Towards a Consolidated Democracy?
Informal and Formal Institutions in Taiwan's Political Process

Christian Göbel
University of Heidelberg
cgoebel@ix.urz.uni-heidelberg.de

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ABSTRACT

Institutionalization plays an important role in democratic consolidation. This paper goes beyond constitutional reforms and takes a closer look at the institutions, both informal and formal, that have shaped and influenced Taiwan's political process since its successful democratic transition. It seeks to elucidate in a systematic way the role major informal networks have played, and in a second step examines their relationship with the formal institutional environment. Political representation in Taiwan is found to have been, to a great extent, based on informal institutions which undermine democracy. The relationship between these informal institutions and the formal institutions has been largely complementary, meaning that formal and informal institutions have reinforced each other. In cases where conflicts existed, the sanctions that the formal institution carried were either toothless, or their enforcement was lax. Seen in this light, Taiwan's process of democratic consolidation was largely stagnating until the changeover of power in May 2000. However, the new administration's "sweeping out black gold-" policies are a step in the right direction and might eventually serve to initiate further institutional reform.
Introduction

Much has been written about Taiwan's democratization process, and hardly anyone doubts that Taiwan became a democracy with its first direct presidential elections in March 1996. There is considerable argument, however, about the quality of Taiwan's democracy. In 2001, FreedomHouse rated Taiwan's democracy en par with the United Kingdom and Germany (FreedomHouse 2001), yet Yun-han Chu, Larry Diamond, and Doh Chull Shin posit that Taiwan is not "...a fully liberal democracy" (Chu/ Diamond/ Shin 2001, 122). Accordingly, studies about the process of Taiwan's democratic consolidation differ widely in their conclusions. Of particular interest are the micro-level studies, assessing democratic political culture on the mass level1 and adherence to the rules of the democratic game on the elite level2. The results can be summarized shortly: on the level of elite attitudes and behavior, the process of Taiwan's democratic consolidation is completed (Lin/ Zhang 1998, 118-119) or nearing completion; on the mass level, however, "broad and deep legitimation" (Chu/ Diamond/ Shin 2001, 123) is still wanting. The strongest argument concerning elite-level adherence to the rules of the democratic game is that the development of multi-dimensional and cross-cutting cleavages provided a situation of "bounded uncertainty" in the electoral process, creating incentives for political parties to win elections and to form strategic coalitions. Seen from this perspective, the findings on political efficacy that Yun-han Chu, Larry Diamond, and Doh Chull Shin present in their quantitative analysis of political culture in Taiwan and Korea are striking (Chu/ Diamond/ Shin 2001, 132):

"Citizens are cynical about the responsiveness of the political system to their concerns, yet they feel they have the power, at least through the ballot box, to affect the way that the country is governed. Two thirds (65 percent) in Taiwan...think government is not responsive to their concerns, yet about three quarters of the public...believe their votes have some effect."

This indicates that Taiwan’s political process may lack an important feature of liberal democracies, namely "multiple, ongoing channels for expression and representation of [citizens'] interests and values" beyond parties and elections (Diamond 1999, 11). But if it is not the citizens' interests that are represented, whose are? Which channels of influence are used, and why do these channels exist? Beyond serving to reconcile the different findings concerning attitudes and beliefs on the elite and mass levels, these questions also address the conceptual link between institutionalization and democratic consolidation.

This paper takes a close look at the institutions, both formal and informal, that have shaped Taiwan's political process after democratization. It seeks to elucidate in a systematic way the major informal networks involved, and in a second step shows that these networks have been sustained by the formal institutional environment. An institutional approach encompassing and contrasting formal and informal institutions is adopted, and the analysis is based on the following premises drawing on recent scholarly research:

1. There is an intimate relationship between democratic consolidation and institutionalization, both formal and informal (Valenzuela 1992, 70):

"[T]he process of reaching democratic consolidation consists of eliminating the institutions, procedures, and expectations that are incompatible with the minimal workings of a democratic regime, thereby permitting the beneficial ones that are created or recreated with the transition to a democratic government to develop further."  

As to what "incompatible with the minimal workings of a democratic regime" entails, the author agrees with Guillermo O'Donnell that "…rulers and officialdom [must] subject themselves to the distinction between the public and the private…" (O'Donnell 1992, 49).

2. The relationship between formal and informal institutions can be complementary, substitutive, or conflicting (Lauth 2000, 25-26).

3. Informal institutions can serve to stabilize and further democracy, as is the case with informal bargaining structures within the legislature and between representatives of the legislative and the executive branch, but they can also undermine the democratic process, as is the case with corruption and political clientelism.

Based on these premises, this paper will elaborate on two hypotheses concerning Taiwan's process of political representation:

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3 This paper adopts Sue Crawford's and Elinor Ostrom's definition of institutions as "enduring regularities of human action in situations structured by rules, norms, and shared strategies, as well as by the physical world. The rules, norms, and shared strategies are constituted and reconstituted by human interaction in frequently occurring or repetetive situations" (Crawford/ Ostrom 1995, 582). The difference between formal and informal institutions is that "[f]ormal institutions are openly codified. Thus, regulations are included which have the status of constitutional clauses and laws, but also standing orders and norms actionable at law. Whilst formal institutions are guaranteed by state agencies and their disapproval is sanctioned by that state, informal institutions are based solely on the fact of their existence and of their effectiveness. The power of sanction involved with them is linked largely to social mechanisms of exclusion, or is based quite simply on the condition that its non-utilization minimizes the chances of gaining access to goods and services. Informal institutions are equally known and recognizable publicly; however, they are not laid down in writing." (Lauth 2000, 24).

