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Author: Christian Göbel

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**Anti-corruption in Taiwan: Process Tracing Report**

Christian Göbel, Vienna University, Department of East Asian Studies  
GIGA German Institute of Global and Area Studies  
[Christian.Goebel@univie.ac.at](mailto:Christian.Goebel@univie.ac.at)

**ABSTRACT**

Since Taiwan became democratic in 1992 and especially after the change in ruling parties in 2000, the passage of new laws and the reform of existing ones have defined more clearly than ever what constitutes “corrupt” behavior and legal changes have followed international norms. Moreover, since the change in ruling parties, judicial independence has been guaranteed and anti-corruption agencies have been strengthened considerably. Despite the fact that there is still corruption and that the institutional configuration of Taiwan’s anti-corruption agencies is far from optimum, these are major achievements. The present report explains these achievements by analyzing the impact of two turning points in Taiwan’s history, democratization and the change in ruling parties, on agency in Taiwan’s anti-corruption reforms. It does so by applying the methodology of process-tracing which investigates the historical developments around these two “critical junctures” in Taiwan’s history while taking into consideration enabling and constraining factors “inherited” from the authoritarian era. The analysis primarily draws on interviews conducted with former and present officials, judges, and investigators in October 2014.

**KEYWORDS**

Corruption, Taiwan, Democratic Progressive Party, DPP, Kuomintang, KMT, democratization



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## Introduction

Judged by major corruption measures, Taiwan has not made any progress in fighting corruption. Taiwan's scores in the Transparency International (TI) Corruption Perceptions Index (CPI) and the World Bank's World Governance Indicators are not much higher than they were in 1996.<sup>1</sup> However, experts disagree with this gloomy verdict. The Bertelsmann Transformation Index (BTI), whose scores are based on the assessments by specialist scholars, gives Taiwan the highest possible score for "protection of office abuse".<sup>2</sup> At the same time, the number of people who report having experienced corruption themselves is low - on par with countries such as Germany, France and Austria.<sup>3</sup> It follows that the Taiwanese government has been intensifying its fight against corruption, and although the overwhelming majority of people have not experienced corruption themselves, they think that the situation has not improved at all.

This illustrates the pitfalls of judging the extent of corruption by perception-based indicators, at least in countries where bribery and other forms of "abusing public office for private gain", the World Bank's definition of corruption, are not conducted openly. Here, perceptions are shaped by the very instances where anti-corruption works well: the arrest and conviction of politicians and businessmen. While it is sad that several high-level officials, judges, legislators and even the former president have found to be corrupt, it is a reason for optimism that they had been indicted by their own administrations. That these are obviously not cases of political revenge implies that ethical universalism, i.e. the government's equal and fair treatment of everyone, is on the rise in Taiwan. No matter how wide-spread corruption really is, the risk that corrupt activities are detected, investigated and punished has increased significantly in the last two decades.

Since Taiwan became democratic in 1992 and especially after the change in ruling parties in 2000, the passage of new laws and the reform of existing ones have defined more clearly than ever what constitutes "corrupt" behavior, and legal changes have followed international norms. Moreover, since the change in ruling parties, judicial independence has been guaranteed, and anti-corruption agencies have been strengthened considerably. Despite the fact that there is still corruption, and that the institutional configuration of Taiwan's anti-corruption agencies is far from optimum, these are major achievements.

The present report explains these achievements by analyzing the impact of two turning points in Taiwan's history, democratization and the change in ruling parties, on agency in Taiwan's anti-corruption reforms. It does so by applying the methodology of process-tracing, which investigates the historical developments around these two "critical junctures" in Taiwan's history, while taking into consideration enabling and constraining factors "inherited" from the authoritarian era.

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<sup>1</sup> see World Bank (2014): Worldwide Governance Indicators, available at: <http://info.worldbank.org/governance/wgi/wgidataset.xlsx> and Transparency International (2014): Corruption Perceptions Index, available at: <http://www.transparency.org/research/cpi/overview>.

<sup>2</sup> Bertelsmann Foundation 2013 (forthcoming)

<sup>3</sup> Transparency International 2011

The main findings are as follows: first, as implied above, there is not one, but two critical junctures on Taiwan's road towards ethical universalism. Second, though most breakthroughs in the fight against corruption were achieved in the change of ruling parties, I will show that a distinction needs to be made between how parties, as collective actors, and how individuals within these parties related to institutions. This seems trivial. However, that influential individuals in both parties tried to change or subvert the party's dominating strategy highlights the role of agency, and arguably a good part of the misconceptions in the general population result from the inability to distinguish between systematic and individualized corruption. Third and relatedly, I will show that agency matters: the strengths and weaknesses of the various ministers of justice had a large impact on the development of Taiwan's anti-corruption policies. Perhaps most important is the fourth point: the control of corruption is inseparable from improving the rule of law, and the professionalization and independence of Taiwan's judicial system probably been the single most important achievement in Taiwan's anti-corruption reforms. Although this might once more seem trivial, few previous studies on Taiwan's anti-corruption have taken this into consideration.

The report proceeds as follows: After an introduction to key terms and previous findings, I will first examine the historical factors that crucially influenced the development of democratization and the change in ruling parties. The second is democratization, and the third is the change in ruling parties. The analysis draws on interviews with former and present ministers and vice-ministers of Justice, the director-general of the new Agency Against Corruption as well as legislators, head prosecutors and prosecutors, investigators, judges and experts, some of which had studied law when Taiwan democratized.

## **Theoretical framework and method**

### ***Studying anti-corruption in Taiwan***

Corruption and anti-corruption in Taiwan is an enigma. On the one hand, indicators that are measuring corruption based on the perceptions of professionals and ordinary citizens suggest that anti-corruption in Taiwan has been a roller-coaster. For example, the Control of Corruption indicator in the World Bank's World Governance Indicators has fluctuated wildly. In a possible range from -2.5 and +2.5, Taiwan's score rose from 0.59 to 0.86 between 1996 and 2004, fell to 0.48 in 2008, peaked to 0.86 in 2011, and declined again to 0.68 in 2013.<sup>4</sup> Even when taking measurement errors into consideration, the result that corruption has lessened, worsened, and then lessened again remains statistically significant. Many journalists and some experts confirm this gloomy picture. Newspapers lash out against the persistence of "black gold", a term that denotes the twin evils of organized crime and money politics,<sup>5</sup> and complain about vote-buying, private sector corruption and the continued influence of "local factions", family-based clientelist networks, on national politics.<sup>6</sup>

Scholars echo this sentiment. Christian Göbel has characterized the fight against corruption in Taiwan as an attempt at "beheading the hydra", the mystical creature who

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<sup>4</sup> World Bank 2013

