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## Taiwan's Constitutional Court: Judicial Activism and Politicization in a New Democracy

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The Constitutional Court of Taiwan (TCC) has been the subject of extensive research in the field of comparative judicial politics, recognized for its protection of civil rights and curtailment of Taiwan's authoritarian government in the 1990s. However, the literature does not continue its examination of the Court into the 21st-century, and little is known about the TCC's ongoing role within the new democratic government of Taiwan. My research fills this gap in the literature by examining the activity of the Court over the last two decades and its engagement with constitutional questions. Has the TCC remained activist in the 21st century and continued to impact politics in Taiwan? How do the findings contribute to the scholarship on constitutional courts in new democracies? To examine these questions, I analyzed 548 cases from 1987-2017 by coding Court decisions for variables to track its decision-making over time. I also draw from existing literature to investigate these cases' context and significance. Preliminary findings suggest that the Court has been politicized and has struggled to assert itself when faced with highly contentious questions regarding the separation of government powers. The TCC instead has focused on expanding individual rights protections and has actively developed Taiwan's constitution using international laws. My findings suggest that constitutional courts in new democracies can change in role and impact as nations mature, and cannot be categorized dichotomously as either activist or restrained. Additionally, these findings demonstrate the increasing politicization of the Taiwan Constitutional Court in the 21st century.

### Introduction

At the end of the Second World War, strong judiciaries began proliferating around the world. Faced with the atrocities of the Holocaust, nations realized that certain fundamental rights needed to be protected by a governing constitution and courts capable of upholding those rights with total authority.<sup>1</sup> The judicial bodies mandated to interpret constitutions, known as constitutional courts, were given expansive powers to review and strike down legislation to ensure that civil, political, and human rights would be respected.<sup>2</sup> As courts were empowered to protect these rights through judicial review, they inherently gained a new attribute: courts became policymakers and embraced the role of changing and creating law.<sup>3</sup>

The modern scholarship within comparative judicial politics studies this politicization of courts around the world. Different opinions in the literature vigorously contend whether courts should have this role in policymaking, and whether courts can effectively impact politics at all when compared to the traditional democratic legislatures.<sup>4</sup>

The debate has focused partly on the role of constitutional courts in new democracies formed after the end of World War II, during a wave of global human rights reform.<sup>5</sup> One such court is the Taiwan Council of Grand Justices, a constitutional court which played a key role in dismantling authoritarianism in Taiwan after the fall of the Kuomintang Regime. The Council has earned a reputation among the

scholarship as a strong and activist institution that has greatly impacted politics and rights protections in Taiwan.<sup>6</sup> However, little research has explored the Court's role in the 21st century. In this research article, I inquire whether the TCC has continued its activist and impactful decision-making in recent years, or if its role has changed since the late 1990's. The findings contribute to the scholarship on international judiciaries by exploring the TCC's ability to uphold constitutional guarantees while embedded in systems of political governance.

The article is organized as follows: I first establish a theoretical framework around the conceptual role of courts, drawing from the scholarship on the role of courts, their impact on politics, and judicial activism. I narrow my inquiry on the role of constitutional courts in new and developing democracies, focusing specifically on the Constitutional Court of Taiwan (TCC) and present my core research questions. I then present my method of inquiry and sources of data, and how I analyzed the results from case coding. The study turns to existing literature to examine the context and impact of the TCC's decision in the 21st-century and explore the Court's trends of decision-making. After discussing several implications of the findings, the article concludes with a discussion of the limitations of my research and potential avenues for further inquiry.

## **Theoretical Framework**

Empowered by judicial review and ability to form binding legal precedent, courts all over the world influence legislation and thus have entered the realm of policymaking.<sup>7</sup> For example, abstract and concrete review processes allow courts to receive petitions that challenge the legitimacy of a law or state action. A court may review the act in question, scrutinize it

based on past precedent or constitutional validity, and choose to annul, uphold, or modify the law by reinterpreting its meaning based on judges' discretion. Many judiciaries even engage in judicial activism, in which a court develops its nation's constitution by reinterpreting provisions and changing their meaning over time. Because constitutional law is the highest legal authority in a nation, courts that change the meaning of the constitution are invoking powerful impact, if there are no other checks on that invocation of power.<sup>8</sup>