4 Guillermo O'Donnell's notion that democracies can become informally institutionalized has provoked a heated debate about the relationship between formal and informal institutions. Although there still is significant disagreement, the debate nevertheless served to draw scholarly attention in the political sciences towards the relevance of informal institutions in the process of democratic consolidation (see O'Donnell 1996; O'Donnell 1996a; Gunther/ Diamandouros/ Pule 1996; Liebert/ Lauth 2000, 13-16).

5 Valenzuela's minimal definition of a political democracy is based on Robert Dahl's definition of a political democracy (polyarchy) (Valenzuela 1992, 60).

6 This largely corresponds to what Valenzuela calls "virtuous" and "perverse" institutions (Valenzuela 1992, 62).
1. Political representation in Taiwan has, to a great extent, been based on informal institutions harmful to democracy, thus excluding major parts of the general public from the process. The author believes that the reasons for the general public's low levels of perceived system responsiveness are to be sought here.

2. The relationship between these informal institutions and the formal institutions has been largely complimentary, meaning that formal and informal institutions have reinforced each other. In cases where there is a conflicting relationship, the sanctions that the formal institution carries are teethless, or their enforcement is lax.

In order to test the first hypothesis, the following part describes the major actors in Taiwan's political process from a historic-genetic perspective, elucidates their informal connections, and illustrates their impact on Taiwan's democratic quality. These actors are the KMT, the local factions, organized crime (the mafia), the business elite, and the administration. Of major importance are the legislators, but as their role becomes clear in the discussion of the other actors, they will not be examined as a separate category.

Building on these findings, the paper then focusses on the second hypothesis. Formal institutional arrangements that have governed the vertical power structure, conflict of interest and transparency, elections, and the legislative process are analyzed. As ample research is available about the political consequences of the electoral system, discussion of this point is limited to the benefit of the others, which so far have been neglected in political science research.
Informal Institutions

Figure 1 summarizes the actors and informal institutions discussed below.

The KMT

The analysis has to start with the KMT, as it used to be - and to a great extend still is - the linchpin that holds the network of informal institutions in place. In order to better understand the evolution of this network, it is necessary to briefly examine its origins. KMT authoritarian rule is best described by Taiwanese political scientist Hu Fu's analogy of an "umbrella structure of authoritarianism," (Lin Chia-lung 1999, 101-102) meaning the KMT leadership's firm grip on a
system of mobilization mechanisms spanning Taiwan's economic, civil, and political society, cloaked in the claim to legitimacy by Chiang Kai-shek's vow to reconquer the Mainland and his dedication to the teachings of Dr. Sun Yat-sen. These mechanisms included political mobilization via local factions (difang paixi), control over the economy through the administration, government- and party- owned enterprises, and government-owned financial institutions, as well as cultural domination and monopolization of civic organizations7.

Local factions are local-level clientelist networks. Each of Taiwan's counties and municipalities has at least two, sometimes more local factions, which compete for local economic and power resources. Factions usually are held together by ties of blood, kinship, and marriage, but also by personal relationships. (Chen Ming-tung 1995, 16-18). The KMT made use of local factions basically by trading money for support via local-level elections. Candidates of the various local factions competed for nomination by the KMT, and the choice of candidates was a matter of enough importance to be decided upon in the party center. The local balance of power had to be maintained, because factional competition kept potential usurpers in check and furthered the KMT's role as mediator and coordinator, rendering it indispensable. Getting elected at the local level was not very attractive in terms of political power, because local government was in firm grip of the party state. Political office, however, opened the door to enormous economic spoils, the lifeblood in the organism of clientelistic networks. Maintaining the legitimacy of the regime was a task that demanded great political skill, as the KMT had to walk the tightrope between nurturing the local factions and keeping them in check. This forced the KMT to pose strict limits on the distribution of political and economic power, and it took great care to separate the political from the economic realm, and political and economic actors from each other. The factions were not to conclude alliances beyond their level of governance, and violation of this policy was not tolerated (Chen Ming-tung 1995). The same was true for economic actors. The KMT controlled the Taiwanese economy both by political and economic means. Politically, it used laws, regulations, and fiscal policies to shape the market. Economically, the party became an economic actor itself, concentrating vital economic resources in its hands, which were used to build "an array of satellite suppliers and subservient down-stream firms" (Chu 1992, 134). In addition, a hierarchical system of industrial associations with compulsory membership gave the KMT further control over business leaders.

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7 Although the role of cultural domination and monopolization of civic organizations is not to be neglected, they are not subject of this paper.
In the course of Taiwan's democratic transition, the KMT's relationship to both local factions and major economic actors underwent massive changes, resulting from economic liberalization, political democratization, and the KMT's factionalization. There was no clean break with the authoritarian regime, and the KMT held onto power and was reluctant to relinquish its political and economic resources. This was a major consequence of the democratic divide, which did not run between the ruling and the opposition parties, but rather split the ruling party in two antagonistic factions, which would have made party reform impossible even if it were intended. Economic and political liberalization, on the other side, strengthened the hand of both the local factions and the business community, as they could now expand and form alliances. The KMT did not hinder these developments, but encouraged them, because it increasingly came to rely on those actors' support (Chen Tung-sheng 1995, 34-35). Thus, democratization did not eliminate clientelistic networks, but fostered their growth and diversification.