<sup>5</sup> Chin 2003

<sup>6</sup> Göbel 2004

grows two heads where one has been chopped off. In his insightful monograph, John Quah<sup>7</sup> shows that low salaries, red tape, low probability of detection and punishment for corrupt offenders and particularist behavior like “guanxi”, gift-giving and vote-buying are plaguing Taiwan and that there is a “lack of political will in curbing corruption” pervading every single administration except for the presidency of Ma Ying-jeou, which began in 2008. Quah also points at some dysfunctionalities in Taiwan’s corruption control apparatus: anti-corruption is not the task of one independent agency, but of a number of institutions with overlapping responsibilities, the most important being the Ministry of Justice Investigation Bureau (MJIB), the Department of Government Employee Ethics, and The Public Prosecutors Offices.<sup>8</sup> One must add the Black Gold Investigation Center (BGIC), which had been created in 2001, but was later disbanded, and the Agency Against Corruption (AAC), which was set up in 2011, one year after Quah’s book had been published.<sup>9</sup> As one anti-corruption investigator confirms, this arrangement is far from effective, because “the AAC and the MJIB now snatch away each others’ cases”.<sup>10</sup> Although competition can benefit efficiency, it is unlikely to do so for these two organizations, because they are forced to cooperate in investigating corruption. Quah rightly points out that the AAC is a specialized anti-corruption agency, but has only a fraction of the budget and the manpower of the MJIB, while for the MJIB, anti-corruption is just one of nine major tasks.<sup>11</sup>

Other scholars are more optimistic in their assessment. Göbel, though acknowledging that corruption has remained a problem in Taiwan, argues that corruption was systemic under the former ruling party Kuomintang (KMT), but that the Minzhu jinbu dang (Democratic Progressive Party, DPP), which defeated the KMT in the presidential elections in 2000, had to fight corruption to ensure its own survival.<sup>12</sup> Under DPP rule, important legal changes were made, an anti-corruption task force was established, and there were frequent crackdowns on corruption and vote-buying. In a recent report for the European-Union sponsored ANTICORRP project, he shows that indictments and convictions for corruption have increased since 2000, and that these seem to follow electoral cycles, indicating that the DPP might have abused anti-corruption as a campaign tool.<sup>13</sup> However, he cannot substantiate this assumption, and neither can he answer the question if KMT politicians were especially likely to be convicted. In an important study, Chung-li Wu provides some insight into this issue. By analyzing nearly 2.400 court decisions in vote-buying cases between 2000 and 2010, he is able to cautiously assert that “there is not necessarily a causal relationship between court verdicts and partisan effects, whether the defendant wins the election or not, the type of election [...], or the level of the court”.<sup>14</sup>

As this brief summary of the main positions shows, scholars are deeply divided about how successful Taiwan has been in fighting corruption. Existing scholarship has provided valuable insights into the institutional sources of corruption in Taiwan, legal and

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<sup>7</sup> Quah 2010

<sup>8</sup> Quah 2010

<sup>9</sup> Göbel 2014

<sup>10</sup> Interview with MJIB section chief in the anti-corruption division, Taipei, 08 November 2014

<sup>11</sup> Quah 2010

<sup>12</sup> Göbel 2013

<sup>13</sup> Göbel 2014

<sup>14</sup> Wu 2012, 802

organizational changes designed to target political corruption, and the outcome of crackdowns on political corruption. Since we can only ascertain that corruption continues, but not if it has increased, decreased or stayed the same, opinions must remain divided. In this contribution, I suggest another approach. Instead of asking if corruption has been reduced or not, I inquire if it has been made harder. Continued corruption might result from the “collective action problem” of politicians being unwilling to fight corruption because they fear to loose out to others who continue to line their pockets.<sup>15</sup> It might also be the result of risk-taking: culprits do it because they think they can get away with it even though politicians are seriously fighting corruption. The conviction of the former president and several other high-level politicians by their own administration makes the second scenario more likely. A prison guard who is in frequent contact with several incarcerated politicians confirms this. According to him, their power made them so self-centered that they miscalculated the consequences of their actions.<sup>16</sup> Investigating why people take the risk of engaging in an act of corruption is difficult, but investigating if the authorities are serious in combatting corruption is feasible. However, this requires examining one aspect of anti-corruption that has been neglected in previous studies: the investigation of corrupt behavior. In particular, we know very little about the degree of political influence on prosecutors and investigators in Taiwan,<sup>17</sup> if this has changed over time, and how these changes were brought about. The present study will shed light on these issues.

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<sup>15</sup> Persson, Rothstein and Teorell 2013

<sup>16</sup> Prison guard in group interview, Taipei, 29 October 2014.

<sup>17</sup> Wu 2012, 786

## **Critical junctures**

It will do so by examining the events around two critical junctures in Taiwan's recent history: democratization and the first change in ruling parties. The concept of a "critical juncture" is premised on the assumption that changing institutions, i.e. the formal and informal rules that govern human behavior, is difficult. People have adjusted their behavior to conform to these rules, and got used to and, in many cases, even earn a profit from them. Adjusting to another set of rules is always hard, because new rules have to be made and then learned. As Ruth Berins and David Collier point out, however, under certain conditions institutions do undergo fundamental changes. Major institutional changes are especially feasible during serious social conflicts or an economic or political crisis. Most notably, conflicts and crises frequently discredit existing institutions and bring new actors to power. Especially if these actors do not have a stake in the persistence of the old arrangements and profit from obliterating them, conditions for institutional change are created.<sup>18</sup> According to Paul Pierson, such critical junctures are characterized by "the presence or absence of a specified causal force push[ing] multiple cases onto divergent long-term pathways, or push[ing] a single case onto a new political trajectory that diverges significantly from the old"<sup>19</sup>. Given their disruptive character, "critical junctures are typically moments of expanding agency",<sup>20</sup> where actors can forge new paths, such as determinedly fighting corruption.

### ***Process tracing***

Information about what transpired around the two critical junctures in Taiwan's recent history is derived by interviewing actors who played important roles in drafting anti-corruption laws, who decided on anti-corruption policies, who investigated corrupt behavior, who imposed the verdicts and who were positively and negatively affected by anti-corruption. By means of snowball sampling, I was able to obtain interviews with two former ministers of justice, a present vice-minister of justice, the deputy-general of Taiwan's newly established Agency Against Corruption, the speaker of the DPP, a close associate of former minister of Justice Chen Ding-nan, who passed away in 2006, a former member of the Black Gold Investigation Center, the head prosecutor of a district court, one section chief each in the anti-corruption division and the office of budget, accounting and statistics of the MJIB, two prosecutors subordinated to the Department of Prosecutorial Affairs in the Ministry of Justice and one prosecutor in the high prosecutor's office, and a department head in Taiwan's Judges Academy. I received considerable support and information from Chilik Yu and Kevin Yeh, the former and present executive directors of Taiwan's Transparency International chapter, Chen Ming-tong, a Professor of Political Science at National Taiwan University, and Chang Kun-sheng, Professor of Law at Cheng-chih University.

