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Porous Bureaucracy: Legitimizing the Administrative State in Taiwan

Anya Bernstein*

Abstract

Scholars and politicians have sometimes presented bureaucracy as inherently conflicting with democracy. Notably, bureaucrats themselves are rarely consulted about that relationship. In contrast, I draw on interviews and participant observation to illuminate how government administrators understand their own place in democratic government in Taiwan, one of the few successful third-wave democracies. The administrators I work with root their own legitimacy not in separated powers or autonomous expertise, but in their ongoing collaboration with legislators and publics. They define their own accountability not just as executive legislative mandates but as producing them in the first place, and figure bureaucracy as a key site for political participation. I put these views into historical context to elucidate how bureaucracy can compete for democratic *bone fides* with common democratic indicators like constitutions and elections. This article contributes to scholarship on the ethnography of bureaucracy, administrative accountability networks, and the internal law of administration. In particular, I stress the importance of administrative culture as a central aspect in political legitimation.

I. INTRODUCTION

The relationship between democracy and bureaucracy has been figured as fraught for a long time. A century ago, Max Weber's classic account concluded that although "[b]ureaucracy inevitably accompanies modern mass democracy," the two also "inevitably...conflict": bureaucracy's tendency to empower "a closed status group of officials" who prefer to work in secret grates against democracy's promotion of "equal rights" and reliance on "public opinion" (1978, 983-85, 48; *see also* Espeland 2000). A century before that, Alexis de Tocqueville's famous study of a young America connected its democratic success to its lack of effective central administration (Ernst 2014, 1). And in the present, the image of unelected bureaucrats obstructing the will of the people has become commonplace in a range of democracies, from members of the European Union to the United States (Hamburger 2014).

At the same time, democratic aspirations don't simply implement themselves; any modern polity needs *some* administrative apparatus. That apparatus, moreover, is not an "unthinkable," ungraspable abstraction (Bourdieu 2014, 3). Although its workings may look murky, the administrative apparatus of the state is a social entity: an arena of "human activity" (Dewey 1984, 241; *see* Novak 2015). The administrators who populate that arena, who make the state run, are thus key players in the life of any modern democracy. Given how contested their role in democratic governance has been, it is striking how little bureaucrats themselves are consulted on the issue.

Using interviews and participant observation with bureaucrats, I do just that. Locating my inquiry in the government of Taiwan, I ask how administrators understand their place in a democratic government and what, in their view, renders their actions legitimate.¹ To be clear, I do

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not assess whether my subjects comport with some predefined notion of legitimacy. Rather, I seek local understandings of what constitutes legitimate political action, specifically asking how democratic legitimacy looks to those charged with producing it. Eliciting the understandings of those who populate the government, I see bureaucracy “from the native’s point of view” (Geertz 1974).

Taiwan is one of the few success stories among “third wave” democracies (Carothers 2002; Huntington 1991). With no history of democracy and no internationally recognized sovereign status, Taiwan moved quickly to achieve the hallmarks of democratic governance over the 1990s and has avoided the “illiberal” turn of a number of recently democratized countries (Zakaria 1997). Freedom of press and association; free and fair contested elections; inter-party transfers of power; a professionalized civil service; and civil liberties protections were established quickly and firmly.ⁱⁱ Both exemplar and outlier, Taiwan illuminates how bureaucracy can adjust to democratic transition. And it can help us understand how democracy can flourish, and what it can look like, in even unlikely locations (Paley 2008).

My research subjects—administrators at different levels of a range of central government and Taipei City agencies—root their own legitimacy in the porous quality of their bureaucracy. They present their work as an ongoing collaboration with others, especially legislators, scholars, and other members of the public. For my subjects, administrative accountability involves not just executing the legislature’s commands but producing them in the first place. And they present bureaucracy as a key site for political participation by people outside the government.

I do not address the efficacy of Taiwanese government or gauge the level of its populace’s satisfaction with it. Rather, I ask how those who make the government work understand it and conceive of its legitimacy. How governors understand governing may be a particularly crucial question for Taiwan, which cannot claim the mantle of recognized *de jure* sovereignty to obscure the contingencies of its *de facto* self-governance (Markell 2003). Over the last few decades, the government of the People’s Republic of China (PRC), across the Taiwan Strait, has become increasingly adamant in claiming ownership over Taiwan, an island it has never ruled. Government administrators—like everybody else—know that Taiwan’s continued self-determination hangs on its continued recognition as autonomous, if not technically sovereign, by both domestic and international audiences.

Taiwan, then, is a polity that must continually reassert and justify its existence as a polity. That fact highlights in an ongoing way the existential ramification of political legitimation.ⁱⁱⁱ But my findings here have implications even for less precarious places: in a democracy, after all, governance is always contingent on local legitimation. The Taiwanese administrators I study consistently emphasize the porous, interactive nature of their governing apparatus, in contrast to the kind of “state effect” that produces an illusory separation of state from society (Mitchell 1999). My interlocutors ground state legitimacy not in some imagined autonomy from society but in the opposite. Government legitimates itself insofar as it participates in the world as one social actor among others, in relationships of mutual influence, communication, and responsibility.