**Local Factions**

With the advent of democratization, local factions became diversified both in their structure and in their sources of income. First, they could then form vertical and horizontal alliances. Second, land and real estate development became the main sources of rent-seeking. Many local factions started to ally with the new financial groups, which had started to mushroom since the 1980s, leading to a new typology of interest-based associations ranging from the "traditional" local faction to the nation-wide financial group (Chen Tung-sheng 1995, 36-38)⁸. With elections for the central-level representative organs conducted, the door to central government was opened, and the Legislative Yuan became a major playing field for local factions. Thus, their percentage among representatives has increased steadily. This is especially true for the Legislative Yuan elections in 1998, where additional seats created by the constitutional amendments of 1997 and the concurrent downsizing of the Provincial government facilitated the influx of candidates with a factional or big-business background (Taiwan Ribao, December 6, 1998). KMT legislator Chu Li-lun estimates that about 60% of all representatives in the fourth Legislative Yuan represent local factions (Li Ming-hsuan 2000, 74). Both the current speaker of the Legislative Yuan, Wang Chin-ping, and his predecessor, Liu Sung-pan, are members of local factions. Important

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⁸ For example, the LY- legislators Chang Wen-i, Kao Yu-jen, Chen Hung-chang, Hsu Shu-po, Liu Cheng-hung, Yang Wen-hsin, Lin Hung-tzung, Yu Huai-yin, Weng Chung-chun, Tseng Yung-chuan, Liu Ping-wei, and Lin Chin-chun represent both their respective local factions and big business (Xin Xinwen, 619, 53).
secondary groups (ciji tuanti), many of which are hotbeds of factional influence, transferred from the Provincial Assembly to the Legislative Yuan and were able to increase their membership (Zhongguo Shibao (ZGSB), January 1, 1999). Furthermore, political alliances with local factions were not limited to the KMT anymore, as the DPP's successful electoral performance in the 1997 county-level elections brought it into contact with local factions as well. Although the DPP does not rely on local factions to the extent that the KMT does, DPP candidates however have to form strategic alliances with them as well in order to perform well in elections (Peng Wei-chang 1996, 26-27).

To understand why factional influence has increased, and in what ways local factions are a liability to the democratic process, a deeper view has to be taken on how and in which institutional environments they operate. The key to power for the factions are elections, and their aim is to mobilize votes for their candidates. As most of their candidates at the same time were the ruling KMT's candidates, it is no surprise that the electoral system facilitated such mobilization⁹. The organizational capacity of the KMT and its clientelistic relationship to the local factions made influence on electoral outcomes highly effective during authoritarianism. All that was required was subdivision of an electoral district into as many parts as there were candidates, and ensure that the candidate received the right number of votes in a district¹⁰. This was achieved with the help of vote-brokers (zhuangjiao), who served as a link between the candidate and the voters. Shelley Rigger analyzed these relationships in great detail, and she distinguishes between "office-holding," "social," and "association-based" vote-brokers who operate in different spheres of influence and with different methods, including political campaigns, utilizing and offering personal relationships, mobilizing employees, and buying votes (Rigger 1994, 167-172, 94-98). Part of the money for these activities was taken from the party coffers, but the vast part was extracted from local monopoly and oligopoly rights and "money machines" like the credit departments of the fishermens' associations (yuhui), the water conservancy associations (shuilihui), and the farmer's associations (nonghui) (Chen Ming-tung/Chu Yun-han 1992, 89-90).

This is still the case today, and the effects of these misappropriations both for the quality of Taiwan's economy and its democracy are grave. With leverage of over NT$ 100 Billion at stake, the elections for director of the Taiwan Provincial Farmers' Association conducted in April 2001

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⁹ See the part on the electoral process in this paper.
¹⁰ For a detailed and first-hand description of this process see Chan Pi-hsia 1999.
were accompanied by reports of vote-buying and involvement of organized crime (Xin Xinwen, 740, 58-59). Economically, these associations have become a liability. Low levels of transparency and lax supervision make credit manipulation easy. Accordingly, the rate of overdue loans in these organizations is exorbitantly high\(^\text{11}\), and the 362 farmers' and fishermen's credit cooperatives average rate of bad loans is estimated to surpass 17% (*Taipei Times*, July 5, 2001).

More negative effects on Taiwan's democracy stem from the new cast of actors involved in the mobilization process. With increased importance of the representative organs after democratization, the number of candidates increased, as did campaign costs. This created incentives for business groups to sponsor candidates and in return receive political influence. Also, increasing crackdowns on vote-buying introduced the mafia as mediator, as the high sentences for vote-buying deterred many traditional vote-brokers (Liao Chung-hsiung 1997, 180-181). Observers note two important consequences resulting from these recent trends: first, the political culture displayed in elections worsened, leading to further alienation of the electorate. Second, the legislators thus elected must work hard to earn back the campaign costs and satisfy their benefactors, leaving them not much time to make laws and supervise the government (Lin Ming-hsuan 2000). Finally, as the vast part of campaigning costs is raised by the candidates themselves, they don't feel obliged to their party. Accordingly, party discipline is low, and coordination difficult for the party caucus, resulting in efficiency-hampering bargaining processes between individual legislators and their parties. This is a serious problem greater for the KMT than for the others.