With most of these persons, I conducted at least one, in some cases two interviews of 2-2.5 hours each. In most cases I had permission to record the conversation, where this was not the case, I took notes. All interviews were conducted in Mandarin Chinese. I started with asking open questions regarding major achievements, obstacles and important actors in

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<sup>18</sup> Collier and Collier 1991

<sup>19</sup> Pierson cited in Slater and Simmons 2010, 888

<sup>20</sup> Slater and Simmons 2010, 890

Taiwan's fight against corruption, allowing the respondents to express their opinions without being influenced by my own hypotheses. Where respondents were part of the historical process at the heart of this paper, they were asked to retrace their time in office. I frequently interrupted to ask for more information, probe a particular point, or hint at what I perceived to be inconsistencies. Finally, I asked them to comment on the hypotheses I had extracted from the existing literature on anti-corruption in Taiwan.

Before analyzing how expanded agency during the two critical junctures benefited institutional change, it is important to examine the status quo ante. As will be seen in the next section, many of the very factors that enabled the KMT to rule Taiwan in an authoritarian fashion eventually turned out to benefit anti-corruption.

### ***Enabling conditions***

Several elements in the particular nature of the authoritarian regime that ruled Taiwan from 1947 to 1992 benefited anti-corruption, two of which especially important. First, it is nearly impossible to fight corruption where development levels are low, bureaucrats uneducated and untrained, and politicians and civil servants dependent on bribes for making a living. All of this, however, had not been the case in Taiwan, which counts as one of Asia's "developmental states" where politicians guided developments and corruption took the more benign forms of rent-seeking or dividend-collecting. The recruitment of bureaucrats was strictly regulated - both in terms of numbers and the quality of the recruited. Starting from 1950, the government carried out annual civil service examinations, which "provided the aspirants in society with a regular route to social and economic mobility and also infused the bureaucracy with new blood".<sup>21</sup> These examinations were specialized and standardized, conducted by the Examination Yuan, a government organ specially established for this purpose, and had to be undergone by all civil servants. Higher-level bureaucrats had to pass additional examinations.<sup>22</sup> In addition, the administration was frequently reformed. In 1958, an ad hoc Committee for Administrative Reform was formed under the Presidential Office to "help construct a more modern administrative system, through which the authoritarian regime could enhance its ability to control every aspect of Taiwanese society"<sup>23</sup> and, one should add, steer economic development. Reforms that year and in 1966, 1967, and 1969 were implemented to improve administrative procedures, the civil service, and management.<sup>24</sup> In addition, skillful economic planning by well-educated technocrats in the Ministries of Finance, Economic Affairs, the Central Bank and the Council for Economic Planning and Development significantly contributed to the sustained economic growth Taiwan enjoyed since the 1950s - along with equal distribution and social welfare perhaps the most important component of output legitimacy.<sup>25</sup>

The second element is the cleavage between "Mainlanders", the part of Taiwan's population that arrived on the island in 1947-1949, and the "Taiwanese". However, the

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<sup>21</sup> Liu 1985, 11

<sup>22</sup> Tien 1989, 121

<sup>23</sup> Wang and Shih 2010

<sup>24</sup> Wang and Shih 2010

<sup>25</sup> Meyer 2004



relationship is not straightforward: on the one hand, this cleavage benefited corruption, because clientelism served to co-opt influential local families into the minority Mainlander government. On the other hand, urban Taiwanese intellectuals, many of which studying law, resented the KMT and its way of governing Taiwan. This requires some explanation.

The Taiwanese consist of indigenous minorities that make up less than five percent of the population as well as Han Chinese who have settled on Taiwan in the 18<sup>th</sup> Century. In effect, a government representing 20 percent of the population dominated a resentful 80 percent majority. Given that the KMT government had little infrastructural power at their disposal, they initially quelled dissent by political terror disguised as an anti-communist movement, About 3.000 persons were executed, and 8.000-10.000 persons imprisoned.<sup>26</sup> This period of “white terror” ended in 1954, and it is no coincidence that this was when Chiang Kai-shek had begun to consolidate his autocracy by taking over and reforming the provincial bureaucracy and, perhaps more important, overhauling the KMT. Martial Law and “Temporary Provisions in the Period of Mobilization against Communist Rebellion”, both announced in 1948, as well as some other draconian laws continued to remain in place until at least the late 1980s and enabled the regime to use violence to discourage regime opposition and to disregard the Constitution.<sup>27</sup> These regulations were enforced with the help of a number of police and security organs. Besides cutting down on dissent, the KMT upheld stability by coopting clientelist networks, which were centered on influential Taiwanese families, into the regime. It did so by implementing local elections, in which two or more “local factions”, as these networks are called, competed against each other. As other parties were outlawed, local candidates had the choice of either becoming KMT members and thereby receiving access to a formidable campaign machine, or running as independents. The chances of winning an election by running as an independent were very low, so local elites chose to apply KMT membership. Thereby, they gave the party legitimacy.<sup>28</sup> In return, commissioners, mayors and parliamentarians gained access to public service providers as well as small credit institutions, which allowed them to distribute favors and line their pockets. While the central government was reasonably clean, bribery, embezzlement, nepotism and organized crime went nearly unchecked at the local level.<sup>29</sup>

At another level, however, the sub-ethnic cleavage also proved beneficial to anti-corruption. Many Taiwanese were not affiliated with local factions or, if they were, resented them. They strove for equal opportunity in the access to education and to government jobs, or envisioned a political system that was democratic and free of corruption. As the next section will show, many young Taiwanese studied law, and fighting for a reform of the legal and justice systems came natural to them. As will be seen, the presence of an elaborate bureaucratic apparatus, established norms of good governance in the central government and the activities of Taiwanese students benefited the fight against corruption in Taiwan. On the other hand, however, the local factions had become so powerful that the KMT leadership continued to rely on them to win the first democratic elections. The next sections examine how these opposing forces played out.

