Taiwan’s Semi-presidentialism at a Crossroads
Options and Prospects for Constitutional Reform

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Outline

- Four Areas to be covered
  - Semi-presidentialism: concept and typology
  - Evolution of the ROC constitutional order
  - Likely development under the current system
  - Most recent wave of constitutional reform: Has the “moment” passed?
Semi-presidentialism: concept and typology
Semi-Presidentialism

- Mixed constitutional system
  - combines features of parliamentary and presidentialism
  - with a popularly elected president and a premier-led cabinet responsible to the parliament

- SP had gained global reach
  - originated in Germany and Finland
  - spread to several WE countries after WWII
  - then to post-Leninist and post-colonial countries in the Third Wave of democratization

Semi-Presidentialism

- Imposition of a directly elected president on a parliamentary system
- Default mode: parliamentarism
  - Critical variable: How powerful is the president? How does he act in relation to the government and parliament?
  - Wide range of operational modes, unlike in parliamentarism or presidentialism
- The presidential track and the parliamentary track vie for dominance
- Uncertain two-track system (不確定兩軌制)
Typology

- Based on two variables
  - The president’s role in forming and controlling the prime minister and the cabinet
  - The relation between the president and the parliament
    - Congruence: when the presidential party commands majority in the parliament
    - Incongruence: when the presidential party fails to command majority in the parliament
<table>
<thead>
<tr>
<th>Subtype</th>
<th>Role of the President</th>
<th>Congruence</th>
<th>Incongruence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quasi-parliamentarism (QP)</td>
<td>Broker (non-party leader)</td>
<td>President yields to co-partisan in parliament to form government</td>
<td>President yields to opposition majority leader in parliament to form government</td>
</tr>
<tr>
<td>Alternation (ALT)</td>
<td>Partner (party leader)</td>
<td>President appoints his favorite prime minister and form government</td>
<td>President yields to opposition majority leader in parliament to form government</td>
</tr>
<tr>
<td>Compromise (COM)</td>
<td>Imposer (party leader)</td>
<td>President appoints his favorite prime minister and form government</td>
<td>President and opposition majority leader join to distribute cabinet positions and/or divide executive power</td>
</tr>
<tr>
<td>Presidential supremacy (PS)</td>
<td>Commander (party leader)</td>
<td>President appoints his favorite prime minister and form government</td>
<td>President appoints his favorite prime minister and form government</td>
</tr>
</tbody>
</table>
Evolution of the ROC constitutional order
## Evolvement of Taiwan’s Semi-Presidentialism

<table>
<thead>
<tr>
<th>Stage</th>
<th>Time</th>
<th>Constitutional Regime</th>
<th>President</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>1947-1948</td>
<td>Parliamentarism</td>
<td>Chiang Kai-shek</td>
</tr>
<tr>
<td>Second</td>
<td>1948-1991</td>
<td>Presidential dictatorship <em>Temporary Clauses Effective During the Period of Communist Rebellion</em></td>
<td>Chiang Kai-shek, Yen Chia-kang*, Chiang Chiung-kuo</td>
</tr>
<tr>
<td>Third</td>
<td>1991-1997</td>
<td>Emerging into SP</td>
<td>Lee Teng-hui</td>
</tr>
<tr>
<td>Fourth</td>
<td>1997-2000</td>
<td>SP: Congruent, untested</td>
<td>Lee Teng-hui</td>
</tr>
<tr>
<td>Fifth</td>
<td>2000-2008</td>
<td>SP: Incongruent, Presidential Supremacy, <strong>PS</strong></td>
<td>Chen Shui-bian</td>
</tr>
<tr>
<td>Sixth</td>
<td>2008-2016</td>
<td>SP: Congruent, <strong>PS</strong></td>
<td>Ma Ying-jeou</td>
</tr>
<tr>
<td>President</td>
<td>Majority in LY</td>
<td>President-Parliament Relations</td>
<td>Premier</td>
</tr>
<tr>
<td>-----------</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Congruent</td>
<td>Vincent Siew (KMT, 1997/9-2000/5)</td>
</tr>
<tr>
<td></td>
<td>KMT (IV LY, 1999/2-2002/1)</td>
<td>Congruent</td>
<td>Tang Fei (KMT**, 2000/5-2000/10)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Congruent</td>
<td>Chang Chun-hsiung (DPP, 2000/10-2002/2)</td>
</tr>
<tr>
<td>Chen Shui-bian (DPP, 2000/5-2004/5)</td>
<td>Pan-Blue (V LY, 2002/2-2005/1)</td>
<td>Congruent</td>
<td>Yu Shyi-kun (DPP, 2002/2-2005/2)</td>
</tr>
<tr>
<td>Chen Shui-bian, (DPP, 2004/5-2008/5)</td>
<td>Pan-Blue (VI LY, 2005/2-2008/1)</td>
<td>Congruent</td>
<td>Frank Hsieh (DPP, 2005/2-2006/1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Congruent</td>
<td>Su Tseng-chang (DPP, 2006/1-2007/5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Congruent</td>
<td>Chang Chun-hsiung (DPP, 2007/5-2008/5)</td>
</tr>
<tr>
<td></td>
<td>KMT (VII LY, 2008/2-2012/1)</td>
<td>Congruent</td>
<td>Su Tseng-chang (DPP, 2006/1-2007/5)</td>
</tr>
</tbody>
</table>
## Presidents and Premiers under Presidential Supremacy

<table>
<thead>
<tr>
<th>President (KMT, Dates)</th>
<th>Premier (KMT, Dates)</th>
<th>Congruent</th>
<th>Party (PS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>KMT (VIII LY, 2012/2-2016/1)</td>
<td>Chen Chung (2012/2-2013/2)</td>
<td>Congruent</td>
<td>PS</td>
</tr>
<tr>
<td>Ma Ying-jeou (2012/5-2016/5)</td>
<td>Jiang Yi-huah (2013/2-2014/12)</td>
<td>Congruent</td>
<td>PS</td>
</tr>
<tr>
<td></td>
<td>Mao Chi-kuo (2014/12-present)</td>
<td>Congruent</td>
<td>PS</td>
</tr>
</tbody>
</table>
Likely development under the current system
From PS to COM?