Some scholars have described this judicial policymaking as a usurping of power from the legislation and have criticized courts and judges.<sup>9</sup> However, other scholars have embraced the empowerment of courts as a way to protect individual rights and minority groups against a democratic but oppressive majority. Some argue that courts serve a vital role in liberal democracies by placing a check on the legislature and preventing the passage or enforcement of unfair laws.<sup>10</sup> Legendary cases such as *Brown v. Board of Education* in the United States are frequently cited as examples of how the policy-making powers of courts are an invaluable protection against civil rights violations such as segregation. Scholarship has also examined how powerful courts in Asia can enable victims of war crimes to voice their grievances against the national government of Japan through formal litigation and claim compensation.<sup>11</sup> In nations such as South Africa, Brazil, and India, courts have been used to improve welfare programs and increase accessibility to healthcare and education.<sup>12</sup>

This inquiry into the impact of courts and their activism continues in the era of new democracies, new constitutionalism, and constitutional courts. After the events of World War II and the mass atrocities of the Holocaust, the entire world realized the necessity

for implementing a check on democratic majority. New constitutional democracies proliferated rapidly around the world, spawning a number of constitutional courts which were given expansive powers to review laws and state actions.<sup>13</sup> The New Kelsenian model of constitutionalism, conceptualized by the legal scholar Hans Kelsen, rearranged the structure of government around this governing constitution and conceptualized the constitutional court—a judicial body responsible for upholding and interpreting constitutional provisions.<sup>14</sup> A portion of scholarship on comparative judicial politics today examines the role of constitutional courts in new democracies, whether they have impacted politics, and how they do so.<sup>15</sup>

One such constitutional court that grew in prominence and activity was the Taiwan Council of Grand Justices. In 1947, Taiwan created a new constitution and the Council of Grand Justices known as the Taiwan Constitutional Court (TCC). The Council's duty was to interpret the constitution and uphold it against contradicting legislation and state actors. However, Taiwan was plunged into totalitarianism from 1949-1987 as the Kuomintang Regime from mainland China took control over the island and suspended the constitution, democratic elections and civil rights, and the activity of the Court.

In 1987, President Chiang Ching-kuo ended martial law after initiating a series of democratic reforms in Taiwan, including allowing opposition political parties to run for office and the opening of free elections. With the fall of martial law, the TCC began taking cases and issuing interpretations with remarkable speed and decisiveness, striking down laws leftover from authoritarianism that violated civil rights and establishing clear boundaries for the fledgling democratic state.

Many scholars have pointed to the Taiwan Constitutional Court as a paradigm of judicial empowerment and impact. The Court's assertiveness in protecting constitutional rights and adjudicating over conflicts between state bodies has earned it a reputation as an activist and impactful court.<sup>16</sup> Indeed, one scholar writes that "The Council has transformed itself from a weak organization to an activist court" since the fall of martial law in 1987, and in its modern period of law-making, "...[the Court's] constitutional review can be anything but passive."<sup>17</sup> The general literature frequently cites cases such as Interpretation #261 (1990), where the Court struck down the life-long appointment of all Kuomintang representatives in the legislature, which had blocked general elections and retained their offices with immunity. Other celebrated interpretations include #636, in which the Court struck down laws which had allowed the police to detain and punish suspects without due process of law.<sup>18</sup>

Although some scholarship has extended its study of the TCC into the 21st century, the bulk of the literature predominantly focuses on the Court's activity between the fall of martial law in 1987 to the end of the century, highlighting its role in Taiwan's democratization during that era, and rarely covers the TCC's decisions past the 2000's. However, the nation has changed dramatically since the end of authoritarianism; in contrast to the single-party rule of the Kuomintang Regime, Taiwan's politics today is sharply partisan, with major political parties conflicting heavily over the control of power in government.<sup>19</sup> In this new democratic environment, the role of the Taiwan Constitutional Court remains largely unexplored. Thus, I draw from the scholarly debate on the politicization of courts, their impact on politics, and judicial activism, and apply it to the TCC, and further exploring the Court's role today.

