

Democracy along the Pacific Rim

Rediscovering the Need for Design

Samuel Huntington explained how modern democracy flowed in three waves. The first wave democracies were inspired by the American and French revolutions, and built their systems through an evolving process of trial and error until a formula of institutional designs became well understood by practitioner and electorate alike. The resulting systems therefore accommodated the individual histories and deliberations of each of the first wave democracies. Some aspects of these systems such as universal suffrage, an independent judiciary and processes for checks and balances, have been found to be generally applicable in any liberal democracy.

Other aspects of the institutional designs adopted by the first wavers are peculiar to their systems. Modern Britain would not establish an unelected House of Lords if it had the luxury of redesigning its system today on a blank page. The United States would, in all probability, abandon the archaic Electoral College, and simply allow the majority to elect its president. Australia would surely allow its governments a longer term in office than the current impractical three years, if its constitution was not, in effect, frozen. Longevity enhances the legitimacy of the democratic system in place, but it also has a stultifying effect on aspects of the institutional design. The Cold War may also have contributed to an aversion to experimentation, and the great majority of first and second wave democracies therefore stuck doggedly to their existing institutional architecture in terms of constitutions, electoral systems, parliamentary processes and accountability systems. So, for example, when Arend Lijphart conducted his study of established democracies, he found that only France had instituted major changes in its electoral system in the period 1945-1990.

The third wave democracies of the post-Cold War era have shown no such hesitation. Leading the way in experimentation and innovation in relation to the institutions of governance, have been the Asian democracies on the Pacific Rim, referred to here as Pacific Asia. East Timor, Japan, Indonesia, South Korea, the Philippines, Taiwan and Thailand have all been engineering or re-engineering their democratic systems over the past decade and continue to do so in their search for the most effective and most representative form of democratic governance. The search for best practice in institutional design has been most actively undertaken in the third wave democracies in Pacific Asia, Central Europe and Southern Africa. Ironically, this bold process of experimentation has had its effect on the established democracies, many of which have cast aside their reluctance to tinker with their systems, and are now following third wavers in retooling electoral processes and governance architecture to fit in with the needs of their societies.

An example of a first wave democracy engaging in radical re-engineering can be seen in New Zealand which in the late 1990s abandoned its Westminster majoritarian system under public pressure for higher quality representativeness. It adopted a mixed system for its 120 member parliament, which at the 2002 elections resulted in 62 general constituency seats, 51 seats by proportional representation through party lists, and seven Maori constituency seats. Seven parties were represented in parliament. There was a minority government formed by the plurality party and a disunited opposition. One might have considered this a recipe for instability. Yet the minority government was able to deal with highly sensitive issues of indigenous rights, environmental protection and economic reform by seeking different coalition partners from among the opposition parties for different issues. The mathematics allowed the minority government a choice of four different parties with which to build a parliamentary majority in support of various pieces of legislation. Managing the cleavages in New Zealand society through a new electoral system had led to a higher quality of deliberation and representativeness, with a plurality party able to govern effectively and four opposition parties able to achieve some parts of their policy agenda.

Drafting Constitutions and Strengthening Constitutional Courts

In recent years there has been a concerted effort at constitution drafting in Pacific Asia. The Philippines (1986), Thailand (1996-97) and East Timor (2001-02), have all held constituent assemblies which acted as both drafting exercises and civic education and consultation processes. All three documents produced by these assemblies can be described as progressive and innovative. In South Korea under authoritarian rule, the practice had been to amend the constitution to suit the interests of the leaders. Since the major constitutional reforms in 1988, however, all political players have stuck to the new rules of the game. In Taiwan, there have been six revisions of the constitution since 1991 to bring it into line with modern practices and, in some cases, such as quarantining the budget of the Judiciary, putting it in the forefront of governance reform ideas. The Indonesian constitution of 1945 was a short and weak document, but in the last few years, there have been four sets of amendments which have transformed the

document and almost quadrupled its length. Among the innovations has been the move to a popularly elected president and vice-president, the establishment of a new chamber of the parliament representing the provinces and the inclusion of a new bill of rights based almost fully on the Universal Declaration of Human Rights.

Constitutions need to be backed by constitutional courts, and one of the most encouraging developments in Pacific Asia is the growing authority of these courts. In Indonesia, a Constitutional Court has been established with the power, not previously enjoyed by the judicial branch, to review laws concerning the constitution. In one of its first cases, the court had the courage to take a most unpopular decision in finding that one of the Bali bombers had been wrongfully convicted under an anti-terrorism law that did not exist at the time of bombing. The Judicial Yuan of Taiwan asserted its independence when it found fault with one of the attempts at constitutional amendment. The South Korean Constitutional Court has been particularly assertive, as it found in 12 per cent of the five thousand cases it has decided since 1988, constitutional infirmities with a statute or a government action. Along with the Constitutional Court of Thailand and the Supreme Court of the Philippines, the South Korean court has adjudicated difficult impeachment processes. Constitutional courts around Pacific Asia are thus imposing the rule of law on political actors. This is a decisive indicator on the path to democratic consolidation.

Changing Electoral Systems

Changing an electoral system has inherent risks to those who succeeded under the existing arrangements. Changing from a constituency based majoritarian system to a proportional representation system is particularly problematic for incumbents as it may jeopardize a comfortable duopoly and open the field to smaller parties. Third Wave democracies in particular, given their immaturity, must ensure that their systems provide the right sort of balance between, in Larry Diamond's terms, governability and representativeness. Majoritarian systems tend to limit the number of parties and strengthen majorities supporting governments, thus enhancing governability, though perhaps at the cost of representativeness. Proportional systems encourage many of societies' cleavages and ideologies to find expression in parliament, thus enhancing representativeness, though perhaps at the cost of governability. So the challenge is to find a workable compromise.