*The Mafia*

Analytical material on organized crime - for obvious reasons - is scarce, and quantitative approaches differ significantly in their findings\(^\text{12}\). Empirical research that is available, however,

\(^{11}\) The Study Group on Local Factions and Business-Politics Relations, formed by DPP legislator Chien Hsi-chieh and including a host of National Taiwan University professors, prepared a "top ten" of defaulting farmers' associations. The list is led by the Taiwan Provincial Farmers' Association with a whopping 90% of all loans overdue. For place 10, the Changhua county Fanghua township, Farmers' Association, the rate of overdue loans is reported to be at 56% (Chiu Hua-mei 2000, 102).

\(^{12}\) In 1993, Chao Yung-Mao estimated that of all the county-level representatives in the 11 West-coast provinces, 25% had an organized crime background, in Yunlin county even as much as 40% (Chao Yung-mao 1997, 284). One year later, after the elections for the 13th county and city councils in 1994, then-Minister of Justice Liao Cheng-hao stated that more than 260 of the 858 newly-elected councillors had an organized crime background, equalling one third of all the representatives at this level (*ZGSPB*, May 25, 1997). Contrasted with Chao's findings, this suggests a significant increase. The figures calculated by the Study Group for Local Factions and Business-Politics Relations in 1999, however, state that only 88, or roughly ten percent out of all county and city councillors have an organized crime background (Chiu Hua-mei 2000, 99). Even if only the West Coast counties are taken into consideration, the percentage is only roughly 12%. Furthermore, the Group found that in the Legislative Yuan, 7 legislators, or roughly 3% have an organized crime background, whereas KMT legislator Chu Li-lun states that 20% of all legislators are involved in "black gold" (Li Ming-hsuan 2000, 74). There are empirical, terminological, and methodological
indicates that organized crime plays an important role in Taiwan's politics, economy, and society. Primary sources support this assumption. The influence of the mafia (heidao) is biggest at the local level, but "black gold" (heijin) has also become a problem for the legitimacy of democratic institutions at the central level.

Taiwan National University professor and expert on Taiwanese local politics Chao Yung-mao distinguishes three types of organized crime groups that simultaneously embody the stages of development organized crime has taken in Taiwan. Groups of the "social type of mafia" (shehuixing heidao)- consisting mainly of uneducated youth who engaged in small-scale crime - had existed in Taiwan since the Japanese hand-over. Along with the socioeconomic transformation of the 1960's, some of these groups transformed into "economic types of mafia" (jingjixing heidao), running legal or semi-legal ventures like dance clubs, brothels, and karaoke bars (Chao Yung-mao 1997, 290). According to Chao, a crackdown on organized crime (yiqing zhuanan) instigated in 1984 had two distinctive results. First, the "code of conduct" that the secret societies had adhered to disappeared and violence increased. Second, "political types of mafia" (zhengzhixing heidao), were formed. Gangsters began to run for office in order to white-wash themselves and use their political influence to protect their "brothers" (xiongdi). Liao Chung-hsiung points out that this extends to gang leaders becoming a convener of the Police Administration Group (jingzheng xiaozu) in the local legislatures, thus being in a position to supervise the local police departments (Liao Chung-hsiung 1997, 179-180). In the Legislative Yuan, legislators implicated in legal suits often seek a seat in the Judiciary Committee. Examples in case include Lin Rui-tu and Wu Tze-yuan. Lo Fu-chu, who is suspected to be an important figure in the Tiandaomeng- gang, even served as one of the committee's three conveners (Lianhe Bao, September 22, 2000).

Despite the fact that some organized crime groups have established island-wide networks linking legal and illegal businesses, Chao Yung-mao points out that their political influence is biggest in the 11 primarily rural Western seashore counties spreading from Taoyuan to Pindong (Chao Yung-mao 1997, 283). The Study Group for Local Factions and Business-Politics Relations confirms this (Chiu Hua-mei 2000, 101).

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reasons for these deviations. First of all, organized crime operates in secrecy, so quantitative analysis can best rest on well-informed guesses. Secondly, the term "heidao," which is commonly used to describe the connection between government and organized crime, is very loosely defined. So is the term "heijin." Finally, it is very hard to draw qualitative boundaries between local factions, organized crime, and big business, as in reality these three categories overlap.

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Elections play an important role for all three kinds of mafia. First of all, increasing campaign costs make "election-related business" profitable, and organized crime groups have established working relationships with the local factions. Secondly, elections are the quickest route to achieving political influence. For the social type, this means acting as a vote-broker, bodyguard, or as a thug who intimidates or blackmauls opposition candidates. In turn, they receive payment and political protection (Chao Yung-mao 1997, 290). Evidently, once a faction employed gangsters to combat political opponents by illegal means, the opposition faction was forced to follow suit. Its increase in importance as professional vote-brokers also stems from the crackdowns on vote-buying that have ensued since the middle of the 1990s13 (Liao Chung-hsiung 1997, 177-178). An example in this case is the Yunlin county commissioner by-election, which was held in early November. Road-blocks and a 2000-man special police task force, as well as civil society groups monitoring the elections could not avoid massive vote-buying, election-rigging, threats against candidates, and electoral violence (see election coverage in ZGSB and Taipei Times, esp. October 1999).

The Shangye Zhoubao reports that legislators with an organized crime background exert considerable influence in the Legislative Yuan by means of threats and terror against individual lawmakers, some of them even accompanied by gunmen disguised as assistants (Shangye Zhoubao, 605 (1999). Minister of Justice Chen Ting-nan acknowledges this problem, but complains about the lack of witnesses willing to testify (ZGSB, July 28, 2001).