*What role has the Taiwan Constitutional Court played in the 21st century? Has it continued to impact politics through judicial activism and the development of the constitution?*

## **Data and Methods**

To address these questions, I engage in two forms of analysis: case-coding directly from the Court's decisions, and an examination of literature. I accessed the TCC's interpretations from a database on its official website. Complete with the year of judgment, title, question, holding, and reasoning, these interpretations formed the bulk of my research data. I coded all 548 interpretations that the TCC has delivered between 1987 and 2017 for several variables, which I discuss more in the following section. These interpretations were located and read from the Judicial Yuan's English database of all TCC decisions. The second source of data was the existing literature on the TCC, predominantly from scholars in Taiwan who documented the rise and fall of authoritarianism in the nation and the impact of the TCC. I drew from seventeen journal articles in total to supplement data obtained from the TCC's database and to provide context for cases examined.

## **Analysis**

In my case-coding analysis of the TCC's interpretations, I coded for four variables: issue area, outcome, development of the constitution through international laws, and time period. I explain how each variable relates to my central research questions in the following sections.

## **Variables**

Because my research question seeks to

understand the activism and impact of the TCC in the 21st century and compare it to the Court's post-regime role shortly after 1987. I first and foremost tracked the TCC's decisions each year. Figure 1. depicts the total number of interpretations the Court has delivered since its creation in 1949 to 2017.

Towards the end of the 1990s, the Court began decreasing its total output of interpretations, dropping from an average of 27 interpretations per year between 1995-1999 to only 16 annually between 2000-2006. The sharp decrease in activity began around the year 2000, so I divided my inquiry into two time frames, 1987-1999 and 2000-2017, with the expectation that some event had caused the Court to significantly alter its caseload. Indeed, this drop in TCC decisions provides the background for my later exploration into the political forces affecting the Court's ability to rule on civil rights and government powers.

Secondly, to examine the question of whether the TCC has been impactful or activist, I focused my analysis on two issue areas of interpretations: (1) separation of powers questions, which concern the delegation of constitutional powers to different branches of the state, and (2) individual rights questions, in which a state action or law threatens to violate the constitutional rights of citizens. I narrow my analysis to these two issue areas for two reasons. Firstly, they form the majority of the TCC's interpretations. Between 1987-2017, 70.2% of all interpretations involved a question over separation of powers or individual rights; the remaining interpretations almost exclusively dealt with tax laws. Additionally, they are by far the most commonly discussed types of interpretations that scholarship on the TCC examines. The vast majority of journal articles discussed Court's individual rights protections or separation of

