people could then directly elect the president. These dissenting voices, though, were not too loud at the beginning of Taiwan's democratic-reform period since the KMT was in control and the hardliners of the KMT tradition were still powerful.

With the authorization of President Lee Teng-hui (李登辉 Li Denghui), also KMT chairman at the time, a Task Force on Constitutional Reform Planning (TFCRP) was organized in 1990. There were 13 members: Li Yuan-cu (李元簇 Li Yuancu, vice president); Hao Bo-cun (郝柏村 Hao Bocun, premier); Lin Yang-gang (林洋港 Lin Yanggang, president of the Judicial Yuan); Jiang Yan-shi (蒋彦士 Jiang Yanshi, secretary general of the Presidential Hall); Jiang Wei-guo (蒋纬国 Jiang Weiguo, secretary general of the National Security Council); Li Huan (李焕 Li Huan, senior consultant to the president); Qiu Chuang-huan (邱创焕 Qiu Chuanghuan, senior consultant to the president); Song Chu-yu (宋楚瑜 Song Chuyu, secretary general of the KMT); Liang Su-rong (梁肃戎 Liang Surong, president of the Legislative Yuan); Huang Zun-qiu (黄尊秋 Huang Zunqiu, president of the Control Yuan); Lin Jinsheng (林金生 Lin Jinsheng, vice president of the Examination Yuan); He Yi-wu (何宜武 He Yiwu, secretary general of the National Assembly); and Lien Chan (连战 Lian Zhan, chairman of the Taiwan Provincial Government).

The main mission of the TFCRP was to prepare the legal foundation for the election of new members to the three organs. Since the bottom line of the KMT's constitutional revision was to maintain the five-

power framework and the symbolic function of representing China through the constitution, the members of the TFCRP came up with the idea of having the National Assembly members elected in both a multiple-member-district (MMD) manner and a proportional-representation (PR) manner. In this type of National Assembly a certain proportion of members would be elected in a PR manner by the district at large. The TFCRP expected that this kind of NA member, who would not be bound to a specific constituency, would represent the entire nation and follow the instructions of those parties that used PR quotas to nominate their loyal identifiers to be NA members. They even considered converting the entire assembly into a delegated representative system that would significantly parallel the United States' Electoral College (EC), if the assembly maintained its function of electing the president (Chen 2002: 7-37). However, the main mission of the TFCRP did not include reforming the method of presidential election so this latter proposal was pending at that time.

In April 1991 the National Assembly successfully amended the ROC constitution since the KMT assemblypersons were overwhelmingly dominant in the assembly. Although the TFCRP's proposal for constitutional amendments was passed, this did not occur without challenges from both within and outside of the KMT – mainly from the DPP. The DPP, though it made up only about 2 per cent of the National Assembly, was very vocal and mobilized social forces to criticize the KMT's proposal (Chen 2002: 31-46). The DPP then drafted its own constitution (the Taiwan Draft Constitution), which renamed the country the Republic of Taiwan and formulated a presidential system with only three powers and the direct election of the national president by the people (公民直选 *gongmin zhixuan)* (Liao, Chien, and Chang 2008).

The new National Assembly members were, nevertheless, elected by the end of 1991 in accordance with the amended constitutional rules. During the campaign process, the DPP candidates had strongly promoted the idea of directly electing the president and had asked the KMT to clarify its proposed mode of electing the president in the future. The KMT candidates did not hold a consistent position on this issue. Even though the KMT's TFCRP had already quietly revised the presidential election method from an indirect one to the so-called delegated direct one (委任直选 *weiren zhixuan*, still similar to the EC of the USA), not many of the KMT candidates had promoted it to their constituencies,

and some of them overtly stated that they supported election by the people.