This vision encourages us to question whether bureaucracy and democracy are really as opposed as some make them out to be. I posit instead that the role bureaucracy plays in democratic governance will differ across cultures and contexts. Here, I explore how that role is understood within a democratic administration itself. My interlocutors’ celebration of the bureaucracy’s interdependence with other branches contrasts with some common assumptions about the proper separation of powers in presidential political systems (Ackerman 2000). Their reliance on constant interaction with multiple private actors may be surprising in a government characterized for decades by the executive supremacy and tight links to large economic players typical of developmental states

(Johnson 1982; Öniş 1991; Evans 1995). And their conviction that the bureaucratic production of statutes legitimates both the bureaucracy and the resulting legislation problematizes assumptions about principals and agents in the administrative state (Daniels 2014).

II. INTERNAL ADMINISTRATIVE CULTURES OF ELEVATOR-LEVEL BUREAUCRATS

Scholarship about administrative agencies often focuses on how courts evaluate administrative action, as well as on how legislatures mandate and constitutions authorize it (Bouhey 2013; Mashaw 2005, 2007; Rose-Ackerman and Lindseth 2010; Bignami and Zaring 2016). In this literature, administration thus gains legitimacy from other government institutions. In contrast, some have urged greater attention to the “internal law of administration” through which bureaucracies structure their own work (Mashaw 2012; *see* Wyman 1903). Some have even argued that, given the size and complexity of modern states, this internal law of administration may present the most important constraint on administrative power (Katyal 2005). On this view, internal strictures are as legitimate as, and more effective than, judicial review for setting standards for the exercise of discretion and ensuring the use of expertise in decision-making. Such “processes, guidelines, ... polic[ies,] internal management structures” and “[t]ransagency...oversight and coordination” mechanisms produce the everyday of administrative action—and its justification—more than the exceptional moments inscribed in sporadic legislative commands and judicial rulings (Metzger and Stack 2017). Other scholars have proposed greater attention to the larger and more differentiated sphere of influence that provides the context for administration. This view moves out of the bureaucracy to place administrators in multi-nodal “accountability networks” that include “elected officials, organized interests, the courts, and the general public” (Bignami 2011, 861). This view presents administrators as constrained by multiple nodes of influence, often in tension with one another.

These two approaches enrich our understanding of administration and the way it functions in its particular contexts. They present bureaucracy as both a social field with its own internal regularities and as an active participant in larger social worlds (Bernstein 2017). Building on this research, I look both to the inner life of administration and to its outward place in larger social and historical contexts. And I view internal administrative law and external accountability networks as aspects of administrative *culture* (see Meidinger 1987).

By culture, I mean a dynamic, historically situated foundation for the construction of meanings and values (Silverstein and Urban 1996; Gal 2005). I do not take culture to be something that can be captured in a text (Agha 2003), nor does it produce unchanging values (Eppinger 2013; Langbein 1997). Rather, it forms an evolving basis for the intuitions and evaluations that influence understandings of the world and provides the terms on which they change. Culture matters to understanding bureaucracy and democracy: cultural contexts can imbue even similar phenomena with different meanings and values for their participants. For instance, it may be quite common for people to avoid recourse to legal remedies. But that avoidance may sometimes mean that people prefer to “lump” rather than contest negative experiences (Engel 1984, 2005), while in another context it may instead show that people contest negative experience through channels other than law (Bernstein 2018).

Similarly, administrative action gains meaning not just through the structural relations of government but through participants’ own understandings of it. This is because administrative agencies are staffed not by offices or positions, but by people. In contrast to a tradition that viewed bureaucracy as an object of social commentary rather than a social field itself (Herzfeld 1992), recent scholarship has explored how bureaucratic practices, identities, and values are forged through

interactions with a range of people and processes (Hoag and Hull 2017; Mathur 2016; Fassin et al. 2015; Cabot 2014; Hull 2012; Hoag 2010; Latour 2010; Shore and Wright 2003). Administrators' relationships to their own positions and their own work forms a key vector of an administrative accountability network and a key aspect of internal administrative culture. Moreover, this is true not only of the "street level bureaucrats" (Lipsky 1971) who form the usual object of cultural study, but also of the regulators who formulate the regulations and policies that implement democratic decisions—what we might call the *elevator-level* bureaucrats whom I present here. These administrators enact the power of the state not by deciding the fate of some particular supplicant but by setting general terms of conduct. How they understand the legitimacy of their own actions thus has implications for how governance is done.

III. CONSTITUTION, ELECTION, ADMINISTRATION—AND DEMOCRATIZATION

Taiwan's government administration has undergone significant transformations within the lifetimes of most of my interlocutors. That historical trajectory, in turn, informs administrators' understanding of bureaucracy and its place in democratic government. I focus here on three areas: the Constitution, popular elections, and the administrative apparatus itself. Key to this history, bureaucracy provided a key site for the development of democracy.