**Figure 1**

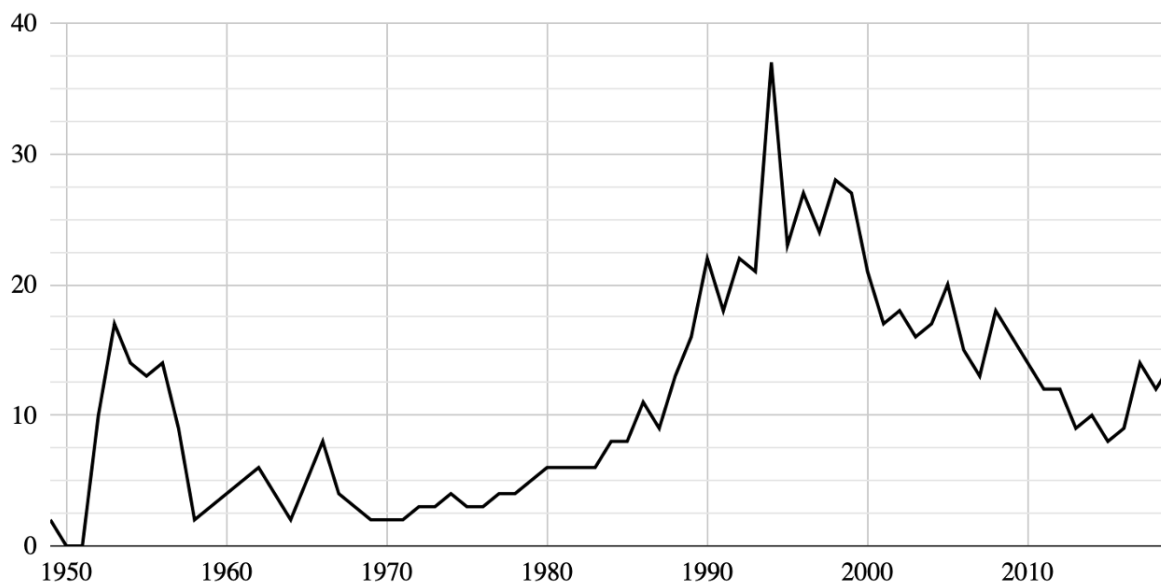


Figure 1. Annual number of interpretations delivered by the Taiwan Constitutional Court, 1949-2018. N = 789 interpretations. Source: Data compiled by the author from the official website and database of the Taiwan Constitutional Court.

powers cases exclusively. I coded for the issue area to examine how these two issue areas of interpretations have changed over time and whether there were any significant trends.

Thirdly, I also coded for whether the Court found a constitutional violation in its interpretations and used the outcome of cases as a rough proxy for the activism of the Court. When a court strikes down a law or state action as unconstitutional, it strengthens the body of constitutional law. Interpretations that find constitutional violations can also develop the meaning of the constitution by expanding the scope of its protections. Within the issue areas of individual rights protections and separation of powers, I thus examine whether the Court has frequently struck down or

upheld laws as a rough indicator for whether the TCC has been activist in these issue areas.

Lastly, I coded for whether interpretations developed the constitution by citing or incorporating international laws, treaties, or legal doctrine. I use the TCC's expansion of constitutional provisions as an indicator for activism: frequent use of international law to develop the body of constitutional law in Taiwan might suggest that the Court has been activist. Although there are many other methods that can be used to gauge whether a constitution has been expanded in meaning—such as through an examination of changes in the rulings of lower courts or the application of statutes after a TCC decision—methodological limitations in translation and access to

Taiwan legislation prompted me to use the citation of international law as a more accessible, shorthand gauge for constitutional development. These limitations are discussed in greater depth in the conclusion of this research paper.

In sum, I examine the TCC's response to individual rights claims and separation of powers issues, its willingness to find violations of the constitution, and whether the Court has expanded its case law with international legal frameworks. By coding for these variables across all of the TCC's interpretations throughout the last seventy-odd years since its creation, this paper attempts to shed light on the Court's general activity and its curious trend of caseload.

## Findings

*Table 1. shows the overall data from this examination of the TCC's interpretations from 1987-2017.*

First and foremost, the TCC has sharply increased the number of interpretations addressing individual rights protections. Between the years 1987-1999, just under forty percent of the Court's decisions addressed civil, social, or political rights in the constitution. However, when examining this same variable from 2000-2017, we find that over two-thirds of the Court's caseload have addressed individual rights protections. This finding may suggest a trend towards upholding civil liberties in Taiwan. We also see a corresponding, slight increase in the TCC's willingness to strike down government laws or actions, from around 63% of cases in the late 20th century to just over 66% from 2000-2017. Although the increase in prevalence of striking down law that contravene the constitution is moderate, the findings may similarly

suggest that the Court continues to attempt to uphold individual rights against state action. The TCC also appears to be increasingly proactive in seeking out expansions to its constitutional jurisprudence. In its 20th-century interpretations from 1987-1999, only 3 decisions (~1%) supplemented existing constitutional rights with international laws, treaties, or legal doctrines. However, from 2000 and onwards, 9 interpretations (~3%) so far have cited UN treaties such as the UDHR, CRC, and ICCPR, and some decisions have even included legal standards from high courts of other nations, such as from the United States Supreme Court.

The data therefore suggests that the Court has been activist in the issue area of individual rights, increasing its output of rights protections cases that strike down laws as unconstitutional in the majority of decisions. For example, Interpretation #407 in 1996 struck down legislation that censored publications on the grounds that it violated constitutional freedoms of expression and speech. Interpretations #224, #269, #295, and #445 collectively voided state restrictions on public political activities such as rallies, petitioning, and political speeches (McBeath 2004; Lin et. al. 2018; Constitutional Court, Judicial Yuan, ROC). Interpretation #380 struck down a law which forced university students to take certain government-approved courses that taught nationalist propaganda.<sup>20</sup> Most recently in May of 2017, the TCC ruled in favor of individual rights by overturning a statute prohibiting same-sex marriages in Interpretation #748, stating that the ban violated Articles 7 and 22 of the Constitution.<sup>21</sup> The Court gave authorities two years to amend the necessary civil codes to comply with its decision.