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<sup>26</sup> Meyer 1996

<sup>27</sup> Chao and Myers 1998, Chapter 2

<sup>28</sup> Göbel 2012

<sup>29</sup> Chao 1997, 68

## ***Democratization***

The first critical juncture in Taiwan's anti-corruption history was the transition to democracy. In the late 1980s, Martial Law and other provisions that restricted democratic freedoms were repealed, and in 1991/92 representatives to the two "houses" of Parliament, the National Assembly and the Legislative Yuan, chosen in free and fair elections. Democratization had both enabling and constraining effects on anti-corruption. Among the enabling effects were that Taiwan's population embraced their new freedoms. They successfully demonstrated against vestiges of authoritarianism in Taiwan's public institutions, for example the presence of KMT officers in Taiwan's universities, subjected politics to close scrutiny, and formed professional associations.<sup>30</sup> One such organization, the Prosecutors' Reform Association, is of particular interest to this study, because it was a significant force in fighting for judicial independence. Among the constraining effects was that democratization not only fostered accountability, but also provided incentives for electoral candidates to team up with local factions in order to mobilize votes. Lee Teng-hui, the first democratically elected president, used the factions to reach out to the Taiwanese majority to garner support against his opponents in the KMT.<sup>31</sup>

## ***The Prosecutors Reform Association***

Most of Taiwan's national level judges and prosecutors studied at National Taiwan University (NTU). NTU has long been considered Taiwan's best university, and one of the best in Asia. Temple has famously argued that socialization in elite universities has contributed to the diffusion of meritocratic values and professionalism in the bureaucracy for the backbone of the "developmental state". In very similar manner, NTU has been the place where not only Taipei's bureaucrats, but also national-level lawyers, prosecutors and judges are groomed.

During autocracy, the KMT rigorously controlled education. It insured that professors had a main event background and supported the KMT. Moreover, a quota system heavily discriminated people of Taiwanese descent from obtaining a higher education. Although the Taiwanese were the overwhelming majority of the population, they formed the minority of students. This was especially true for the law faculty of NTU.<sup>32</sup>

The situation changed with Taiwan's transition to democracy in 1991/1992. Democratization led to the abolishment of the quota system, and university access was regulated through entrance exams. This led to a rapid increase of Taiwanese students in Taiwan's university, and the law faculty at NTU was no exception. Taiwanese law students were unhappy with the KMT's continued political dominance, especially because the 1990s saw the diffusion of particularist politics from the localities to the central government. Studying law made many of them aware of the glaring distance between ethical universalism inherent in the rule of law and Taiwan's political reality, and many believed that legal reforms were needed in order to improve Taiwan's democracy. According to a prosecutor who studied

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<sup>30</sup> Interview with participant in student democratization movement, Taipei, 04 November 2014

<sup>31</sup> Chen 1995

<sup>32</sup> Interview with participant in student democratization movement, Taipei, 04 November 2014

law at NTU in the 1990s, "The majority of those studying at NTU's faculty of law leaned towards the Dangwai [DPP]".<sup>33</sup> Quotas favoring "Mainlanders" in Taiwan's civil service examinations were also abolished, with the consequence that it was now possible for students with a "Taiwanese" background to become a prosecutor or judge.

According to several interviewees, among which a former Minister of Justice and a senior prosecutor, the establishment of the "Prosecutor's Reform Association" (PRA, jianchaguan gaige xiehui) by reform-minded prosecutors in 1998 was a milestone in Taiwan's transition to ethnic universalism.<sup>34</sup> The establishment of the PRA was motivated by news reports of politicians trying to interfere with several prosecutorial investigations. These news reports brought the problem of a lack of independence of judicial organs to public attention, providing the reformers with a platform to voice long-held grievances.<sup>35</sup> Perhaps as important as publicly advocating judicial reforms was the formation of an easily identifiable group of prosecutors who were willing to challenge the KMT's interference in legal affairs.

When Chen Ding-nan became Minister of Justice in 2000, he appointed several PRA members to key positions in the prosecutorial system.<sup>36</sup> Chen, who quickly became known as "Mr. Clean", had planned to follow the examples of Singapore and Hong Kong and establish an independent Anti-Corruption Agency. However, due to the KMT's continued domination of the legislature, he failed to gain the necessary majority in the Legislative Yuan. Instead, he established a "Black Gold Investigation Center" (chaji heijin zhongxin), which he staffed with members of the PRA.<sup>37</sup>

### ***Parties, identities and clientelism***

In Taiwan's first democratic elections, there were two serious contenders for power: the KMT and the Democratic Progressive Party, which was founded in 1986, but has a much longer history: already in the 1960s, Taiwanese contenders for seats in local elections had united under the label "Tang-wai", which translates as "outside the party", essentially meaning "non-KMT". However, the main competition at that time was not between KMT and DPP, but between "Mainlanders" and "Taiwanese". Lee Teng-hui, who became KMT chairman in 1988 against the resistance of powerful "Mainland" politicians, was closer to the moderate elements in the DPP than he was to the conservative elements in the KMT. In essence, the so-called "Mainstream Faction" around Lee struggled not against the DPP, but the conservatives.<sup>38</sup> It is instructing that Lee was in contact with leading DPP politicians and that two formal meetings were held to discuss the future of Taiwan. The local factions were another factor the new KMT leadership had to consider. Their clientelist nature meant that profits were deemed more important than democratic values, but previous attempts to weaken their power over local society had failed, resulting in electoral losses for KMT candidates.<sup>39</sup> Given the high number of elections after democratization, and given that

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<sup>33</sup> Interview with former member of the Black Gold Investigation Center, Taipei, 06 November 2014

<sup>34</sup> Interview with former head prosecutor, Taipei, 25 October 2014

<sup>35</sup> Minjian sixiang gaige jijinhui 2005

<sup>36</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>37</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014, see also Göbel 2004.

<sup>38</sup> Chao and Myers 1998

<sup>39</sup> Chen 1995

Taiwan's peculiar electoral system required the political parties to know their share of votes BEFORE an election and to entice voters to cast their ballot for particular candidates, the former leadership correctly assessed that local elections could not be won without cooperating with local factions. Factional power was so strong that not even an electoral system change would have weakened their hand.<sup>40</sup>

With the constraints imposed by the KMT during Martial Law gone, aided by a legal system that had no provisions for behavior that is today considered to be corrupt, and accepted as a partner in keeping the KMT's Mainstream Faction in power, the local factions managed to extend their influence beyond their place of origin and infiltrated national politics. Their clientelist nature and frequent involvement in organized crime gave rise to a phenomenon that was later dubbed "heijin" (Black Gold), a term denoting the infusion of organized crime and money politics into Taiwan's political process.<sup>41</sup> In dealing with the side effects of the Party's alliance with local factions, the Lee Teng-hui administration took a middle ground. It did little to abolish clientelism, but launched a crackdown against vote buying and against organized crime in 1996.<sup>42</sup> While previous literature described this as a strategy of "selective persecution" designed to rid the KMT of the image of being a corrupt party while at the same time continuing to rely on local factions,<sup>43</sup> it seems more likely that Lee Teng-hui selected Ministers of Justice with a high integrity, gave them carte blanche, but recalled them when their actions were met with too much resistance by the local factions.