A. The Constitution

While the existence of a constitution can function as an indicator of democratic governance in some circumstances, Taiwan's Constitution was for decades a means of entrenching dictatorship. When the victorious Allies expelled Japan from its colonies in 1945, they gave authority over Taiwan to the Republic of China, then under the control of the KMT party (also known as the Chinese Nationalist Party, Kuomintang, and *Guomindang*), which was embroiled in a long civil war with communist forces. Although the two sides managed to produce a constitution in 1946, the KMT prevented its application on Taiwan (Philips 2003; Kerr 1965; Wang 2002). After losing the civil war in 1949, the KMT establishment fled to Taiwan, where it continued to claim legitimate authority over China, despite having no actual power there, for decades.

This claim justified a slew of other measures. It underlay the Temporary Provisions Effective During the Period of Communist Rebellion, which displaced constitutional provisions that would facilitate democratic rule (Ginsburg 2002b). It made it unthinkable to amend the constitution to reflect its actual geographic reach, which would imply giving up the claim to China (Yeh 1990). "It was as if the Constitution were frozen," Weng Yueh-Sheng told me, using a common phrasing.^{iv} Weng is widely considered the godfather of Taiwanese administrative law. "People couldn't talk about it, and I was unwilling to teach Constitutional law in Taiwan at that time."^v And it gave the KMT a reason to suspend national elections, since most of the Chinese electorate lived under Communist rule (Yeh 1990). The Constitution would not go into effect for decades, and when it did, it bore the traces of its creation of its creation in a place it did not govern, by parties vying for dictatorial control—in Cheng-Yi Huang's words, an "unpopular sovereignty" (2017, 117). For decades, then, the Constitution instantiated the dictatorship's determination to prevent meaningful popular participation in electoral politics.

B. Elections

Similarly, elections were a key tool of dictatorial rule in recent memory. The KMT dictatorship ruled out national-level elections, but still sought to legitimize its "mobilizational authoritarianism" by offering an alternative to the Communist People's Republic (Rigger 1999, 8). Lacking a social infrastructure on Taiwan, which had been a Japanese colony during the KMT's rise

to power in China, the one-party state instituted elections for local and low-level offices in which local factions competed for central resources. Low-level elections bolstered the KMT's democratic bona fides and helped it penetrate Taiwanese society: it could incorporate local elites into nationwide party structures while protecting the party-state from local influences (Bosco 1992). To do that, the KMT latched onto existing lines of alliance, using traditional forms of association as conduits for the new central government power (Wu 1987). Elections entailed little ideological contestation; they were rather a tool for normalizing dictatorship.

Democracy activists started infiltrating this process and imbuing elections with more ideological significance starting in the 1970s, helping to push the state to legalize opposition parties and institute elections at all levels of the political system (Rigger 1999). This transformation, like the KMT's elections, built on the status quo, incorporating aspects of existing systems into new developments (Wu 1987; Chun 1996). Contemporary voting thus retains much of the personalistic tenor developed under martial law. Legislators—even those in the central government—are closely tied to individual constituents (Chin 2003; Lin 1996; see Lerman 1978), for whom they are expected to furnish personalized help. People often turn directly to their national legislators for help: the legislator is like a service desk, a “window (*chuangkou*),” expected to help constituents solve problems either directly or by channeling them to others.^{vi} As Wu Nai-teh (1987, 265) put it, “[a]s the entrepreneurs collect money, the politicians collect friends.”

Such highly particularized interest group politics stand somewhat in tension with a widespread belief in an identifiable *public* good that government is supposed to serve, a conviction nurtured in Taiwan's dictatorial developmental state (see also Johnson 1982). The freedom to pursue divergent political goals that democracy offers presents the possibility of a disarray that throws the definition of the public good into question. In contrast, government administration remains peopled with long-term career professionals hired through a highly competitive examination system—a steady and expert population that can claim some power to entrench a rule of law. Interlocutors in the Taipei City Government, for instance, often figured legislators as a challenge to the rule of law, with frequent requests to bend the rules for particular constituents (Bernstein 2008). In the central government, interviewees grouped bureaucrats and judges as “officials (*guan*)” hired through civil service exams and follow regular promotion tracks, while legislators—embroiled in relationships of aid and obligation with individual constituents—were something of a wild card, less predictable and subject to institutional strictures than the professionalized civil service.