Having examined various systems around the world, five of Pacific Asia's democracies, Japan, South Korea, the Philippines, Taiwan and Thailand, have, like New Zealand, opted to follow the German model of a mixed system entailing both constituency representatives elected by majoritarian methods, together with party list representatives elected by proportional representation. Interestingly, all five have given a slightly greater weighting to the constituency representatives, with almost 40 per cent for party list seats in Japan, the highest ratio, and the Philippines effective ten per cent for party list seats, the lowest ratio in favour of proportional representation:

While these five countries all decided on similar electoral systems, they had differing motives in doing so. In Thailand, the idea behind the 100 party list seats is to allow high quality candidates, who may not be suited to the cut and thrust of electoral campaigning, to be elected and to form a pool from which the Prime Minister can select the ministry. In Japan, the motive was to lower the value of the traditional and heavily weighted rural seats that unduly encouraged pork barrel politics, by limiting the number of such seats in favor of party list seats requiring parties to aggregate voters through broader policy proposals. The reasoning in South Korea and Taiwan was similar to Japan's, with one important addition. Regionalism is a problem in both countries, and is particularly acute in South Korea, and so the party list is elected on a nationwide basis, encouraging parties to pitch their policy messages to a national audience rather than concentrate on a regional one. In the Philippines, the problem is one of domination of politics by traditional elites, and the party list system is only open to disadvantaged groups. In all five cases, the countries demonstrated an ability to diagnose their problem issues and craft institutional responses, at times in line with global best practice, and at other times, leading the world in innovation and experimentation.

Renewing Parliaments

In contrast to the rubber stamp parliaments that characterized Pacific Asia in the Cold War years, there has been a turnaround over the last decade. Parliaments are far more assertive and are increasingly effective. This can partly be attributed to innovative design features such as the changes in electoral systems, as well as changes in the designs of parliamentary structures themselves. Prior to 1997, the Thai Senate was an appointed chamber with many privileges and few responsibilities. The 1997 Constitution creates a non-partisan chamber of parliament, where political parties are supposedly banished, and the 200 individual senators act as legislative reviewers and ensure the integrity of the system of appointments to government oversight bodies. The 2001 Third Amendments to the Indonesian Constitution established the Dewan Perwakilan Daerah (DPD – House of Representatives of the Regions). Once again, political parties are excluded from this process and the regional representatives stand as individuals. The responsibilities of the DPD are circumscribed to proposing bills or participating in discussions of bills relating only to regional autonomy and other regional governance issues. In both countries, the lower chamber of parliament remains

the field of partisan politics and the idea of these designs is to limit partisanship to that chamber. The increased representativeness in having second elected chambers is a positive step, but it is not clear that the ideal of placing its members above party politics will succeed.

Taiwan has decided to go in the other direction. Rather than increasing the number of representatives to enhance democratic representation, it has decided to halve the number of parliamentarians from 225 to 113. This seems to be a reflection of public exasperation with the gridlock nature of partisan politics in Taipei. The call to halve the size of the Legislative Yuan can thus be interpreted as a criticism of politicians. Yet compared to other representative chambers, the Taiwanese electorate is hardly overrepresented. It is, after all, a unicameral system in a country of 23 million people. Australia has a slightly smaller population, which is represented by 226 federal parliamentarians in a bicameral parliament, not to count the 620 members of state parliaments. So, while applauding the willingness to change key design features of the system of parliamentary representation, the drastic reduction in the size of the chamber appears to be an overreaction to the less attractive aspects of political partisanship.

Improving Political Parties

One of the overarching themes emerging from the diagnosis of the needs of the political systems in Pacific Asia, has been the concern over the role played by political parties. Whether overly partisan, overly regionally based or overly personalistic, political parties have not been contributing sufficiently to the required formula. In the first wave democracies, political parties emerged over several generations, forged from the conflicts engendered by Europe's national and industrial revolutions, and following the pattern discerned by Seymour Martin Lipset and Stein Rokkan of class-based, urban-rural, center-periphery and inter-religious cleavages. Clearly, countries with different histories flowing from colonialism, migrations and state-sponsored patterns of economic development, will produce different cleavages, though there may well be overlap with the classic cleavages. It stands to reason that Asian political parties will be different from their European counterparts.

Once again, the institutional designers have sought to find rules and incentives that would shape the development of political parties to strengthen the political system. As Ben Reilly points out, one of the key requirements the designers are seeking to incorporate into these party systems, is the encouragement of broad-based parties, not limited in their support to small pockets of ethnic, regional or religious constituencies. Indonesia has gone the furthest in this regard. Parties are not eligible to run candidates unless they have a branch office in over two-thirds of the country's provinces as well as representative offices, each with at least one thousand members, in over two-thirds of the regencies and municipalities in the provinces. In addition, thresholds were instituted requiring parties to gain at least two percent of the vote to be able to contest the next election, and at least five per cent of the vote to put forward a candidate in the Presidential elections. The result of these rules is that the natural fragmentation one could expect in so diverse an archipelago as Indonesia, where upon the fall of Suharto in 1998, 148 political parties were formed, has been curbed, and today there are only about half a dozen large parties. The Philippines has also been attempting to design rules to encourage more aggregative and nationally representative political parties.

Conclusion

As we know, institutions alone cannot establish democratic governance. There are other critical factors such as an appropriate political culture, a vibrant civil society and an electorate with sufficient civic education to be able to deliberate on choices between politicians and policies. Institutional design cannot fill these gaps. Institutional design can, however, contribute significantly to the construction of democracy. The democratizing countries of Pacific Asia have seized on the need to find the right designs for their people, and they are demonstrating their capacity for honest analysis and their innovation in searching for the best solutions.

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