Hence, as the following sections will show, it would be wrong to simply equate the KMT with fostering particularism and the DPP with promoting ethical universalism. It is true that the institutional setup that structured politics during the KMT's rule fostered particularism, and that DPP politicians, after coming to power, fought particularism and championed ethical universalism, but this does not mean that all relevant authorities in both parties accepted these directions. Important contributions in the process of engineering Taiwan's transformation to ethical universalism were not only made during the DPP era, but also by KMT minister of justice such as Ma Ying-jeou and Liao Cheng-hao. On the other hand, corruption by the DPP president and his family severely hurt the DPP's image as an anti-corruption party. In both parties, individuals displayed serious efforts to fight corruption, and in both parties their efforts were eventually undermined by their superiors. It is very unfortunate that the extreme element of partisanism in Taiwan makes it so difficult to trace the dynamics anti-corruption. In interviews, KMT politicians belittled the obvious achievements that were made under DPP rule, and most DPP politicians refused to recognize efforts made during the KMT era, though they do admit that the DPP's anti-corruption policy was facilitated by individuals within the KMT who were not content with their party's alliance with local factions and organized criminals.

Before examining how the personality and approach of each Minister impacted on anti-corruption, it is necessary to specify how exactly the critical junctures of democratization

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<sup>40</sup> Göbel 2012

<sup>41</sup> Chin 2003

<sup>42</sup> Chin 2003

<sup>43</sup> Göbel 2004

and change in ruling parties strengthened the hand of the particular Ministers of Justice, and how the resilience of particularist institutions constrained their scopes of action.

### ***Fighting corruption under the KMT***

One example is Ma Ying-jeou, the current president, who served as Minister of Justice between 1993 and 1996. During his tenure, he cracked down on Taiwan's drug trade and on vote buying. Most notably, 341 of 883 councilmen elected in 1994 were indicted for vote-buying. The KMT councilmen allegedly complained that he "shook the foundations of the party", and Lee Teng-hui is rumored to have accused Ma of raising his profile by criticizing the KMT, and of saying that "he nearly ruined the party". In the general public, Ma became recognized for his efforts to clean up Taiwan's politics, but several sources point out that many in the KMT thought that he went to far. Whatever the reasons, Ma was recalled from office less than three months after Lee was reelected in Taiwan's first direct presidential elections. His replacement was Liao Cheng-hao, who had since February 1995 served as the head of the MJIB.<sup>44</sup>

Liao took a conciliatory stance against local factions "as long as they did not violate the law". In an interview with the author,<sup>45</sup> Liao remarked that the laws at the time had been too sketchy, and evidence too difficult to get by to effectively move against local factions. In fact, he did not consider them Taiwan's biggest problem: "Many local factions do not have an organized crime background. At that time, I was of the opinion that the government should take a neutral position. We should lead them toward the right path. Those who take the right path can be given guidance [fudao], those who do bad things, you punish. They need to be shown the line between what is legal and what is illegal." In any case, Liao had already devoted his life to fighting organized crime, which he saw as a much bigger problem: "The population suffered a lot. All trades and professions had been swallowed by organized crime. So I wanted a radical rectification of the situation". Shortly after assuming office, Liao had spear-headed operation "Chih-ping", which between August 1996 and June 1998 led to the arrest of 675 alleged organized crime figures.<sup>46</sup>

While media reports state that Lee ordered this crackdown because the public was shaken by a number of gang-related abductions and murders that year, Liao claims that the campaign was his initiative: "I did not report this case with the Executive Yuan and did not inform the president. [...] It was very clear to me: if I perform well, if my superiors support me, then I will be able to continue. If I don't perform well or if my superiors do not support me, then it is over." According to Liao, the support of Lee Teng-hui and premier Lien Chan was tacit: "He [Lee] did not tell me what I can or what I cannot do. This is a kind of support. Lee and Lien never told me whom I could and whom I could not arrest. I told them, very simply: I cannot make even one exception. As soon as there are exceptions, I will resign." Liao was as single-minded in his investigation of organized crime as was Ma in his anti-corruption activities. He recalled being aware that many in the KMT resisted his actions, but knew that

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<sup>44</sup> Apple Daily, 23 March 2008, online available:

<http://www.appledaily.com.tw/appledaily/article/headline/20080323/30379953/>

<sup>45</sup> Unless otherwise noted, the information in this paragraph is based on the author's interview with Liao Cheng-hao, Taipei, 30 October 2014

<sup>46</sup> Ministry of Justice 1998

he had strong backing in the public: "I did not dwell on the question if people were against me. If you do that, then things become difficult."

The importance of agency becomes obvious in several strategies chosen by Liao. First of all, he involved not only investigators and prosecutors, who fell under his command as Minister of Justice, but also the police and the military police in his crime raids. However, using a legal loophole, he managed to avoid coordinating his actions with the Ministers of Interior and the Minister of Defense, which, Liao was certain, would have led to debilitating conflicts. Liao found out that the Law of Procedure and the Criminal Law allowed the prosecutor to detail forces from the police and the military police without seeking permission from other executive organs. Second, he opened channels for whistleblowers. Third, he abolished the principle that police agents were restricted to operating in "administrative regions", because "having the police of one locality investigate officials of that same locality did not work out because of the strength of interpersonal relationships". After the reform, Taipei-based agents could investigate anywhere in Taiwan. He takes this to be a very important reform. Fourth, he established a "unit for special cases" (zhuan'an xiaozu), a small task force that orchestrated crackdowns. The task force met Wednesday night, decided on a target, and raided the houses and offices of suspects at the legally earliest possible time, shortly after sunrise the next day. This left suspects with little time to destroy evidence. Liao confirmed that MJIB agents were embedded in local governments as "secretaries" and cites this as one of the reasons why suspects often received advance warnings. Fifth, he pointed out that anti-corruption should not be restricted to the police and organs of law, but must involve all ministries. As an example, he cites underground banks run by criminal gangs that charged horrendous interest and did not hesitate to kill those who did not pay back their loans on time. Two particularly gruesome cases motivated him to suggest that banks hand out micro credits. Another example is cooperation with the tax authorities in tracing irregular income, yet another education against corruption. Liao resigned in 1998 after failing to receive backing from Hsiao Wan-chang, who had replaced Lien Chan as prime minister in 1997, in a row with MJIB acting director Cheng Chuan.<sup>47</sup>

### **The change in ruling parties**

Process-tracing rendered important insights into the difficulties of implementing anti-corruption policies, and of how they were overcome in Taiwan. One difficulty was passing the laws that defined corruption and allowed the authorities to punish corrupt behavior; the other difficulty was implementing these laws. Agency was important for both processes: the passage of anti-corruption laws hinged on overcoming the resistance of the KMT-dominated legislature, and implementation on neutral investigators, prosecutors and judges. Anti-corruption laws were passed by mobilizing public opinion - a legislator's open resistance against fighting corruption could have cost him or her reelection. Corruption has long been perceived as one of the major political ills in Taiwan's society, and the DPP's electoral campaign had centered on the promise of ridding Taiwan of political corruption. Accordingly, much energy was devoted to creating a legal basis aiding the fight against corruption after it

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<sup>47</sup> Chen 1998

came into power. However, it should be kept in mind that the KMT was a broad church: anti-corruption legislation had been initiated by individual KMT legislators already in the 1980s, and not all KMT legislators originated from local factions. As DPP-related interviewees recalled, some progressive KMT legislators sympathized with their anti-corruption agenda.