The KMT achieved a landslide victory in the National Assembly election, winning approximately 79 per cent of the seats. The DPP won less than 20 per cent of the total seats, and a few assembly members claimed to be independents. This meant that the KMT would still be able to push through its desired constitutional reforms, if the KMT assemblypersons were unified enough, since the ROC's original constitutional rule required a three-fourths majority for the National Assembly to pass a constitutional amendment (Liao, Chien, and Chang 2008). The second TFCRP then formally announced at the beginning of 1992 that the KMT's proposal was for delegated direct election of the president. However, this proposal did not get very far. It was first challenged by the internal members of the TFCRP, though it received a majority vote from them. Then, some influential KMT members in the Central Standing Committee (CSC), who supported direct election, took a hard line against the proposal. The debates over the two options within the committee were heated and emotional, and the chairman, Lee Teng-hui, decided to send the two options to the Central Committee Meeting (CCM) for a final decision. The CCM attempted to deal with the issue diplomatically and settled on the following:

> The President and the Vice President should be elected by all of the electorate from the free areas of ROC, [and] the specific method for this election should be carefully designed in accordance with *public opinion* […] (Chen 2002: 62; emphasis added).

During the National Assembly session from March to May 1992, the question of how to elect the president was still a focal issue. The DPP assemblypersons joined with some KMT members who aggressively promoted election by the people. They even announced that they would have the support of more than 25 per cent of the National Assembly on this matter, and so would be able to block the KMT's delegated form of election if the KMT attempted to push it through. Ironically, some of the KMT assemblypersons even tried to turn the clock back to the original form of electing the president – that is, election by the assembly representatives only. The delegated direct form of electing the president appeared to be gradually fading from the scene during this session. However, the National Assembly did not rush in making a decision on the issue. It concluded the debate by adopting the CCM's belief that

> the president should be directly elected by the people, but the specific methods of this election should be amended to the constitution by the next NA meeting called upon by the President (Chen 2002: 48).

In 1994 the constitution was finally amended to include the direct election of the president by the people through the employment of the standard of a relative plurality in counting the popular vote.

Throughout the entire process of this constitutional change, the KMT's divided opinions on the issue were quite obvious. In contrast, the DPP formed a very solid front in its advocacy of the direct election of the president. Even though the KMT occupied more than three-fourths of the seats in the National Assembly, the DPP, a minor opposition party at that time, was still able to successfully bend the KMT's proposal in its direction. The DPP's ability to do so was, to a great extent, fuelled by the KMT's dissidents. Why did the KMT have so many dissidents on this issue? What did the supporters and opponents of the so-called delegated direct form of electing the president really care about? Also, what was the rationale for the DPP, beyond fulfilling its designated duty to oppose ideas proposed by the ruling party, to strongly advocate election by the people? In the following sections this paper seeks to answer these questions first from the perspective of rational calculation on the part of elites and then from the perspective of the people's comprehension of democracy.

## Political Elites' Interest Calculations

According to a rational-calculation perspective, political elites who make a certain constitutional choice usually try to maximize their gains. Or, if the situation does not allow for gains, the choice is based upon the minimization of losses. The primary motivation for these elites to undertake sophisticated calculations is always assumed to be "power". Thus, in the case of Taiwan's constitutional choice on the issue of the presidential election method, the two groups of people who supported different electoral methods may be further analysed according to the logic of either power maximization or power-loss minimization.

Among the first group of political elites – those who did not support direct presidential election – some might not have seen a clear chance to enhance their powers, were the presidential election mode to be changed to a direct one. On the contrary, they might have thought that the traditional practice would best serve their interests, but neverthe-

less, the situation would not allow them to maintain the old format. Thus, the so-called delegated direct form of electing the president represented a compromise solution for them: they could not maintain what they perceived to be the best method, but they were also afraid of losing all the power bases they used to have. Using the logic of power maximization, however, we see that some of them might have realized that the indirect form could help them maximize their power in the future.