**The Business Elite**

In the course of economic liberalization, the relationship between the KMT (most of all its Lee Teng-hui- dominated "mainstream faction") and important actors of the business sector began to change to an interdependent one. In order to secure these actors' compliance, the KMT introduced new land-based economic rents such as construction projects and real-estate development, which became quickly linked to the blossoming financial sector. Meanwhile, a host of private enterprises that were held in economic stranglehold during the authoritarian regime began to prosper. The lack of formal rules governing business behavior on the one hand and political candidates need for funding on the other made for strategic relationships between actors

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13 The crackdown largest in scale occurred in 1994, surrounding the election for the county commissioners, leading to the indictment of altogether 257 persons, including a good 30% of all legislators and, in almost all counties, the commissioner (Chen Ming-tung 1995, 250-253).
of the business community and politicians at all levels\textsuperscript{14}. Often businessmen sought political office themselves.

Thus, 92 legislators (around 41\%) of the fourth Legislative Yuan have a big business background, of which 72 legislators are from the construction, banking, and media sectors. Especially legislators with construction and banking backgrounds cooperate fruitfully, mustering 48 legislators alone. (\textit{Shangye Zhoubao}, 587 (1999)). Their aim is not so much to make laws but rather to reject them, as was the case with drafts regulating the financial sector and increasing profit taxes. Instead, they profit from first-hand political information and use occupation of committee seats to pressure or even blackmail the administration, especially with threats of budget cuts or the pending of vital laws (Huang Hsiu-tuan 2000, 50-52). Support is mustered up by strategic bargaining, but also by cheap "loans" and "donations." In the so-called Kuang San scandal, there is pressing evidence that former Legislative Yuan speaker Liu Sung-pan helped Tseng Chen-jen, president of the Kuang San group, pull through a loan scam and in turn received NT$ 150 Million, 6 million of which he used to solicit votes for his re-election bid to speakership in 1999 (\textit{Taipei Times}, April 12, 2000). At about the same time prosecutors produced evidence that both legislators and government officials had put their weight behind an illegal NT$ 640 Million loan the state-run Central Trust of China granted the president of the deficient Chin Wen group. This loan was just the tip of the iceberg, and as the case unfolds, it comes to light that at least 15 Ministry of Education officials, eight legislators, and organized crime syndicates are involved (\textit{Xin Xinwen}, 735, 20-24; \textit{Xin Xinwen} 736, 24-30). The extend of corruption in the representative bodies cannot yet be fully assessed, but the new government's recent counter-corruption program leads to an increasing number of indictments of legislators at all levels\textsuperscript{15}.

The analysis of the business elite would not be complete without a look at KMT financial power. Financial statements of the KMT's seven holding companies for 1998 show total assets of NT$147 Billion, but informed observers estimate that this figure should be much higher, as the KMT has overseas assets that are not listed with the holding companies (Liang Yung-huang/ Tien Hsi-ju 2000, 12). Being the fifth biggest business syndicate in Taiwan, the KMT not only has a

\textsuperscript{14} Chen Dong-sheng (1995, 34-38) distinguishes eight kinds of economic profit groups, namely "traditional local factions," who control local monopolies; "new local financial groups," who formerly had operated nation-wide and now began to invest in land at the local level, "local illegal businesses," "small and medium-sized enterprises," "industrial and trade oligopolies," "banking and finance oligopolies," "party enterprises," and "foreign trade and finance groups".

\textsuperscript{15} In March 2001, 152 representatives on all levels had been indicted, most of them on charges of corruption and vote-buying. This number rose to 163 in May, to 222 in June, and 317 in August 2001 (Ministry of Justice 2001).
financial edge in political campaigns, but can also exert considerable leverage over the influential business community.

The Administration

Since the authoritarian KMT party-state was organized according to Leninist principles, the problem of achieving "administrative neutrality" bears special importance. An important step in that direction was the decision to unravel party and state at the 14th KMT Party Congress in 1993 (Kuan Chung 1994). However, three factors caused significant problems. One was the constitution-rooted ambiguity concerning the relationship between the president and the premier, especially in policy formulation. As Kuo Cheng-tien indicates, the rivalries between former president Lee Teng-hui and former premier Hsiao Wan-chang led to a split in the bureaucracy when each mobilized his institutional resources, leading to opportunism at the cost of administrative efficiency (Kuo/ Tsai 1998, 169-170). The second factor was the new shape of the clientelistic relationship between the KMT and the factions and the business elite. In order to mobilize support from these actors, the principle of administrative neutrality continued to be bent after democratization, and "[b]latant violations of the neutrality rule by the KMT were commonplace during the campaign seasons" (Chu 1997, 13). The main reason for this is the third factor: with democratization, control over the administration changed from the party to the legislature. There, groups of legislators with local faction or big business backgrounds took control over important committees and instrumentalized budget reviews, investigating committees, and the delay of important laws to blackmail the administration (Huang Hsiu-tuan 2000, 53).