Implementation was more difficult, because investigators and prosecutors had been guided by political considerations when they investigated corruption cases. Most notably, prosecutors and investigators had to clear their actions with their superiors, many of whom had been part of the very clientelist networks that anti-corruption forces were supposed to fight.<sup>48</sup> Democratization greatly facilitated overcoming resistance in the legislature, but was not enough to improve the process of investigating and persecuting corrupt behavior, which is so opaque and specialized that it is difficult even for specialists to judge whether an indictment or verdict is justified or not. The change in ruling parties created a real political interest in improving not only legislation, but also implementation. Since clientelist networks worked against the DPP and, being tailor-made for the KMT, could not be simply coopted by DPP politicians, DPP leaders had a strategic interest in weakening the KMT's mobilization machine by being serious about implementation.<sup>49</sup>

### ***Limitations***

Chen Shui-bian appointed Chen Ding-nan as Minister of Justice. Chen had obtained a law degree from NTU in 1966 and entered politics after the KMT's crackdown on a pro-democracy demonstration in 1979. He was part of the Dangwai, an alliance of politicians opposed to the KMT, and later became a member of the DPP. Before assuming office, he had served as a county commissioner and later as legislator. His considerable experience in local politics was cited by all interviewees as one reason why he was chosen to head the MoJ. When he served as commissioner, he became famous for his incorruptible nature. A contemporary described him as manically obsessed with order: whenever he called for a meeting, he even specified where the pens had to be put. He was also feared for his on the spot investigations. After public infrastructure projects in his county had been completed, he would personally inspect the construction site to check that no building materials had been embezzled and that the material used matched the legal quality standards.<sup>50</sup>

Although Chen had an incentive to obliterate the KMT's political machine, he was faced with the problem that the legal system was still controlled by people who were closely connected with the KMT. As one interviewee describes it, head prosecutors and chief investigators were tied to politicians and made their careers together with them. If the head of such a network received a promotion, then others would be promoted along with him.<sup>51</sup> The bureaucratic culture at that time was one where personal relationships trumped the law, and leaders in the prosecutorial system were defined by their allegiance to influential politicians. As pointed out in the previous section, local politicians were warned ahead of investigations

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<sup>48</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014, Interview with MJIB section chief in the anti-corruption division, Taipei, 08 November 2014

<sup>49</sup> Göbel 2013

<sup>50</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>51</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

by MJIB personnel that were embedded in local administrations as secretary or even secretary general of the commissioner or the major.<sup>52</sup> Apart from the MJIB the Prosecution was also allowed to search public officials, but there were too few local prosecutors to collect evidence if several raids had to coincide. As the interviewee put it, Chen had “weapons, but no soldiers”.<sup>53</sup> The interviewee, who at the time had himself been a prosecutor, remarked that it was only easy to obtain evidence when there was an internal strife. Another problem pertained to ordinary prosecutors and investigators, who were used to clearing every investigation with their superiors. The interviewee characterized them as “soldiers without initiative”, people who were used to following orders but not take the initiative in dealing with cases. Though there were exceptions, the norm during the KMT regime had been to collect “just enough” evidence to justify a conviction, but with the professionalization of prosecutors, lawyers and judges, this was not enough anymore. Lawyers became skillful in discovering holes in indictments, and prosecutors would appeal the decisions of a judge.<sup>54</sup>

### ***Anti-corruption as a political campaign***

Chen had travelled to Hong Kong and Singapore, and decided to establish an independent and specialized Anti-Corruption Agency based on the blueprint of Hong Kong’s ACA.<sup>55</sup> His plan was to divest the MJIB’s anti-corruption unit and merge it with the MoJ Government Ethics Department.<sup>56</sup> However, the creation of a new government agency required a legislative majority that Chen did not have, and the head of the MJIB, Wang Kuang-yu, who had been retained from the previous administration, fiercely resisted Chen’s interference. The conflict between Chen and Wang ended when the latter was replaced, along with the Prosecutor-General, by presidential order with Yeh Sheng-mao, whom journalists describe as fiercely loyal to President Chen Shui-bian.<sup>57</sup> Under Yeh, personnel changes became possible and chief investigators with an obvious loyalty to the KMT were replaced with persons who were willing to part with the old ways. In addition, he established the Black Gold Investigation Center (BGIC), a task-oriented agency that he staffed with only ten persons, all of which had been active in the Prosecutors Reform Association.<sup>58</sup> Because the Prosecutorial system was still, as Chen’s contemporary put it, dominated by “the people of the others” (biede ren de renma), the BGIC was divested to the High Court Prosecutor’s office.<sup>59</sup> These changes encouraged MJIB personnel who disliked clientelism and had been suppressed by the KMT.

In the course of a year, Chen had built up a coalition of prosecutors and investigators who were loyal to him, and who formed the backbone of his crackdowns on vote-buying and corruption.<sup>60</sup> In 2002, when Chen had consolidated his condition, a “Special Investigation

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<sup>52</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014, Interview with Liao Cheng-hao, Taipei, 30 October 2014

<sup>53</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>54</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

<sup>55</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>56</sup> Göbel 2004

<sup>57</sup> Yeh was later sentenced to ten years in prison because he had conveyed confidential information to Chen Shui-bian.

<sup>58</sup> Interview with former member of the Black Gold Investigation Center, Taipei, 06 November 2014

<sup>59</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>60</sup> Interview with former member of the Black Gold Investigation Center, Taipei, 06 November 2014



Unit" (tezhenzu) targeted at high-ranking politicians was established under the High Court.<sup>61</sup> In contrast to the BGIC, however, the Unit's highest official had to be confirmed by the legislature, which lessened resistance somewhat.<sup>62</sup> Furthermore, "ethics units" (zhengfengsi) under the jurisdiction of the MJIB had been established in every functional department already in 1992. In practice, this meant that investigators were embedded into departments to prevent and, should the need arise, quickly investigate corrupt behavior. Nearly half of all corruption cases are reported by these units.<sup>63</sup> Critics say that their embeddedness in a department and the fact that opportunities to be promoted were few for such "ethics investigators" hinders their functionality,<sup>64</sup> but there is little evidence that confirms this. This issue deserves further inquiry. Finally, Chen reduced the influence of head prosecutors over the promotion of ordinary prosecutors, thereby giving the latter more freedom to disobey their superiors when they sought to exert undue influence. Before, promotions had to be recommended by the superior, now promotions need to be denied by a panel composed of officials that are in part decided by the minister and in part elected within the prosecution.<sup>65</sup>