These individual rights interpretations have had political impact to the extent that forced the

**Table 1**

	1987-1999	2000-2017
Percentage of Rights Interpretations	39.3%	66.7%
Percentage of Rights Interpretations Violation(s) found	63.7%	66.4%
Number of Rights Interpretations Developing w/ International law	3	9
Percentage of Separation Interpretations	22.3%	9.7%
Percentage of Separation Interpretations Violation(s) found	56.4%	73.2%
Number of Separation Interpretations Developing w/ International Law	3	0

government to curtail its infringement on civil and social rights of the people. Because the Court has also increasingly turned to international laws to expand rights within the constitution, these findings also suggest that the TCC has engaged in judicial activism in the issue area of individual rights protections by developing the constitution.

For the issue area of separation of powers, the data is more ambiguous. Compared to the post-regime era of 1987-1999, the Court has delivered very few separation of powers decisions since the year 2000, falling from 22.3% to 9.7%. Firstly, it is possible that the TCC has simply lacked the opportunity to adjudicate over separation of powers cases due to a dearth in petitions involving this issue area. I was not able to control for this factor in this research paper, which is a limitation I discuss in more depth in the conclusion. However, it is also possible that some

significant internal factor within the Court caused the judges to avoid separation of powers questions over the last fifteen years.

For instance, consider the TCC's institutional reforms of 1997. Prior to 1997, the terms of all TCC justices started and ended in synchronized nine-year terms. The incumbent president during the period of reelection would nominate all seventeen justices, and upon confirmation by the Legislative Yuan, could appoint them to the bench.<sup>22</sup> The institutional reform in 1997, which was part of a wide-spread series of anti-partisan reforms in the government, staggered the election terms of the Justices so that in any given election term and legislative arrangement, the sitting president would only nominate half of the judges. Combined with a series of early resignations of several judges and the Legislative Yuan's delay of the 2007 nominations, the reforms resulted in a politically

divided Constitutional Court, with a scattered appointment of judges from both the Democratic People's Party and the Kuomintang Party.<sup>23</sup>

In the last decade and a half, the TCC has thus grown more divided between KMT and DPP judges, especially when the Court addressed political questions such as the balance of constitutional power between different state branches. Although this paper does not explore the individual ideologies of justices on the bench, it is quite possible that KMT and DPP justices would seek to uphold the interests of their particular political viewpoint, which would almost certainly be aligned with the party that elected them to the bench. The politicized, partisan Court and its internal conflict is reflected in the dissenting rates within the TCC, which skyrocketed from around 20% before the 1997 reforms, to over 70% after the reforms.<sup>24</sup>

Ironically, although my data suggests that the Court has failed to greatly impact the politics of Taiwan through separation of powers cases, the TCC has become more politicized in the 21st century through the institutional reforms of 1997. It is possible that the Court has therefore decreased its numbers of separation of powers decisions because of internal difficulties in engaging highly political questions.

One final potential explanation for the Court's apparent hesitancy to engage in separation of powers questions is its difficulty enforcing decisions against other, less cooperative branches of government. An examination of the literature suggests that beginning around the year 2000 and onward, the Court began struggling to deliver impactful interpretations for separation of powers questions. Interpretations #585, #601, and #633 (2004-2007) were three joint decisions that addressed the constitutionality of an

extra-parliamentary body created to investigate the 2004 presidential election.<sup>25</sup> The investigatory body was challenged on three occasions. Interpretation #585 initially ruled that the body violated the constitution and must be dissolved. In response, the legislature retaliated by cutting off the Court's funding and refusing to shut down the operations of the investigation. While the TCC's funding was restored in a subsequent interpretation in #601, the Court did not fully strike down the legislature's actions in Interpretation #601, nor in a final petition challenging the legislature in Interpretation #633. The Court made partial annulments to the law but permitted the investigative body to remain active in spite of clear constitutional violations.