C. Administration and Administrative Law

Constitutions and elections are seen to be central characteristics of a republican form of government (Pettit 1997). But like any cultural universal, they can have different valences in different contexts (Sahlins 1976). Taiwan's democratization history—also the history of my research subjects—indicates how its particular trajectory can lead administration to play a central role in an ideology of democracy. The civil service formed a key site in which the infrastructure of the democratic transition developed. The KMT's 1949 retreat to Taiwan brought roughly two million migrants, most linked to the party, from China to Taiwan. Through education, career pathways, and violence, the KMT instituted an ethnicized regime that distinguished local Taiwanese (*bensheng ren*) from these Chinese migrants (*waisheng ren*).^{vii} To alleviate some of the conflicts that ethnic division caused, the party began “localizing (*bentubua*),” opening up government posts to local Taiwanese, in the 1970s (Chun 2000). As the rest of the world withdrew recognition of the KMT party-state on Taiwan in favor of diplomatic relations with the People's Republic of China, localization enabled the KMT some claim to provide a more democratic alternative to China. The liberalizing movement that started in the 1970s—which led up to democratization—was phrased largely in the terminology of ethnonational awakening and empowerment for local Taiwanese. By changing the methods of

administrative staffing in ways that dramatically altered the composition of the staff, meanwhile, localization made governance available to the governed. It successfully integrated the government apparatus, giving the disenfranchised majority a voice in policy decisions—even at a time when that population still largely lacked such a voice in meaningful elections.

In the wake of the democratic transition, Taiwan began instituting legal restrictions on administrative power. Administrative law had become a focus for reform discussions already under martial law because it was considered safer, “less connected to politics” than the Constitution, as Weng Yueh-Sheng put it when explaining why he changed course from writing about constitutional law to writing about administrative law after returning from his studies in Germany.^{viii} Weng, for instance, proposed revising the administrative appeals process to provide easier access to independent courts, an approach instituted in 1998, a decade after martial law ended. At a time when the constitution served dictatorial purposes and “suggesting constitutional revision [was a] political taboo” (Yeh 1990, 85-87), administrative law provided a safer, and potentially more legitimate, avenue to express democratic impulses.

Early in the democratization process, the prominent legal scholar Jiunn-Rong Yeh criticized the absence of channels for private parties to express their views: “[o]wing to institutional deficiencies in incorporating citizen input, citizen participation in Taiwan has been accomplished mainly through protests or civil disobedience” (1990, 94). In 2000, Taiwan passed its Administrative Procedure Act (APA). The APA created standard channels for private party participation in governmental decisions, imposing for the first time a slew of requirements for agencies promulgating regulations (Baum 2011). Agencies are required to announce and accept comments on proposed regulations (Taiwan APA Art. 154); and hold hearings for adjudications that impair the interests of private parties (Taiwan APA Art. 102).

Each stage of the historical trajectory described here built on and incorporated what existed before it: the dictatorial use of the Constitution has not been forgotten, and elections have retained their personalistic quality, even as they have come to structure a newly democratic government.

IV. LEGISLATION AS AGENCY ACCOUNTABILITY

It was the end of a long interview with several administrators in the National Health Insurance Administration. This agency implements Taiwan’s universal health insurance system, instituted in 1995. My interviewees spoke of their workplace in highly affective terms. “We got married in the department,” one of them said; “we had our children here.”^x When they boasted of the agency’s broad popularity, they sounded a bit like parents proud of their own child. What was it, I asked, that lent the agency’s actions legitimacy?

“Fundamentally,” Ms. Xian, the most senior administrator in the group, responded, “these child laws (*zifa*) all come from mother laws (*mufa*).”^x The term *mufa*, ‘mother law,’ refers to a statute; *zifa*, ‘child law,’ refers to the regulations born of that mother law. These family-based terms are the standard way administrators refer to laws and regulations. The terms *zifa* and *mufa* instantiate a familial idiom that crops up in many Taiwanese terms for social relationships.^{xi} The prevalence of family as metaphor likely draws on a traditional Confucian emphasis on hierarchical family relations as a model for social life (Fingarette 1998[1972]; Fei 1992; Greenhalgh 1984). But the words also express the principle of German administrative law, a major influence on Taiwan, that agency action must be based in a specific statutory delegation of authority (Singh 2001; Taiwan APA Art. 10). Thus, the first basis for the agency’s legitimacy was the way statutes governing national health insurance delegated rulemaking authority to the agency. This formulation clearly places administrative acts in a subordinate position to legislative ones.

Yet, as in many familial relationships, the situation is not quite so simple. Under Taiwan’s Constitution, executive agencies have the authority to independently propose bills to the legislature

(*ti'an quan*, the right to raise an issue) (Constitution of the Republic of China (Taiwan), Art. 58).^{xii} Administrative departments have components responsible for finalizing legislation to propose (*fagui weiyuanhui* or *falii shi*). Often, a substantive component will draft proposed legislation, which the legislative drafting component edits and revises before proposing the bill to the legislature. In addition to this independent legislative drafting authority, agencies also play an advisory and supporting role to legislators. A legislator interested in putting forward legislation usually turns to an agency for advice on an issue within its sphere of expertise; most legislators then have agency personnel draft the statutory text. Thus, agencies are routinely tasked with producing differing, even conflicting, versions of proposed statutes for different legislators. Individual administrators also often play an informal advisory role, through phone calls or side conversations with legislators or aides. Representatives from relevant agencies are expected to attend legislative sessions where bills are read into the record, so that they can answer questions that come up during discussion and debate.