These measures were successful in changing the "bureaucratic culture" in these organizations despite that fact that only leadership positions had been restaffed. A former chief prosecutor pointed out that the replacement of key persons in the judicial system is generally sufficient to inspire a "change in bureaucratic culture", because the subordinates have to follow instructions: "Taiwan has almost 1000 prosecutors. It does not matter who governs, they will always be there. Chen thought, if I influence a couple of hundred, the atmosphere will change completely".<sup>66</sup> As one of the ten members of the BGIC recalls, the team was specifically instructed to not take party affiliation into consideration when conducting investigations.<sup>67</sup> At first, given that the DPP had only held executive positions at the county level, mainly KMT lawmakers were investigated. As time progressed, however, a number of high-ranking DPP politicians also succumbed to the trappings of power. High-level DPP politicians including the commissioner of Nantou County, who was a close friend of Chen Ding-nan, the vice minister of internal affairs, and the head of the government's High Technology Commission, were convicted on corruption charges.<sup>68</sup> One of the BGIC prosecutors even appealed a no-guilty verdict in one of the anti-corruption charges of brought against President Chen Shui-bian.<sup>69</sup>

### ***Resistance from without and within***

Nevertheless, the KMT-dominated legislature wanted to abolish the BGIC, which not only investigated cases of corruption, but also vote-buying. They could not legislate the BGIC out of existence, so they simply threatened to cut the budget of the MoJ.<sup>70</sup> In Taiwan at that time, the budgets of the individual ministries were decided by functional commissions in the

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<sup>61</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>62</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>63</sup> Ministry of Justice 2013

<sup>64</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>65</sup> Interview with Shih Mao-lin, Taichung, 29 October 2014

<sup>66</sup> Interview with Shih Mao-lin, Taichung, 29 October 2014

<sup>67</sup> Interview with former member of the Black Gold Investigation Center, Taipei, 06 November 2014

<sup>68</sup> Interview with Shih Mao-lin, Taichung, 29 October 2014

<sup>69</sup> Interview with former member of the Black Gold Investigation Center, Taipei, 06 November 2014

<sup>70</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

Legislative Yuan, and a convener's position in the Law Commission was sought after by - and frequently granted to - members of local factions and organized crime. At one point even Taiwan's most notorious crime boss held this position.<sup>71</sup> However, after mobilizing public opinion by organizing a hearing and publicly criticizing the KMT for supporting "black gold", and asking them what alternative organization they would support, the legislators were forced to withdraw their motion.<sup>72</sup> With the DPP demonstrating that they were serious about eradicating corruption, the KMT party central could not afford to block efforts aimed at reducing corruption anymore, but had to project a "clean" image as well. It was for this very reason, and the fact that there were also "idealist" legislators in the KMT caucus, that the Conflict of Interest Avoidance Law could be passed in 2001.<sup>73</sup> Two more laws were passed in 2004 and 2008, respectively, but critics argue that they are toothless: the Political Donations Law can allegedly be avoided by establishing a foundation and hire "consultants" at high and tax-exempt salaries, while the Lobby Law is simply not observed. Since its implementation in 2008, not a single registration has reached the Ministry of Interior Affairs despite the fact that lobbying continues unabated.<sup>74</sup>

Despite his apparent success and popularity, Chen Ding-nan did not sit through the second term of the DPP administration. As one contemporary of his remarked, his campaign-style, output-oriented politics "offended many people." This pertains to particularist KMT politicians as well as "a minority" of DPP politicians.<sup>75</sup> First, Chen was an outsider to the legal profession and therefore did not always communicate well. He could never be sure if the perceived inefficiency was due to formalities that had to be observed, as the prosecutors claimed, or to foot-dragging, as he suspected. Second, as already mentioned, some DPP politicians, once in power, also engaged in corrupt acts. In addition, even some of those who did not themselves engage in corruption needed the support of the local factions in their campaigns. Such legislators and commissioners allegedly pressured the DPP's party central to rein in Chen, lest the DPP's support basis was undermined, and, as one contemporary of Chen remarked, "reached the limit of what he could achieve".<sup>76</sup>

### ***Institutionalizing anti-corruption***

Chen Ding-nan was succeeded by Shih Mao-lin, who had studied law together with Minister of Justice and later president Ma Ying-jeou. When he was appointed Minister of Justice, Ma remarked to the prime minister that he did not have the political background to head the Ministry of Justice, and the premier famously answered "this is why I chose you". Ma appointed Shih, who had excelled in his legal studies and had experience both as local judge and local prosecutor, as adviser to the Ministry of Justice. Shih is one of the few politicians who command respect from people in both parties. A former head prosecutor and veteran DPP politician remarked that Shih indeed was a good choice.<sup>77</sup>

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<sup>71</sup> Göbel 2004

<sup>72</sup> Interview with Shih Mao-lin, Taichung, 29 October 2014

<sup>73</sup> Interview with former legislator, Taipei, 25 October 2014

<sup>74</sup> Interview with DPP spokesperson Huang Di-Ying, Taipei, 01 November 2014

<sup>75</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>76</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

<sup>77</sup> Interview with associate of Chen Ding-nan, Taipei, 25 October 2014

In contrast to Chen, who was impulsive and wanted to see changes immediately, Shih would “take it slower, but also be successful”. Shih seems to agree when he says that Chen was the right man at the right time, and that he could not solve several problems that demanded an intimate knowledge of the politics in Taiwan’s legal institutions. “When I was appointed Minister, I had closely studied Chen’s achievements and knew where progress had been made, and where problems remained. For example, prosecutors and investigators have become more and more skilled, but so have the criminals. I learned from this experience, and used my knowledge about the legal system to initiate some reforms.” In particular, Shih introduced four distinct changes: “follow the money flows” instead of investigating transactions; make prosecution more efficient, focus on big corruption cases, and shift from punishment to prevention.<sup>78</sup>

First, Shih shifted the focus of the investigation from politicians to entrepreneurs: “I was interested in the sources of corruption money. How do entrepreneurs give the money to public officials? Organized crime and money politics are interrelated. For example, we got to Lo Fu-chu [Taiwan’s most notorious gang leader who fled to Mainland China after his indictment] not by investigating his crimes, but the illicit money flows. It is difficult to hide large amounts of money - you can’t just put it in the bank.” Shih remarked that finding proof of a financial crime was often easier than finding evidence for gang murders, especially if the suspect holds political office.”<sup>79</sup>

Second, when asked about what he did different from Chen, Shih also remarked that he “led prosecutors as an insider” instead of “using authority and strong force”. He recalls that he spent much time with prosecutors and investigators to see how they handled cases. Based on this and his own experience, he would “show them how to conduct an investigation, how to follow up on evidence. If their method is not effective, they will not be successful in investigating vote buying and corruption. They knew I was an insider and that they could not fool me.” Besides providing training in methods of investigation, he put pressure on local prosecutors by imposing quotas: “Every person had to solve 30 cases. Let’s not discuss if this was good or not, but at that time this is what we did. Of course, we respected human rights - if you can’t find evidence, then you have to let go”.<sup>80</sup>