In Interpretations #627, despite its clear constitutional supremacy, the TCC's decision was blatantly overruled by the Taiwan Supreme Court.<sup>26</sup> The original petition involved the right of the incumbent president to withhold documents containing state secrets from the legislature. The Court ruled in favor of the president but also determined that the case should be retried in the Supreme Court. In response, the Supreme Court refused to hold a retrial, overturned the TCC's interpretation, and forced the incumbent president to allow the legislature access to the documents. Despite the TCC's history of consistently overruling the Supreme Court's decisions in Interpretations #256, #297, #338, and #371 (1990-1995), the Court did not challenge the lower court's insubordination here in Interpretation #627 (2007).

In Interpretation #632 (2007), the TCC's decision failed to have an impact yet again. The petition once again involved the Taiwanese legislature, which was controlled by a majority of Kuomintang Party (KMT) members at the time.<sup>27</sup> The legislature



had deadlocked the government by refusing to hold a parliamentary vote in determination of the administrative branch's cabinet. Although the Court ruled that the legislature must reconvene and hold the vote according to its constitutional duties in its decision, the legislative majority exceeded the deadline for compliance and refused to vote until the following year. The TCC received no further petition on this issue, and thus was helpless against a thoroughly recalcitrant legislative branch.

In sum, although interpretations #585, #601, #633, #627, and #632 are only a subset of the separation of powers cases that the TCC has addressed in the 21st century, the literary findings suggest that the TCC has been unable to significantly impact politics in the issue area of separation of powers. Faced with uncooperative branches of government, the Court has consistently attempted to uphold the constitution and point out violations but has been ignored and overruled on multiple occasions. Thus, one possible explanation for the TCC's decreased engagement with this issue area is that the Court has failed to find much success with separation of powers decisions and has turned to rights protections instead.

The data suggests that the Court has continued to develop the body of constitutional law through individual rights protections in the 21st century. Maintaining a high rate of finding constitutional violations of around 70%, the TCC has also expanded the definition of certain rights or added new ones entirely by incorporating international laws. The Court appears to have continued its trend of impactful, activist interpretations upholding civil, social, and political rights into the present day, similar to its "hay day" in the post-regime era of 1987-1999.

On the other hand, however, the Court has not been able to meaningfully develop Taiwan's constitution in cases of separation of powers nor impact politics. On paper, the TCC's separation of powers decisions ruled that a state body had overstepped its constitutional powers in nearly 75% of the cases. However, these interpretations did not build a strong body of constitutional law because they were frequently ignored or overruled by other government bodies. Because its interpretations have no great effect, the Court has also struggled to develop the constitution regarding separation of powers. This political irrelevance was further perpetuated by the institutional reforms that occurred to the TCC, which politicized the Court and hampered its ability to efficiently process political questions. Thus, although far from exhaustive, my research suggests that the TCC has not continued its trend of impact and activism in the issue area of separation of powers in the 21st century.

## **Conclusion**

The purpose of this research article was to contribute to the body of scholarship on the Taiwan Constitutional Court and the role of courts in new democracies. I anchored my analysis in existing theory on the role of courts in society as lawmakers equipped to engage with and impact politics. Within this framework, I examined the TCC's role in the 21st century and compared it to the Court's reputation as an activist institution in the decade after the fall of authoritarianism. Although faced with many methodological limitations which I discuss later, these preliminary findings seem to suggest that the TCC has decreased its engagement in highly political, separation of powers cases when confronted with branches of the state that overrule or ignore the Court's decisions. On

the other hand, TCC appears to have greatly increased its engagement with individual rights protections, both in numbers and in practice. Individual rights have been expanded through the citation and incorporation of international laws, suggesting that the Court has been activist in developing the constitution through rights protections.