Administrative involvement in legislation often follows these different routes simultaneously. Administrators reported that the legislature often considers a number of different drafts (*bamben*) of bills on the same topic, which may include competing versions commissioned by different legislators along with the administration's independent proposal, all of which drafted by the same agency. Administrators from diverse agencies told me that it was not uncommon for their agency to advise legislators on drafting a bill to say what the legislator wanted, while also warning the legislator of the problems inherent in his or her approach, and at the same time separately drafting a different bill for the agency to propose independently. Administrators also participate in producing the statement of purpose, the *lifa liyou* ("law-enacting reason"), that normally accompanies each statutory provision and clarifies what agencies are expected to accomplish. Agency involvement in legislative production was so thorough that administrators sometimes went out of their way to emphasize that legislators had the authority to propose legislation on their own. That agencies wrote the statutes that legislators voted on was unremarkable to my interlocutors. But that legislators sometimes took it upon themselves to produce statutory text independently was considered sufficiently noteworthy that a number of interviewees took pains to ensure I understood that this was a possibility.

Although every *zifa* comes from a *mu*fa, then, administrators do not present the relationship as one of unilateral command by the legislature, nor of mechanical implementation by the agency. Rather, administrators describe the process of producing regulations for statutes as one of ongoing conversation and negotiation among different parts of the agency—substantive component, legislative drafting component, individual bureaucrats—and different parts of the legislature—the whole body, specific committees, individual legislators.

In my fieldwork, bureaucrats thus described themselves as playing a large role not just in implementing the laws of the democratically elected legislature, but also in producing them. Moreover, administrators presented their deep involvement in statutory production not just as part of their job, but as part of what justified their job. When I mentioned that some observers might see the high level of agency involvement in statutory drafting as a challenge to the proper separation of powers, interviewees generally expressed confusion and disbelief. As one high-ranking administrator put it, having an agency draft legislation "is called *accountability*. I [the agency] am responsible for these things. So when I think that the way we do these things needs to be modified, well, I ought to express our suggestions. So for administrative agencies to propose legislation is extremely legitimate and reasonable."^{xiii} Another mid-level administrator was clearly shocked by my suggestion that some people might find it inappropriate for agencies to write law. Letting her arm fall to the table and leaning in across it, she burst out, "That is really strange! But it—the agency—*it* bears the responsibility for its policies" implementing the statute.^{xiv}

This view echoed what Taipei City administrators described as well. Taipei's Department of Legal Affairs (*fawujia*), for instance, is charged with evaluating whether proposed city regulations conform to applicable laws. To determine the meaning of the law, administrators in that department look primarily to the documents and records produced in the writing of the legal provision, and even sought out the people who produced it to discuss the issues in person. Specifically, they would contact the *administrators* who had worked on a given law, even when those administrators had moved on to posts in the central government or gone into private employment. As in the central government, my Legal Affairs interviewee explained, it is usually the administration that proposes new laws in the city government. It is therefore the bureaucrats who best know what a law was meant to accomplish.^{xv}

Legislatures form a primary vector in the accountability network of a democratic bureaucracy. My interlocutors routinely emphasized the importance of legislative delegation (*shouquan*) to the administrative branch. They commented that “our democracy has become quite mature.”^{xvi} They praised the rapid development of what one judge called government actors’ “separation of powers consciousness (*fenquan yishi*).”^{xvii} But recognizing the legislature’s part in the administrative accountability network without including a cultural analysis only reveals so much. Legislatures can play different practical and ideological roles depending on what meanings people ascribe to the interaction of executive and legislature.

Some might imagine administration as an ‘agent’ to a legislative ‘principal.’ In this image, accountability flows in one direction: bureaucrats who fulfill legislative mandates are accountable to legislatures that issue them. This principal-agent model “assume[s] that at the center of any given political system there is a single actor that can be characterized as sovereign at a particular point in time” (Ginsburg 2002a, 248).^{xviii} Yet my administrative interviewees did not present themselves in this way. Although they clearly saw themselves as beholden to the statute they implemented, that statute did not arrive at their door a stranger, a unilateral command from the legislature. Rather, it took shape largely in administrators’ own hands, through an interactive process in which agency actors exercised both expertise and authority.

This vision of separated powers consciousness in a mature democracy did not involve political branches jealously guarding their work from one another’s influence. Rather, administrative agencies remained ‘accountable’ to the legislature, and the people, by participating actively and openly in the production, as well as the implementation, of legislation. Taking responsibility for the regulations they promulgated included being responsible for the statute that authorized those regulations. This formulation retains some aspects of the typical developmental state structure, where the executive leads on economic policies which the legislature more or less rubber stamps (Johnson 1982; Ginsburg 2001; Bishai 1991; Gold 1986; Amsden 1985). But it incorporates a new emphasis on dynamic interaction, consultation, and multi-party deliberation: administrators did not present themselves as properly determining the content of the laws for others to pass. Rather, they figured themselves as legitimated participants in a broad-based legislative process with contested proposals and unpredictable results. In the view of my Taiwanese interlocutors, extensive administrative involvement in statutory production is not only permissible, but necessary. And it is not just necessary for making laws efficacious; it is also necessary for making them legitimate.