Formal Institutions

This part tests the second hypothesis. It examines the main formal institutions that have structured and influenced the political process in Taiwan since the advent of democracy. The analysis will make clear that until very recently, the relationship between these laws and regulations and the informal institutions discussed above was a complimentary rather than a conflicting one. In cases where there was a conflict, the sanctions that the formal institutions carried were either toothless or were enforced only selectively, if at all.
The Vertical Power Structure

Despite the fact that, according to Article 121 in the Constitution of the Republic of China, "[t]he hsien shall enforce hsien self-government," local government depends on the central level for funding. It lacks taxing authority, and funds from taxes levied at the local level can barely pay for the regular expenses of local governments, not to mention local development. Accordingly, fights over subsidies occur every year. Apart from obvious opportunity costs in terms of efficiency, the localities' financial dependence on the central level provides an important avenue for money politics.

Especially relevant is a budget item called "fund for small-scale construction projects" (xiaoxing gongcheng buzhukuăn), which was allocated by the Provincial Government until its downsizing in 1998. Since there were no legal criteria for the distribution of these funds, they became powerful tools for political influence. In 1998, this fund was transferred to the Directorate General of Budget, Accounting and Statistics (DGBAS), which divided it among the ministries. According to paragraphs 3 and 4 of the "Law Governing Central Government Subsidies to the Governments of Directly Administered Cities and Counties (Cities)" (Zhongyang dui zhixiashi ji xian (shi) zhengfu buzhu banfa), these funds were to be allocated according to objective criteria like a unit's financial capability, its population, its surface area, and its infrastructure, and was subject to the Legislative Yuan's supervision. During KMT rule, however, common practice was to give the Legislative Yuan the right to "recommend" construction projects, which, in fact was nothing less than a huge pork barrel each legislator could distribute to his constituency. The new DPP government ended this prerogative, but not the debate about it (ZGSB, April 22, 2001). The fact that these funds are now directly allocated by the DGBAS raised suspicions with the KMT, and the Legislative Yuan asserted its right to obtain a monthly report on proposed spending from these funds. The whole affair snowballed, with the DPP complaining that this undermined executive efficiency, and the KMT threatening to form an investigating committee against Lin Chuan, the director of the DGBAS, who had spent one third of the fund already in the first month of the fiscal year 2001 (Taipei Times, May 1, 2001).

\footnote{For example, in his reelection bid for Provincial Governor, James Soong toured the island and showered more than 300 towns and villages with promises of local construction projects worth about 80 billion NT$ (Chen Ming-tung 1995, 254-255). This gave him quite an edge in the subsequent elections, which he won with a comfortable 56.22% margin.}
Conflict of Interest and Transparency

There are strict laws and heavy penalties on corruption and organized crime, but hardly any regulations exist to govern the relationship between public officials and organized interests. It was standard practice for many legislators to brazenly tailor laws and budgets to serve their ends, to lobby and pressure the Executive Yuan on behalf of businesses in which they have interests, or press state-run banks to invest in their businesses. Although this has created tremendous outrage in Taiwan's public, such actions were, until recently, not exactly illegal. The only law that indirectly targeted money politics was the "Public Functionary Assets Disclosure Law" (gongzhi renyuan caichan shenbaofa). The Disclosure Law stipulates that public functionaries must report their financial assets to the Control Yuan annually (Disclosure Law, Art. 3), which publishes these data (Disclosure Law, Art. 6). The passage of this law in 1993 against the will of the KMT Party center was seen as a major step towards public accountability of government officials (and a step towards coalition politics), but it has proved to be toothless for three major reasons. First, the sanctions for transgression are a mere slap on the wrist. Refusal to be investigated is punished by NT$ 20,000 to NT$ 100,000 (Disclosure Law, Art. 10), and misreporting results in a fine of NT$ 60,000 to NT$ 300,000 ( Disclosure Law, Art. 11). Next, since the Control Yuan lacks the resources to randomly review even one tenth of the reports filed, cheating on the reports doesn't involve much of a risk. Even high profile cases involving billions of dollars and political heavyweights thus do not receive disciplinary action, but merely a fine. Of course, the Control Yuan could have followed up to examine if the misreporting served to cover up the breach of another law. But, and this is the third reason for the lack of efficiency of this particular law, seldom did it do so (Taipei Times, July 12, 2001).

Until the advent of the new administration Taiwan's legal system lacked detailed and effective regulations governing lobbying activities and public officials' conflicts of interest. This situation changed with the passage of the "Public Officials Conflict of Interests Prevention Law" (gongzhi renyuan liyi chongtu huibifa) on June 27, 2001. This law is very precise in its regulations and carries heavy fines, but effective enforcement has yet to be seen. According to its initiator, KMT legislator Chao Yung-ching, it could lead to the indictment of half of the legislature's members (Taipei Times, June 28, 2000).
The Electoral Process

As much and thorough analysis has been done on the political implications of Taiwan's Single Non Transferable Vote in Multi-Member Districts-system (SNTV-MMD), and its effects on clientelistic networks has already been discussed in this paper, only the main arguments will be summarized here, particularly in context of the Legislative Yuan elections.

Taiwan is divided into 27 electoral districts, each comprising 1 to 12 seats, depending on its population size. Each voter has only one vote, and about 78% of the seats are allocated according to the first-past-the-post-rule. The remaining seats are filled by party lists and by proportional representation based on the number of votes obtained in the districts. As has been revealed, this system favors parties that are capable of organizing their constituencies, and it has spawned a comprehensive network of informal institutions. Besides the fact that SNTV-MMD encourages clientelistic networks, it also serves to undermine party discipline, rewards expressive behavior more than professionality, and encourages money politics (Hsieh 1996, 207-209). Since a substantial amount of the campaign cost has to be mobilized by the candidates themselves, many of them feel that they have the right to enjoy a certain degree of independence from the political party they belong to. Also, in order to repay their campaign benefactors and ensure their victory in successive elections, they must use their position to raise huge amounts of money. Since under SNTV-MMD even candidates with a small amount of votes can get a seat, it is important for them to stand out from beneath the other candidates or legislators. Thus, very often rude behavior such as fistfights and insults is employed to show their constituency that they represent them whole-heartedly. That this system has been highly effective can be seen from the high reelection rates unusual for young democracies17.