- Ma in 2007:
  - critical of the DPP’s disrespect of the majority in the parliament
  - promised to appoint a Pan-Green prime minister if Pan-Green were to capture the majority in the LY, bringing about “Blue-Green cohabitation” (藍綠共治)
  - president shall determine major policies for national security, and appoint ministers of defense, foreign affairs and mainland affairs
  - Typical COM
From PS to COM?

- Tsai in 2012:
  - Proposed “grand coalition government” (大聯合政府) in the spirit of “consociational democracy” (協商式民主) in televised debate
  - “Coalition government is a parliamentary concept, and as we are a presidential system, any application of that concept can only be in its spirit and not literal”
  - the future premier did not have to be a DPP member
  - though not as forthright as Ma’s proposal, both point to the need for the president to share power under incongruence
## Taiwan’s Future Mode: PS or COM

<table>
<thead>
<tr>
<th>Congruence</th>
<th>Incongruence</th>
<th>Mode</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appointment</strong></td>
<td>Both prime minister and cabinet member</td>
<td>Presidential Supremacy, PS</td>
</tr>
<tr>
<td></td>
<td>President dominant</td>
<td>Modified Presidential Supremacy, PS</td>
</tr>
<tr>
<td></td>
<td>President dominant</td>
<td>Compromise, COM</td>
</tr>
<tr>
<td><strong>Chen</strong></td>
<td>President dominant</td>
<td>President dominant</td>
</tr>
<tr>
<td></td>
<td>President dominant</td>
<td>Appoint a DPP prime minister</td>
</tr>
<tr>
<td><strong>Tsai</strong></td>
<td>President dominant</td>
<td>President dominant</td>
</tr>
<tr>
<td></td>
<td>President discretion: does not have to be DPP member</td>
<td></td>
</tr>
<tr>
<td><strong>Ma</strong></td>
<td>President dominant</td>
<td></td>
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<td></td>
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</tbody>
</table>
PS or COM

- Possibility to shift from PS to COM
- NO
  - Incongruence unlikely:
    1. equalization of presidential and parliamentary terms (1992, 2005)
    2. change of election schedule (concurrent 2012), maximal coattail effect
    3. SNTV to MMM, majority more likely
  - Institutional and cultural factors remain strong for president to rule supreme even under incongruence, as witnessed by Ma’s reluctant standing on the front line
PS or COM

- Possibility to shift from PS to COM
  - YES
    - Incongruence still possible: split voting, successful no-confidence vote, no majority in LY, independent candidate winning presidential race
    - Proposals in the past: Ma 2007
    - More likely than ALT or QP: in all likelihood, COM is as much as an ROC president can go in terms of his/her concessions to the parliament on cabinet formation
Most recent wave of constitutional reform: Has the “moment” passed?
Exit from PS?

- PS obviously has flaws, but...
  - Under congruence
    - Claim: excessive presidential control over government owing to his official capacity and leadership in the ruling party/parliament
    - Exaggerated?
    - Ma could not control his own party or the legislative agenda, and opposition and social movement disabled him
    - all his major reforms stalled, cross-Strait relation torpedoed
    - President under congruence does not appear excessively powerful, at all
Exit from PS?

- PS obviously has flaws, but...
  - Under incongruence
    - Claim: president and parliament at loggerheads, resulting in gridlock and stalemate
    - Gridlock exaggerated and not purely caused by PS; PS may provide checks and balances that serve Taiwan’s divided society
  - However, the 2014-15 reform proposals all aim at curtailing presidential powers, riding on an anti-Ma tide
Proposal A

- Fine-tuning within PS
  - Forbids president from assuming party chairmanship and reduces his legislative power

- Problems:
  - Impact may be limited: president does not need official title to be influence in his party
  - May increase coordination cost between executive and legislature

- Feasibility:
  - High: does not require amending constitution
Proposal B

- Exit from PS, but not SP
  - Restore parliamentary confirmation of PM
    - And/or forbids president from dismissing PM
    - Deprives president of control over PM and cabinet
  - Shift from PS to COM, ALT, or even QP

- Problems
  - COM and ALT are difficult modes that may cause intra-executive conflict and democratic breakdown; QP lacks international and cultural conditions

- Feasibility: Low, requires amending the constitution
Proposal C

- Shift to parliamentarism
  - Abolish direct presidential election, and install parliamentary election of president
    - most radical reform
    - can deprive president of bulk of his powers

- Feasibility:
  - Extremely low
  - Requires amending the constitution
  - Acts against popular expectation of a powerful president
  - Amounts to popular self-disempowerment
  - One occurrence: Moldova
The Moment has passed

- **Timing**
  - Constitution requires “yes” by more than half of all eligible voters for referendum to pass
  - Failure to graft constitutional referendum on national elections in 2016 killed it

- **Bottom cause**
  - KMT may want to take advantage of anti-president trend, but mainstream DPP refused to play along

- **Back to the current system**
  - PS in all likelihood
  - COM possible with a KMT president and a DPP parliamentary majority
Comments and Questions are Welcome