

Parliamentary Reform Approaches a Critical Point

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Constitutional democracies emphasize the establishment of a government system with a division of power to prevent an overconcentration of state power and the violation of human rights. Their constitutional design provides for the separation of the executive, legislative and judicial branches of government, a division of power as well as checks and balances among the three branches within the system. Unfortunately, the Constitution of the Republic of China is a hybrid design, putting a president and a National Assembly on top of the five branches of government. When it comes to the division of power, the system is complicated and runs counter to the basic principle of constitutional theory that power should be matched by an equal degree of responsibility. After a series of constitutional revisions carried out since 1991 added “Additional Articles” to the Constitution, numerous defunct articles remained in the main text like preserved specimens – a quite absurd and ridiculous situation. Moreover, past revisions have mostly focused on modifications of the system instead of a radical review and revision. Various disputes and deadlocks over the functioning of the government have proven hard to revolve, persisting to the present day.

In democratic countries, the legislature is of utmost importance since it represents the popular mandate. The March 18 student movement that shook Taiwan in 2014 was triggered by major flaws in negotiating and concluding the Cross-strait Agreement on Trade in Services between Taiwan and China, but also highlighted

entrenched problems in our constitutional system – the inadequacies of the legislature. Chiefly, the current system for electing lawmakers is unable to fairly reflect public will, and our lawmakers lack the expertise and sufficient powers for government oversight.

First, the electoral system is skewed. Lienchiang County (Matsu Islands) with its less than 20,000 inhabitants can send one locally elected representative to the Legislative Yuan. Yet Hsinchu County with its nearly 540,000 residents also gets just one seat. This makes for an outrageous 27-fold vote-value gap that clearly runs counter to the “one man, one vote” principle. Second, because of the current “parallel voting system” where voters cast a ballot for a certain candidate and another ballot for a party, seat distribution in the legislature does not loyally reflect the votes. An examination of the various parties’ vote shares in the past two general elections and the seat distribution shows that in 2008 the Kuomintang (KMT) was allocated nearly 70 percent of seats in parliament although it garnered only around 50 percent of the votes in both the candidate and party tickets. In contrast, the Democratic Progressive Party won nearly 40 percent of the vote yet obtained only slightly more than 20 percent of the seats. The 2012 election results showed a similar discrepancy. Surely the “parallel voting system” is flawed for failing to adequately reflect the people’s will.

Second, the parliament has insufficient powers. Our current Constitution is characterized by the

so-called five-power separation. Effectively it divides what is the parliament in most democratic countries into two branches: the Legislative Yuan and the Control Yuan. The former has legislative and fiscal rights such as making laws and reviewing the government budget while the latter is invested with the legislature's power to investigate and audit. Such a constitutional design makes it difficult for the legislature to fully perform its check-and-balance role vis-à-vis the executive. On top of that, the Control Yuan has 29 members who hold ministerial rank. In comparison, Britain with its population of more than 64 million, has a much leaner structure with only three parliamentary ombudsmen. As a heavy and meaningless burden on Taiwan's state coffers, the Control Yuan is not only unable to fulfill its watchdog role toward the ruling party but sometimes also turns into a tool to settle political scores. No wonder that former Control Yuan President Wang Chien-shien divulged the phenomenon of "slavish" and "subservient" Control Yuan members in his book *Compatriots! Decline No Further* published in August 2014. Claiming "the closure of the Control Yuan would be a great blessing for the nation," Wang voiced support for revising the constitution to abolish this toothless watchdog body. To sum things up, these intricate constitutional problems can only be resolved if we treat them at the root by overhauling the entire system. Or else, Taiwan's democratic constitutional system will not be able to grow healthily and thrive in the 21st Century.

The Legislative Yuan's Constitutional Amendment Committee will start operating at the end of March 2015, marking the official start of the constitutional reform project. It bears noting that the referendum on this round of constitutional reform must be timed to coincide with the next

general elections on January 16, 2016. This means that June 15 is the "critical point" for the 2015 constitutional reform project. Given that we have just over two months left, we should take a pragmatic approach by focusing on revision proposals on which considerable social consensus has formed, such as: lower the voting age, broaden the scope of constitutionally guaranteed human rights, reduce the parliamentary threshold for constitutional revision, and lower the hurdle for political parties to be eligible for seats in parliament. Given that no consensus has yet been reached on the proposed abolition of the Control Yuan and the Examination Yuan, reform of the central government system, and an increase in legislative seats and other parliamentary reform proposals, these issues should be shelved until after the new president, who will be elected in 2016, has convened a "National Conference on Constitutional Reform." The newly elected Legislative Yuan, backed by the latest public mandate, should then address these issues cautiously. **BT**

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