Among the second group of political elites – those who supported the direct form of election – most might have assumed that they would have increased power in the future if the form of presidential election were changed from indirect to direct. However, some of them might not have directly benefited from this change, but instead might have lost the influence they had had previously if the direct-form amendment were passed.

In the above deductions, there is a key element that has not yet been discussed. This is "the situation", which in this case refers to the environment in a young democracy. This environmental element might also imply that the milieu surrounding a young democracy is usually one that highlights the mastery of the democratic country on the part of the people. When the situation is taken into account, it is clear that the elite's calculations of their interests cannot be made in a social vacuum. The dominant social values affect or constrain these calculations. The next section of the paper will discuss this in detail. In this section the paper uses these deductions to examine whether Taiwanese political elites who spoke or acted on the issue of the form of presidential election closely followed the two different dimensions of a rational-choice logic.

We begin with the group that did not support the direct form of election. Not surprisingly, the political elites in this group were mainly KMT hardliners who liked to mention the importance of the ROC constitution's five-power framework and the National Assembly's symbolic function to the entire nation. Their main concerns about direct election were that it would cause social instability on the one hand and pave the way for Taiwanese independence on the other. These lines of reasoning appear to have been more influenced by the KMT's ideology than by its members' interest in power. However, if one looks into the career paths of KMT members, especially the paths of those who were influential in the party, the story can be told quite differently.

Some KMT members had seemingly reached the peak of their political life or were at the stage of winding down. Furthermore, their high

positions or the power foundation of their previous positions did not rest on direct election by the people but rather came from the authority at the top. For them, the direct election of the president was theoretically unnecessary, politically incorrect, and practicably undesirable! Some of them still had their political future to fight for, and they likely believed that the old institutional mechanism of indirect election offered them a better chance to become even more powerful. Let us look at two examples for each dimension of the rational-choice logic.

The political career trajectories of Li Huan (李焕 Li Huan) and Hsieh Tong-min (谢东闵 Xie Dongmin) come under the category of the logic of minimizing the loss of power. Li Huan had been one of the core followers of Chiang Ching-kuo (蒋经国 Jiang Jingguo, hereafter CCK), the former "strongman" of the KMT, for more than 40 years and had just stepped down from the position of premiership in 1990. He was then appointed as a senior consultant to the president (总统府资政 *zongtongfuzizheng)*. Since he did not get along well with then president Lee Teng-hui, his own political career almost came to an end at that time. Hsieh Tong-min was CCK's vice president from 1978 to 1984 but was replaced by Lee Teng-hui in 1984, when CCK was seeking to win a second term as president. He was honoured by the KMT as a senior fellow (Da Lao 大老) after his vice presidency and obviously had no political future.

To demonstrate the logic of maximizing power, the paths of both Qiu Chuang-huan (邱创焕 Qiu Chuanghuan) and Hao Bo-cun (郝柏村Hao Bocun) are relevant examples. Qiu was appointed Taiwan provincial chairman by CCK in 1984, immediately after Lee Teng-hui's (Li Deng-hui) term as chair. It appears that he still had a political future at that time because he was a so-called Taiwanese. The Taiwanese were those whose ancestors had come from the southern areas of the mainland (mainly Fujian Province 福建省) to Taiwan approximately 400 years previously. Since they comprised approximately 80 per cent of Taiwan's population but did not have a corresponding share of power during the KMT's rule, a claim that more Taiwanese should be in power had thus long been a salient issue and had gradually been becoming a dominant norm. In contrast to the Taiwanese, people who came from the mainland to Taiwan after the KMT was defeated by the Chinese Communist Party in 1949 were labelled "mainlanders". They were politically dominant from the 1950s to the 1980s.

Qiu's provincial chairmanship background qualified him to compete for a higher position in the central government (such as premier or president). However, since President Lee shared his Taiwanese background and was his predecessor in the sense that he had held the provincial chairmanship before him, Qiu had two options at that time according to the logic of power maximization. One option was to follow President Lee's will so that he might have a chance of being nominated by him as premier.[3] The other was to side with the KMT's senior fellows so that he might gain access to their inner circle, which might help him run for the presidency under the National Assembly system.