V. PUBLIC PARTICIPATION AS POLITICAL ETHICS

Taiwan’s APA mandates a notice-and-comment process for rulemaking, but when I asked administrators how the APA affected their work, most had little to say about it. This is not to say that they weren’t aware of the APA, nor that they did not follow it. But their own conception of their work clearly did not rest on the requirements laid down by this law. For instance, when I asked a long-term mid-level administrator in the Ministry of the Interior how the APA had affected her

work, she said it hadn't: the law merely codified conceptions and practices that were already prevalent in her department.^{xix} This combination of awareness of the APA with a consistent waving-off of its importance characterized many of my conversations with government administrators.

Instead of describing their work as structured by the APA's notice-and-comment requirements, administrators largely echoed Ms. Xian. After noting that every child law came from a mother law, Ms. Xian went on to explain that her agency's actions had legitimacy because "There's a lot that we have to consult about with everyone." Standards for private conduct, agency spending, rate setting, every decision has to "go through *meetings*." Ms. Xian said the word "meetings (*kaihui*)" slowly, with emphatic enunciation, hands bobbing up and down to emphasize each syllable. Agency personnel meet "with everyone: with consumers, with doctors—we *meet*. It's not just that we 'put up information on a website.' Our meetings have a representative character" that allows the agency to develop "consensus."^{xx} As I have written elsewhere, reaching consensus is frequently the stated goal of meetings regarding government regulations, including those at which administrators seek to ensure that private parties adhere to the regulations that govern them (Bernstein 2008).

A. Scholarly Participation as Bureaucratic Action

As Ms. Xian's comment indicates, Taiwanese administrators consult not only with legislators but with a range of parties outside the government. For one thing, agencies drafting legislation and regulations rarely do so on their own. They typically consult with scholars and experts in the relevant field. Taiwan's academic world is highly integrated with the government. Numerous Taiwanese interlocutors have told me, with some satisfaction, that Taiwan's government has the world's highest proportion of Ph.D.'s.^{xxi} It is quite typical, moreover, for a successful scholar to be appointed to a government post; a number of people described a revolving door between government and academia. Holding government posts, however, is just the tip of the iceberg in academic involvement in producing laws and regulations.

Agencies routinely convene panels of scholarly advisors. By law, agency appeals panels (*shuyuan hui*)—the intra-agency bodies that review private party appeals from administrative acts that affect private rights—must include at least 50% scholars or other experts (Chang 2014, 266). Professors also often sit on commissions that determine private party eligibility for government benefits. For instance, a Taiwanese anthropologist explained that when indigenous groups apply for government funding to support the preservation of their cultural heritage, scholars comprise part of the evaluation. As a participant in this kind of evaluative panel, she said, she felt she played a role of epistemological mediation. As the panel looked through indigenous group applications, consulted local governments, and spoke with indigenous group representatives, scholars in the group had to explain to administrators both what the indigenous practices were and how they should value such cultural heritage. On the other hand, scholars on the panel also often found themselves explaining to applicants what exactly was subject to funding and how they should formulate their application.

Scholarly involvement does not end at evaluating case-specific decisions, though. It extends to drafting the regulations that implement statutory mandates, and even the statutory language that agencies propose to the legislature. For instance, the anthropologist was involved not just in panels evaluating indigenous group funding applications, but also in revising the law governing cultural heritage funding itself. Agencies will regularly hire scholars and experts to do this work, often through multiple rounds: one committee of scholars will produce a first draft of legal text, which the agency will pass on to a second committee of other scholars for commentary.

This kind of scholarly input, moreover, occurs not only in the arenas of cultural recognition but all over the regulatory spectrum. For instance, a mid-level administrator in the National Development Council, which has a broad economic development mandate, described how his agency created regulations implementing part of a recent public land use law (*Guotu Jibunafa*). The

agency outsourced the production of standards for determining public land conservation areas to a committee of scholars, whose work was then reviewed by an inter-agency committee of government employees. Both administrators and scholars treat scholarly input into regulations and laws as highly influential; many used the word “entrust (*weitu*),” often used for government outsourcing, to describe the relationship.^{xxii}

Scholars’ participation is not only influential; it is also spread broadly across academia. One environmental studies professor—herself a vocal activist for government reform—complained that agency advisory panels took up a big part of her working hours. I asked if she was particularly in demand. “It’s a small pool,” she responded (in English); scholars in general seemed to be in demand. Another professor agreed, noting the challenge of participating in such committees when she viewed her own scholarship as an enterprise in critique. Yet, even coming from a critical perspective, she received so many invitations to sit on government commissions that she had to turn most of them down to leave time for her own research.