### **Implications of Research**

My research suggests two main implications for courts in new democracies. Firstly, new constitutional courts may not be isolated and static institutions but instead are embedded within politics. The TCC was heavily impacted by the institutional reforms of 1997, which were part of a larger set of structural changes in Taiwan's government. Combined with intransigent state branches that struggled over the balance of powers and refused to heed the Court's rulings, these reforms politicized the TCC and seemed to have caused it to withdraw from very political questions of separation of powers. The Court has possibly refocused on changing the law through individual rights protections as a result. Although my research is limited to the TCC, these findings seem to suggest that in light of often-tempestuous politics of a new and maturing democracy, constitutional courts might easily be swept up in ongoing changes to government.

Secondly, when placed in dialogue with existing scholarship, these findings suggest that constitutional courts in post-authoritarian democracies may prioritize individual rights protections. One piece of literature examined the constitutional courts in Chile and Spain, both of which had suffered under repressive authoritarian regimes and democratized in the 20th century.<sup>28</sup> Since then, Chile and Spain

have empowered their constitutional courts to protect civil, political, and human rights, and these courts have independently expanded judicial review powers and their authority in interpreting governing constitutions. Hilbink argues that shared social and political trauma, such as past authoritarian rule and rights violations, can result in strong constitutions and judiciaries designed to prevent the repeat of history. We see a similar pattern in Taiwan and the TCC. After the fall of martial law, the Taiwan Constitutional Court has actively sought to uphold and expand individual rights, and appears to have been relatively unchallenged in its jurisdiction over rights protections. Although preliminary, my research aligns with existing literature and suggests that courts in post-regime democracies may more aggressively protect individual rights through judicial activism, and in fact may find abundant state and public support when doing so.

### **Limitations of Research**

This research project was limited strongly by a language barrier. The TCC's database in its native language, Mandarin, contained significantly more information than the translated English version. Compared to the original database, the English translations lacked information on the petitioners, amicus briefs, dissenting or concurring opinions, and facts of the case. Relevant laws cited in the TCC's English interpretations were often mistranslated and could not be located in Taiwan's legislative database, making it difficult to determine exactly what laws were struck down and further complicating the task of determining whether Taiwan's constitution had undergone a substantive change in meaning. To compensate for these limitations, I relied heavily on existing literature to provide context and the significance of cases, but only a small subset of

the 548 cases I coded for actually were analyzed at depth by literature. Combined with time restraints on this study, the difficulty in reading and coding information from TCC interpretations resulted in very few variables examined. With no real method of controlling for external factors, such as changes in petition rates, and a limited array of literature to work with, the correlation between the trends of decision-making and the Court's impact and activism is too tenuous to draw any conclusive results. For instance, without having examined the number of petitions to the TCC involving separation of powers questions, it is impossible to definitively show that the Court has decreased its involvement in this issue area. It is possible that instead of shying away from these constitutional questions, the Court has simply lacked the opportunity to adjudicate over cases concerning the balance of government powers. The central findings in this paper are merely preliminary, and a repeat and more exhaustive study must be completed before any results can be truly significant.

### Further Avenues of Inquiry

Many avenues for future research remain open. Firstly, I recommend an in-depth analysis of the TCC's case law during the reign of authoritarianism from 1949-1987. The scholarship on Taiwan and the TCC has generally depicted the Court as heavily suppressed and inactive during this time. However, there is existing literature that has examined constitutional courts under authoritarian regimes and has found that courts do find ways to subtly defy state power and protect rights.<sup>29</sup> It is possible that the TCC has engaged in subtle activism in its earlier years under authoritarianism. Secondly, I suggest further research into the impact of the Court's interpretations. Have its interpretations caused the state to end rights

violations? Do citizens litigate over newly established rights in courts, and successfully gain compensation? Do lawyers' associations, non-profit groups, or grassroots advocacy movements use the TCC or its decisions as an avenue to pursue further change? While the TCC has upheld and expanded individual rights, it is unclear whether these changes to constitutional law have resulted in meaningful differences in the daily lives of citizens. I recommend an in-depth examination of whether the Court's interpretations have substantively impacted people's rights in Taiwan.

Although many avenues for further research remain unexplored, these preliminary findings that I present in this research article suggests that the TCC has not hesitated to expand the constitution through individual rights protections, a hopeful outlook for the Court's legitimacy and establishment as a strong judicial body. However, whether the TCC can regain its composure in a conflicted political arena and assert the constitutionality of its decisions remains to be seen.

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