Both options posed uncertainties for Qiu. What he chose was quite consistent with the logic of power maximization – that is, he sided with the senior fellows and played a leading role in opposing direct election. This meant that, on the basis of rational-choice logic, he had the ambition of running for the presidency. He indeed attempted to become the KMT's candidate for president in 1996, but he eventually lost to Lee Teng-hui (Yang 1997: 15-30).

Hao Bo-cun (Hao Bocun) was the premier from 1990 to 1993, having taken Li Huan's place in 1990. Hao's attitude to the issue of presidential elections had initially been quite ambivalent. He had once even stated that the KMT should follow public opinion closely to decide whether or not to adopt direct election (Chen 2002: 57). Since Lee Teng-hui had appointed him to the premiership, Hao, like Qiu, had also been confronted with two options that could extend his influence in the long run. One was to closely follow Lee's will so that he might be promoted to the position of vice president in the future. The other was to fight for his own political future by obstructing any opportunity that might extend Lee Teng-hui's power base. Hao chose the second option, which was riskier but more attractive than the first one in terms of the gamble for power.

The above four political leaders exemplify how well rational-choice calculation may explain why they did not support direct election and supported the other, delegated direct form. One more thing worth noting is that the four included two mainlanders (Li and Hao) and two Taiwanese (Hsieh and Qiu). This may indicate that differences in provincial background, often employed in viewing power confrontations in Taiwan,

3 According to the original ROC constitutional rule, the premier was nominated by the president but further approved by the Legislative Yuan. In 1997 this rule had been changed to allow the direct appointment by the president.

do not serve as a better explanation than rational-choice calculation in uncovering political struggles behind the scenes.

The second group of political elites consisted of those who supported direct election. According to the logic of power maximization, these elites must have seen the possibility for the extension of their power if the direct form were passed at the moment when choices were being made regarding the constitution. However, some of them may simply have tried to stop the ongoing erosion of their power base by supporting this popular direct-vote option, in accordance with the logic of minimizing loss. Indeed, both lines of thinking can be applied to this group of elites. Some members of both the KMT and the DPP appear to fall under the power-maximization line of thinking. Here, we will present four examples from the KMT and one from the DPP which fall into the category of those employing the logic of power maximization, as well as three from the KMT which exemplify the minimization of loss of power.

According to the logic of power maximization, those politicians who previously had the capacity to gain public support for their political stances would have preferred the direct election of the president. Furthermore, those who had a closer relationship with such potential presidential candidates than others did would also have supported direct election. On the KMT side, the four examples selected are Lee Teng-hui (Li Denghui), Lin Yang-gang (Lin Yanggang), Lien Chan (Lian Zhan), and Song Chu-yu (Song Chuyu). Ironically enough, although Lee and Lin had been rivals within the KMT for a long while and could not agree on many issues, they did agree on direct election by the people. Later, in 1996, they competed against each other for the presidency. This was first time in Taiwan's constitutional history that a president was elected by popular vote. Lee won the election.

Since Lee Teng-hui (Li Denghui) had as of 1996 been president for quite a while (since 1988), he already occupied a dominant position for participating in any political game. His followers clearly understood this. In other words, if Lee had not been so powerful at that time, he would not have been able to attract so many followers. Thus, it is understandable that both Lien Chan (Lian Zhan) and Song Chu-yu (Song Chuyu) supported direct election: they tried to show their loyalty to President Lee because they bet their political future on him. During the period from 1990 to 1993 Song was the secretary general of the KMT and Lien was Taiwan provincial chairman. Both were rising stars in Taiwan's political scene, and both chose to support Lee. Both indeed went on to

brighter political careers. Lien was appointed premier in 1993, and Song was appointed Taiwan provincial chairman in the same year.[4] It is interesting to note that, once again, the provincial background of these politicians cannot explain the case better than the calculation of power: Song was a mainlander, and the two rivals – Lee and Lin – were Taiwanese.