In the accountability network of Taiwanese administrators, then, scholars constitute a special node of mutual influence—not just a population to which administrators are accountable but one on which they depend to do their work. Like administrators, who participate in lawmaking by advising legislators and writing legislative text, scholars write regulations to be reviewed by other scholars and administrators, and produce legislative text proposals to be presented to the Legislature by agencies as mediators and collaborators. The structures through which regulations are produced, then, support administrators’ presentation of their work as highly interactional, embedded in social networks that exceed the agency, and dependent on perspectives from outside the government.

B. Bureaucracy as a Social Actor

Scholars, of course, are not the only people administrators encounter. Administrators I interviewed from a range of agencies emphasized the centrality of public input and public opinion. The kinds of input they referred to took the form of direct communication between agencies and the populations under their purview. These included meetings agencies held with constituents; constituent phone calls; and personal conversations with affected parties; as well as internet-based comment submissions, often organized as a group effort with a number of signatories. Recall that Taiwan’s Administrative Procedure Act requires agencies to solicit comments on proposed rules. When I raised these requirements myself, administrators recognized them and agreed that they bound agencies. But no administrator I interviewed themselves raised these provisions as a source of public participation. In other words, although the law requires some amount of public consultation, the administrators I studied did not refer to the law as the reason for the consultation they did. Instead, administrators presented their interactions with their publics as the ethical basis for their claim to recognize, and to serve, the public good.

This lack of interest in the law was echoed in discussions of the possibility that an agency’s decisions might embroil it in litigation with private parties. Modeled on the German system, Taiwanese administrative litigation allows private parties to challenge decisions that directly affect their interests through an agency-internal review (*suyuan*) that can be appealed to an independent Administrative Court system for the judicial review of agency action (*susong*). As in the German system, parties may litigate only decisions that directly affect their own interests; there is no facial challenge for regulations as there is under, for instance, the American APA. Litigation risk for agency action is thus lower in Taiwan than in some (though not most) other systems. Still, private parties do utilize the administrative appeal and Administrative Court system. Indeed, the Administrative Court system has been developing continuously for twenty years, recently expanding to include a new level for challenges involving limited monetary sums.^{xxiii} And a challenge to a specific application of a regulation may end by invalidating the rule itself.^{xxiv} The administrators I

talked to, though, never brought up litigation risk as a consideration in regulation drafting. When asked about it, one administrator responded that his agency dealt with a court's invalidation of agency action when it happened; it was not something worth planning for.^{xxv}

Administrators thus discounted the significance of *legal* routes through which private parties may seek to change or challenge agency decisions. Instead, they referred frequently to more direct communications between affected populations and administrators, unmediated by courts or formal legal process. And they phrased this interaction less as a legal requirement than as a species of political ethics, often described in personal, affective terms. A number of administrators contrasted—sometimes ruefully—the power that bureaucrats had held in the era of dictatorship with the training they received now to “serve the people (*wei renmin fuwu*).” What this slogan meant, one administrator explained to me, was that when private parties called up on the phone and yelled at you, you stayed on the phone and talked to them.^{xxvi}

This sense that government administrators played an important role in public life was echoed in the Taipei City Government. For instance, a high-level Taipei urban planning administrator, discussing a conflict about zoning in a popular commercial and residential area, explained that the government's role is less to tell people what to do and more to mediate among their competing interests, to make obeying government policy in their interest.^{xxvii} Indeed, a number of administrators described their work as influenced by the fear of public opprobrium, of being “scolded” or “cursed” (*ma*) by the public. When I probed the negative consequences of being *ma* would be—could an administrator lose his job? be transferred to a less desirable post?—my interviewees focused on the *fact* of public disapproval. The negative consequence of being scolded, as they described it, was the scolding itself. These administrators thus expressed a sense that public confidence or trust was a condition for successful agency work.

Not only administrators but those with whom they tussled routinely adverted to bureaucracy's central role in effectuating democratic impulses. In a typical example, Dujun, an activist student, described her work in an urban neighborhood whose residents had gathered data to demonstrate that the air quality was worse than the Environmental Protection Agency (EPA) had claimed. The EPA, Dujun explained, takes the average air quality of larger areas, missing differences among localities within an urban area. The EPA had taken steps to mitigate the problems the residents had found, but residents and activists were dissatisfied they were the ones gathering the data: “They feel that this is something the *government* ought to do.”^{xxviii}

VI. LEGALITY AND PUBLIC PARTICIPATION

The expectation—the requirement—that government agencies be not only responsive to, but out ahead of, the demands of civil society groups was a common theme for both the activists I've talked to over the years and the administrators who form the target for their demands. Both administrators and activists often present citizen involvement as a crucial aspect of government legitimacy. Like the activists I talked to, administrators described bureaucracy as the proper place for public participation.^{xxix}