Third, he professed to have been dissatisfied with the low conviction rate for high-level officials: “The conviction rate was not even 20 percent. Before, the investigators were not able to obtain enough evidence to convict high-level politicians, so they spared the tigers and went after the flies. I did it the other way round. Once they had completed their vote-buying investigations [of the 2004 legislative and presidential elections], I had them investigate big corruption cases. We rewarded confessions and evidence that led to the conviction of others with reduced sentences”.<sup>81</sup>

Finally, after several years of campaign-style crackdowns on corruption, Shih shifted the focus from persecution to prevention. He became interested in management studies and

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<sup>78</sup> Interview with Shih Mao-lin, Taichung, 29 October 2014

<sup>79</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

<sup>80</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

<sup>81</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

initiated the development of a risk assessment system. Departments were rated according to how likely a particular line of work was to provide incentives for corruption. According to Shih, those facilitating “collective crimes” like customs inspections, public construction projects, but also the police were especially risk-prone.<sup>82</sup>

### **Outcomes**

As legal statistics for the years 2005 illustrate, these measures had an impact. The fluctuation of indictments, convictions and investigated seemed to follow electoral cycles, leading me to suggest in an earlier contribution that these measures served as a campaign tool.<sup>83</sup> However, my recent findings call this explanation into question. An alternative and more convincing explanation is that these figures reflect personnel changes in Ministers of Justice. In addition, the learning curve of investigators and politicians had an influence on which cases were chosen for indictment, and how many people were indicted in each case. For example, the number of lawsuits that were filed with local prosecutors was slightly lower than when Chen was Minister, but the number of people indicted for each case rose steeply. As pointed out above, corrupt officials had become more careful, but if the prosecutors managed to collect the necessary evidence, then usually not only the immediate parties, but also the helpers were indicted, which led to the increase of the number of indicted people per case.<sup>84</sup> The increase in asset declaration lawsuits after 2005 is probably the result of the concentration on money flows after 2005. Finally, the increase in convictions for violating the Conflict of Interest Prevention Law, which had been passed in 2001, can be explained by the fact that “people had to learn how to investigate these cases”. According to Shih, “this law is really convenient. It is very simple, the most efficient of all Sunshine laws. As only administrative punishments are meted out, the process is very fast. As opposed to other cases, which are decided by courts of law and take three to five years, depending on if verdicts are appealed, there is a decision within the year”.<sup>85</sup>

### **Conclusion**

In Taiwan, it has become far more risky than twenty years ago to engage in acts of corruption. Although there certainly still is much room for improvement, there have been far-reaching legal and organizational changes that have severely restricted the realm of the permissible, have made it more likely that corrupt behavior will be discovered, and have made it much harder to intervene in an investigation or influence a judicial trial. Investigators, prosecutors and judges have become far more professional and independent, and less likely to be swayed by influence or money.

The present analysis enquired into the factors that made such far-reaching changes possible. It showed that expanded agency during critical junctures does indeed account for many of the observed changes, but the impact of factors such as democratization or party affiliation was not clear-cut. On the one hand, democratization removed the restrictions that

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<sup>82</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

<sup>83</sup> Göbel 2014

<sup>84</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

<sup>85</sup> Interview with Shih Mao-lin, Taichung, 03 November 2014

had kept corruption largely confined to local political institutions. This is not to say that democratization caused corruption. Rather, corruption did exist during authoritarianism, but was restricted to the local level by means of non-democratic constraints. Once these constraints were lifted, corruption flourished. On the other hand, however, democratization unleashed the forces that are necessary for promoting universalism: equal access to political office, the forming of professional associations, and media freedom. As for political parties, the KMT under Lee Teng-hui readily embraced particularism and even cooperated with organized criminals in order to remain in office, but at the same time brought forth two Ministers of Justice who weakened exactly these foundations. Similarly, the DPP government, who had credibly fought corruption after taking office, got involved in major corruption scandals as well. The very politician who delivered on his promise to resolutely fight corruption in Taiwan when he was appointed Minister of Justice was among those who were not included in the cabinet after the DPP's reelection in 2004, allegedly because he had "offended too many people in the Party".

Given the now-obvious political risk, why did these people so actively pursue anti-corruption reforms? One explanation is rooted in the political context of the time: both Ma and Chen came into office shortly after major political changes: democratization and the change in ruling parties, and their superiors gave them carte blanche. As institutionalization set in, however, interests diversified, and leading politicians decided that anti-corruption had to take a back seat to more "conciliatory" approaches. Both parties remained or became dependent on social and political forces whose operational logics clashed with a radical understanding of anti-corruption, and idealism was sacrificed on the altar of political pragmatism. As the ministers had built their reputation on exactly such idealism, they were at a disadvantage when the political winds shifted. They were expendable, as all politicians are (or should be), and their successors had probably already been decided on. That these individuals believed in their vision and would rather see political defeat than compromising on what they believed in is another, compatible explanation.

Among the problems that continue to restrict ethical universalism are old-boy networks remnant from the authoritarian era and the politization of society, today which by many is seen to influence the verdicts of judges. These should not be confused: while protecting the member of a clientelist network constitutes corruption, choosing the highest (or lowest) possible sentence for a politician one does not identify with might be unprofessional, but does not constitute corruption if the gain is only emotional. Further problems are of an institutional nature, examples in cases ranging from legal money laundering in foundations and temple societies to the unclear relationship between Taiwan's confusing array of anti-corruption organizations, which complicates the fight against corruption. The fact that political resistance prevents resolving these issues is a problem in itself and testifies to the fact that, the major achievements described in this paper notwithstanding, particularism continues to remain a significant problem in Taiwan.

NOTE: I would like to thank all of my interviewees, many of them extremely busy because of an upcoming election, for their time and enthusiasm. I am especially grateful to Kun-sheng Chang and Vicky Wei-ya Wu for facilitating many of my interviews, allowing me to draw on

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## Project profile

ANTICORRP is a large-scale research project funded by the European Commission's Seventh Framework Programme. The full name of the project is "Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption". The project started in March 2012 and will last for five years. The research is conducted by 21 research groups in sixteen countries.

The fundamental purpose of ANTICORRP is to investigate and explain the factors that promote or hinder the development of effective anti-corruption policies and impartial government institutions. A central issue is how policy responses can be tailored to deal effectively with various forms of corruption. Through this approach ANTICORRP seeks to advance the knowledge on how corruption can be curbed in Europe and elsewhere. Special emphasis is laid on the agency of different state and non-state actors to contribute to building good governance.

Project acronym: ANTICORRP

Project full title: Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption

Project duration: March 2012 – February 2017

EU funding: Approx. 8 million Euros

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