On the DPP side, the political superstar at that time was Chen Shuibian (陈水扁 Chen Shuibian), who was the DPP's party caucus whip in the Legislative Yuan (LY). He once frankly stated,

> In our previous experiences, the DPP could compete against the KMT only in county magistrate and city mayor elections because this kind of elections adopts a one-to-one format. If the DPP wants to win the majority of seats either in local councils or in the LY, this is extremely difficult, if not impossible. […] So if the DPP wants to quickly beat down the KMT and take over the government, the only solution is to advocate that the President should be directly elected by the people. Hopefully, the DPP would be able to take advantage of the one-to-one format in the presidential election so as to take the presidency as soon as possible. With this in mind, the DPP should totally abandon the advocacy of a parliamentary form of government, and insist that the President should not be only a figure-head (*Lianhe Bao* 1990a: 2).

How foresighted Chen was at that time! What actually happened later was very close to what he advocated in 1990! No wonder that the DPP as a whole acted quite consistently on the issue of the presidential election format. However, it was Chen who was not totally consistent during the issue's evolutionary process. He once also said that an American-style presidential election format could scarcely be accepted (Chen 2002: 15). It is reasonable to suspect, using rational-choice logic, that Chen's bottom line was at least to establish the popular vote as the form of election if the National Assembly could not be abolished for the time being. Since the KMT was nurturing the idea of a delegated but direct election format that was said to be quite similar to the EC in the U.S., Chen was prepared to make a compromise at some point. But the situation as a whole encouraged direct election, and Chen certainly supported it as well.

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4 This was the last time that the Taiwan provincial chairman was appointed by the president. Song was then nominated by President Lee to run for the Taiwan provincial governor in 1994 and was elected by popular vote in the same year.

Now, let us turn to the other dimension of rational-choice logic – that is, the minimization of power loss. As already mentioned, those who believed that their powers within the KMT were gradually diminishing but who were still willing to fight for their residual values might also have chosen to support the direct form of election. We have chosen three KMT elites who fit this profile. The first is Huang Zun-qiu (黄尊秋Huang Zunqiu), president of the Control Yuan at that time (1987-1993). Since the Control Yuan was also undergoing reform, President Huang's political future was also uncertain. However, he seemingly did not have much choice but to support Lee's will. On the one hand, he was nearly 70, though he was not the oldest among the KMT's senior fellows, and already at the top of one of the five parallel yuans, though not the Executive one. On the other hand, his daughter, Huang Chao-shun (黄昭顺 Huang Zhaoshun), was about to succeed him as a political actor in the central political arena. President Huang actually played quite an important role in articulating how and why presidential election should be direct (*Lianhe Bao* 1992c: 3). Although his presidency of the Control Yuan lasted only one term and he received no other offers after 1993, his daughter was elected as a legislator for the first time that year.

The second example is Chao Tse-chi (赵自齐 Zhao Ziqi), a legislator elected in 1948. He was also forced to retire by the end of 1991, since all the representatives elected in 1948 were required to retire at that time in accordance with interpretation Number 261 of the constitution, made by the Grand Justice. Most of these central representatives preferred indirect over direct election. However, Chao's choice to support direct election makes sense according to the logic of minimizing power loss. He was one of only two legislators elected in 1948 who were appointed as senior consultants to the president in 1996, when President Lee was popularly elected as president again. The other was Ni Wen-ya (倪文亞 Ni Wenya), former speaker of the Legislative Yuan.