The Legislative Process

As has been shown, parliamentary politics in Taiwan has been characterized by fragmentation, polarization, a lack of commitment to basic principles of the democratic process, a lack of professionality, and the legislators' abuse of power via the executive branch. The influence of clientelistic politics and electoral networking on the quality of Taiwan's legislators has been discussed, but these factors are reinforced and supplemented by factors internal to the Legislative Yuan. Flaws in and underregulation of both structural and procedural arrangements

17 The first democratic Legislative Yuan election in 1992 resulted in a 43% reelection rate. For the Legislative Yuan elections in 1995, this percentage rose to 60%. In the 1998 election, the figure dropped to 34%, which is still significant considered the large increase in seats after the 1997 constitutional amendments (Wu Kun-hung 2000, 17).
exist in regulations governing political culture, conflict of interest, partisan negotiations, and standing committees.

The Legislative Yuan has undergone great changes since democratization, especially with the constitutional amendments of 1997, which resulted in the "parliamentary reform-" (*Guohui gaige*) package passed by the Legislative Yuan on January 12, 1999\(^\text{18}\). Although the law-making body's right to confirm the Premier was relinquished, it gained the powers to pass a vote of no confidence against the premier, to impeach the president, to form investigating committees, and to convene public hearings. Former DPP party whip Chen Ting-nan described this bargain using the metaphor of "having exchanged a suit for four pairs of underpants" (*ZGSB*, July 18, 1997), which might be true in terms of balance of power between the legislature and the executive branch. However, investigating committees and public hearings are important tools to facilitate a legislature's transparence and professionality. It is dubious that these structures improve legislative quality significantly without structural changes elsewhere, especially given that these tools are not available for minority parties, as the principle of democratic supervision would demand\(^\text{19}\) (Chang Kun-sheng 2000, 32).

As for the much lamented lack of democratic political culture inside the Legislative Yuan, a first step to combat rude behavior and clientele politics was taken with the passage of the Legislators' Conduct Act (LCA), which, however, lacks effective sanction mechanisms. Instead of linking concrete offenses to concrete sanctions, the LCA merely stipulates that the case be administered by the Disciplinary Committee (*jilu weiyuanhui*), who may, according to the seriousness of the particular circumstances, decide upon one of the following punishments: an oral or written apology; forbidding the offender to attend between four and eight meetings of the legislature; or suspending the offender for three to six months subject to approval by a two-thirds majority in the legislature (LCA, Art. 28). Suspension, however, does not mean dismissal, so the offender continues to receive his salary and reimbursements. Since most legislators don't regularly attend sessions anyway, even this heaviest of punishments is hardly effective.

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\(^{18}\) This package consisted of two new and the revision of the three existing organizational laws. The new laws were the Legislators' Conduct Act (*Lifa wei yuan xingweifa*) and the Law Governing the Legislators' Exercise of Power (*Lifayuan zhiyuan xingshifa*), the three existing laws the Legislature's Organizational Law (*Lifayuan zuzhifa*), the Standing Order of the Legislative Yuan (*Lifayuan yishi guize*), and the Legislature's Standing Committees Organizational Law (*Lifayuan ge wei yuanhui zuzhifa*).

\(^{19}\) A majority in the chamber is necessary for an investigation committee to be established (Law Governing the Legislators' Exercise of Power, Art. 45). The convening of a public hearing is decided by a committee's convener-in-charge, or by the majority of the committee when requested by at least one third of its members (Law Governing the Legislators' Exercise of Power, Art. 55).
The LCA sanctions legislators' violations in three major fields: behavioral standards (Art. 3-7), lobbying (Art. 15-18), and conflict of interest (Art. 19-24). This is bound to cause major confusion, as there are conflicts with other laws. Article 15 of the LCA states that the rules guiding lobbying activities are only temporary and will be overridden with the passage of the Lobby Law (youshuifa), which is still pending in the Legislative Yuan. However, the LCA's regulations in this field already overlap with the recently passed Public Officials Conflict of Interests Prevention Law (gongzhi renyuan liyu chongtu huibifa)\(^\text{20}\), which is significant given the fact that the former's sanctions for such behavior are much more lenient than the latter's, which includes fines up to 7.5 million NT$ (Public Officials Conflict of Interests Prevention Law, Art. 17). Equally, the LCA's regulations governing conflicts of interest now coexist with the Public Officials Conflict of Interests Prevention Law, again with sanctions being vastly different. This is bound to cause confusion and further undermine the efficiency of the legislative process. Unfortunately, this situation is bound to worsen if the planned "sunshine laws" pass the third reading unchanged and without adjustments to existing laws, as especially the drafts for the Political Party Law (zhengdangfa) (Legislatve Yuan 2000), the Political Contributions Law (zhengzhi xianjinfa) (Legislatve Yuan 1999), and the Lobby Law (youshuifa) (Legislatve Yuan 2000a) overlap and clash with the regulations discussed here and in the previous point (Lin 2000).