Our final example is Chao Shao-kang (赵少康 Zhao Shaokang). He was a prominent dissident in the KMT from 1990 to 1993, disagreeing with President Lee on many issues. Together with a few other KMT legislators, he had already organized the so-called New KMT Alliance. They eventually left the party and established the New Party in 1994. Under one particular condition, his support of direct election can be understood by applying the logic of minimizing power loss. That is, the environment outside the KMT also had to strongly support direct election. His choice can then be interpreted as an attempt to minimize his

loss of power within the KMT by enlarging his support base outside the party. This was clearly the case. Chao was once asked in an interview why he supported direct election. His answer was short and frank: "Nobody understands the delegated direct form of electing the President, I certainly support the direct one" (Chen 2002: 58).

Actually, Chao was not the only KMT member who responded to the issue in this way; many others in the KMT expressed the same concern – people just did not understand what the delegated direct form of electing the president was (*Lianhe Bao* 1992a: 14). Thus, the environmental constraints on elites' calculation of their interests have to be taken into account. In this case, the constraint was the level of the people's comprehension of democracy.

## The People's Comprehension of Democracy

As already mentioned, democracy can take on many different forms of governance in modern times. According to orthodox categorizations, two ideal types stand out – parliamentary vs. presidential systems. The former does not require that the national head of state be directly elected by the people, though the head of the government should base the legitimacy of his or her rule on the popular vote. Under the latter system, then, the president should theoretically be elected directly by the people since the president is the head of both the state and the government. However, the U.S., as a practical case that is closest to the ideal type of presidentialism, has the Electoral College, which represents the will of the people of each state in electing the president. Whether this system is democratic enough or is able to represent the general will of all people is the subject of endless debate, but mainly in textbooks. American citizens in general may not understand or even care about how democratic their system is, but they accept it as a historical given.

In the case of Taiwan, a young democracy, how could people absorb all of these complicated ideas and understand the different types of democracy as well as their internal logic? What a democracy can best mean to the people in a young democracy may simply be its most basic meaning: rule by the people. But how can the people really rule? A simple answer is that the people can vote for their national leader. As for other, more complicated issues – for instance, what kind of democratic system is in use, or can be developed, and what kinds of electoral methods can best convey the people's will – they may be far beyond the abil-

ity of ordinary people to fully understand. Thus the results of a public opinion poll carried out immediately after the 1990 presidential election – an indirect vote by the members of the National Assembly – should not be surprising. The poll showed that more than 56 per cent of the Taiwanese people hoped to directly elect the president for the next term (*Lianhe Bao* 1990b: 2).

Both the KMT and the DPP would not simply accept what was indicated by the environment surrounding them. The KMT in particular, as the dominant ruling party, might have deeply believed that if the delegated form of electing the president were well advertised, people would be able to accept it. The KMT indeed tried very hard to promote this delegated form over the first two years of the 1990s. In the beginning it seemingly did quite a good job selling this idea to people in Taiwan because it won a landslide victory in the National Assembly election at the end of 1991. However, this victory could by no means be interpreted as indicating the people's support for the delegated form of presidential election, even though the KMT had propagandized it as a common party platform during the campaign process. There were two clear signals to illustrate this lack of support for the delegated form. One was that the KMT had quietly put "direct" into the name of this form and this had made it sound very awkward: "delegated direct". The other was that not many KMT candidates put this form into their campaign advertisements. On the contrary, some of them went as far as advocating the direct election of the president (*Lianhe Bao* 1991: 14).

The KMT did not fully realize that its victory in the National Assembly election had little to do with its advocacy of the delegated direct form of election. It formally announced that the delegated direct form of election would be the KMT's recommended amendment to the constitution in February 1992. The *Lianhe Bao* and Taiwan Television did a survey immediately after this announcement, and the results showed that more than 80 per cent of the respondents did not understand what the delegated direct form of election was. Even after an explanation by interviewers, 32 per cent of the respondents supported the direct election of the president; 24 per cent were willing to support the delegated direct form (*Jingji Ribao* 1992: 3).

Moreover, The Public Opinion Poll Association of the ROC undertook a similar survey in March 1992. While 37.1 per cent of the respondents supported direct election, only 16.5 per cent of supported the delegated direct form. Of the respondents, only 28.9 per cent knew what the

delegated direct form was; 71.1 per cent did not (*Lianhe Bao* 1992b: 2). It seemed to be a solid trend at that time that the majority of Taiwanese citizens understood the direct form of election and therefore supported it, despite the KMT's attempts to promote the delegated form.

The DPP, on the other hand, was very capable of voicing people's needs and approaching people's thinking. The campaign slogans they used to advocate direct presidential election were as follows: "You should directly vote for the president"; "Direct election is true democracy"; "The president directly voted in by the people, the people truly made the master"; etc. The DPP not only produced effective propaganda for direct election but also knew how to attack the ambiguous nature of the KMT's formula for electing the president.

The KMT could not ignore the National Assembly because of the assembly's various symbolic meanings for the KMT at that time. But the assembly had actually become a burden to the party: its members tried to take advantage of every gathering to either revise the constitution or elect the president. The KMT tried to convert these assemblypersons into the so-called delegates who were supposed to follow the will of the people, who would vote for them. This kind of system had never existed in Taiwan. In the people's minds, the so-called national assemblypersons, whether they were representatives or delegates, could have been greedy, selfish, and self-promoting. The DPP, then, was able to portray the delegates that the KMT was proposing for the future as being similar to the current National Assembly members. The KMT did not, and maybe could not, make any clear argument against what the DPP said about the danger of the delegate system.

All in all, the Taiwanese people's understanding of democracy did not allow them to fully digest the so-called delegated-direct system to elect the national leader. The DPP clearly understood this and fully embraced the line of thinking held by the Taiwanese people at the very beginning of the amendment process. The KMT learned about the people's way of thinking very slowly. In the early stages of amending the constitution, its hardliners tried hard to save its ideological inheritance and did not make too many compromises, either within or outside of the party, especially regarding how to elect the president. However, its key internal members, such as Lee Teng-hui, Lin Yang-gang (Lin Yanggang), etc., whose political future indeed required the support of the general public later on, eventually pushed the party to surrender to the masses' way of thinking regarding how to elect a president in a democracy.

## Conclusion

The paper has attempted to illuminate what kind of constitutional rule would be preferred by a young democracy if an institutional opportunity for constitutional change were to appear. Since amending a constitutional rule in a democracy is viewed as a choice made by the public under certain circumstances, a public-choice approach has been utilized in this paper. This approach mainly involves two essential elements in its examination of the choices between different alternatives. These are the political elite's calculation of its interests and the masses' comprehension of what democracy is.

The case studied was Taiwan's constitutional choice between the direct election of the president and a delegated direct form, during the period of 1990 to 1994. By applying the two theoretical elements, the paper has first uncovered how political leaders might have used both the logic of the maximization of power and the logic of the minimization of the loss of power to choose their position on the issue. However, their calculations of where their interests lay were not made in a social vacuum. Especially in a young democracy, little formal precedence or experience can be cited as a source of legitimacy for the democratic nature of a given institution. Thus, people's understanding of democracy at that time may have played a crucial role in defining whether or not a certain constitutional rule was democratic. Therefore, the public responses to these two options during that period have been taken into account by the paper.

The three public polls carried out by *Lianhe Bao*, Taiwan Television and the Public Opinion Poll Association of the ROC in 1992 indeed showed that the direct election of the president was much more easily understood and therefore received more support from the respondents than the delegated direct form of election. This social opinion was quite influential in consolidating discrepant ideas on the presidential election format issue among the elites and helping direct election eventually win out.

In sum, the amendment of the constitution in a young democracy may depend more on public opinion than on elites' interests. Whether this is "for the good or for the bad" is beyond the scope of the paper and is left to interested readers to consider and elaborate upon.

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