Regulations governing partisan negotiations were included in the Law Governing Legislators' Exercise of Power to improve communication in the legislature. When a consensus over a bill or a motion cannot be reached, partisan negotiations can be held at the initiative of each committee chairman or at the request of each caucus, in order to reach a compromise (Law Governing Legislators' Exercise of Power, Art. 68-74). The convening of partisan negotiations between committee review and the second reading in the chamber, however, have become standard procedure at the expense of transparency and accountability, because partisan negotiations are conducted behind closed doors and off the record, which is actually done in violation of article 70 of the same law. Besides this lack of transparency, the price to be paid for increased efficiency of the legislative process is also the undermining of the Standing Committees' standing, as a Committee's decision often is overridden during the negotiations. (Wang 2001). Thus, well-meant in its intention, these formal channels of negotiation have

\(^{20}\) Epecially Article 16, which forbids accepting material rewards in the process of lobbying.
become a black box in the legislative process that undermines the democratic principle of transparency.

Probably the most important factor for consideration in the discussion of legislative efficiency is the organization and working process of the standing committees (weiyuanhui). The standing committees are the most important bodies of legislative work in modern democracies. Most substantial discussions are conducted there. In Taiwan however, most committees are merely aggregations of legislators sharing the same personal interests, but with no or little professional background. Maybe the recently passed Conflict of Interest Law will help remedy this situation, but the problems of the committees' weak standing in the legislative process probably won't be solved this way. Vestiges of the old, executive-dominated structures still live on in the organization of the committees, and Taiwan's legislative process suffers from the lack of institutional connection between political parties and committees, the committees' frequent change in leadership, and their lack of specialization.

In order for a committee system to work properly, the distribution of power in the legislature must be mirrored in the committees. In Taiwan, due to the committees' membership recruitment system, such is not always the case. In Taiwan, the membership in committees is not subject to party proportionality and decision-making within the party groups, but the individual lawmaker's choice. Each lawmaker can register for one committee, and if the maximum amount of members is exceeded, the ballot decides (Legislative Yuan Organizational Law, Art. 11). A party group cannot recall or exchange their representatives in a committee either (Chang Kunsheng 2000, 21). Especially in the influential committees it usually isn't the most professional among the lawmakers who strive for a seat. Thus, the majorities within committees sometimes do not mirror the distribution of power in the Legislative Yuan, quite naturally making the decisions of such committees subject to overruling by the chamber, thus rendering them useless (ZGSB, August 12, 2001)\(^2\). On the other hand, however, the power of a committee to form a Special Case Investigating Group (diaoyue zhu'an xiaozu) (Law Governing the Legislators' Exercise of Power, Art. 45), is a powerful weapon in the hand of vested interests to influence important decisions (Chang Kunsheng 2000, 15).

The committees are furthermore hindered by frequent changes of leadership, as there is not one chairman, but three rotating "conveners" (zhaojiren), who are elected from among their

\(^2\) For this reason, it was decided in the course of the parliamentary reform in 1999 to fill the committees by party proportionality. The first period that this change was in place, however, was used by the KMT to change the nomination mechanism back again.
committee (Legislative Yuan Organizational Law, Art.3-4). Moreover, there are no subcommittees or any other division of labor needed to come to terms with the complexities of a modern democracy. On the contrary, article 7 of the Legislature's Standing Committees Organizational Law stipulates that motions under consideration, after a first consideration, are to be "examined by a certain number of committee members by turns." Only when deemed necessary can the convener appoint members to deal with a motion.

Conclusion

This analysis has shown that informal institutions violating basic democratic principles like accountability and transparency have played a substantive role in the process of political representation in Taiwan. It has furthermore been shown that, after democratization, they have increased in importance. The relationship between these informal and the formal institutions examined here has largely been a complimentary one. In cases where there was a conflict between formal and informal institutions, formal institutions were enforced only selectively, if at all.

If we adopt a concept of democratic consolidation that is not based on political attitudes, but on political behavior, expressed in the building of and adherence to democratic formal and informal institutions, we can conclude that Taiwan's consolidation process was stagnating until the changeover of power in May 2000. Beginning from the early 1990s, the authoritarian regime was replaced by an electoral democracy, but the representative institutions were hijacked by vested interests, depriving the general public of ongoing channels for representation. This may very well explain the low level of perceived system responsiveness in Taiwan’s mass public, and media reports and opinion polls highlighting dissatisfaction with money politics, clientelism, and organized crime involvement in politics sustain this view. Equally, high approval rates for Minister of Justice Chen Ting-nan's "sweep out black gold-" (sao hei) program show that Taiwan is taking a step in the right direction.

In order to render the political process more transparent and accountable, existing laws must be enforced and where necessary amended, and new laws might have to be drafted. The major pillars of the network of informal institutions analyzed in this paper are the electoral
system, the unchecked flow of money, and the Legislative Yuan’s organization. Institutional reform must start here.

Whether this will happen eventually depends on those that have the most to lose from political reform - the "connected" legislators. They have so far rather successfully opposed major reform projects, but their strategic position has changed with the new administration cutting of sources of money supply and enforcing of laws punishing corruption and vote-buying. Being a legislator is not as attractive anymore as it used to be. Also, two new parties have entered the fray, which might serve to strengthen party politics. Seen from this perspective, the Legislative Yuan elections in December 2001 have the potential to take Taiwan a major step towards a consolidated democracy.
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