Some activists have tried to mobilize the power of law to push government agencies into greater and more pro-active public consultation (Tu 2005). For instance, Taiwan's APA does not require an agency to publicly respond to comments, and some activists complained to me that this could render the comment process a sham which required agencies to collect comments that they could then simply ignore.^{xxx} In the limited area of hospital reimbursement through the National Health Insurance Administration, this push has recently borne some fruit: a Constitutional Court opinion recently ruled that the agency must not only hold hearings on reimbursement rates, but must also publish its rationales for adopting and rejecting participant comments.^{xxxi} This reasoning has not yet been extended to other regulatory areas, but this judicial move is reminiscent of the way

that U.S. court decisions have created a judicial overlay of procedural requirements that exceeds the strict provisions of America's Administrative Procedure Act.^{xxxii}

When I asked National Health Insurance Administration interviewees how the ruling would affect their work, however, Ms. Xian waved her hand dismissively. Administrators developing a regulation, she replied, already "evaluate whether the comments [they receive] make good points." When they reject a proposal in the comments, administrators already explain that decision in internal decision-making documents. The new judicially imposed requirement "actually...just means making our [existing] process public, is all."^{xxxiii} The internal culture of this administration thus presented private party input as part of its expertise and a basis for its legitimacy; whether it was required by law was presented as a side issue.

VII. LEGAL AMALGAMS

Taiwanese law, government, and political culture has incorporated a host of ideas and influences from its Chinese imperial rulers (1644-1945), Japanese colonizers (1895-1945), and KMT dictatorship (Huang 2008; Lee 2004; Kirby 1990, 1984; Dirlik 1975). These powers in turn brought others to bear. Germany, Japan, and America have provided lasting influence, and others have played parts as well. The KMT had Soviet advisors for a time (Lee 2004; Kirby 1990). The drafters of the APA took inspiration from German and American procedural laws, and consulted others such as Australia, Japan, and South Korea (Baum 2005).

The organization of courts shows a similar pluralistic dynamism. While the Administrative Court system is modeled on that of Germany, it has evolved, recently introducing a new level with the addition of District Court Administrative Tribunals (*difang xingzheng susongting*) to adjudicate smaller claims.^{xxxiv} Justices on Taiwan's Supreme Administrative Court told me that the Judicial branch was considering a number of further changes, including subsuming the Administrative Court system into the civil-criminal system altogether, and introducing jury trials on the American model for at least some civil-criminal cases.^{xxxv}

Taiwanese students, professors, and civil servants continue to study law and policy abroad, primarily in Germany, Japan, and the United States, bringing ideas from those countries back home. Acquiring an advanced degree from one of those countries is an important career-enhancing move for a government administrator. Legal scholars told me that journal editors choose referees with the same study-abroad (*liuxue*) background as authors, and that a retiring academic would presumptively be replaced by someone who had studied abroad in the same country. Taiwan's continuously fraught relations with China, meanwhile, have exerted another kind of influence. The KMT's continued assertion of authority over China after 1949, despite lacking political control there, bent both elections and Constitution to dictatorial ends, making administration an attractive target for those interested in democratic reform. Cross-Straits tensions also helped entrench the ethnicized stratification (mainlander versus local Taiwanese) that localization (*bentuhua*) addressed, contributing to the democratic bone fides of the administration. And China's continued assertion of authority over Taiwan, despite lacking political control there, pushes administrators to demonstrate Taiwan's viability as a nation on the world stage (Bernstein 2008).

This constant, built-in interaction among different legal and political worldviews may contribute to one of the hallmarks of Taiwan's democratic transition: creativity and debate in legal and political arenas. Administrative structures, personnel, and laws, have undergone fairly radical changes over the decades around democratization, and continue to develop rapidly as the administrative apparatus adjusts to developments in its changing political context. In other words, despite—or perhaps because of—the importance of foreign influence, Taiwan is not a land of legal transplants that retain their original characteristics (Watson 1993[1974]). Instead, the country is characterized by legal amalgams: intersecting influences that Taiwanese people continually

incorporate, change, and localize. Understanding its political culture, therefore, entails attending not just to the historical roots and family resemblances of its legal or political systems (Zweigert and Kötz 1998) but to the particular historical trajectories, social circumstances, and local values in which they evolve (Legrand 1997).

In Taiwan, this has meant incorporating a range of outside influences while developing a distinct local culture of vocal democratic demand mixed with a reliance on—indeed a demand for—a highly involved government. This in itself does not, of course, make Taiwan unique. Its widespread understanding of government bureaucracy as obligated to articulate and pursue a general public good, for instance, resonates with understandings of government in French political discourses throughout the twentieth century (Jones 2002). As another example, American administrative agencies are also heavily involved in producing statutory text (Shobe 2017; Parrillo 2013).

Yet these characteristics take on particular forms and meanings in Taiwan's particular context. As Jeeyang Rhee Baum (2011) has argued, for example, the seemingly similar APAs produced under seemingly similar circumstances in Taiwan and Korea emerged from quite different internal political struggles and served different purposes for those who passed them. And despite their similarities, American bureaucrats' role in legislation is not well publicized or discussed in administrative law textbooks. It even appears to be in some tension with common discussions of separation of powers in the American context (Ackerman 2000). Taiwanese administrators, in contrast, present participation in legislation as integral to their accountability to both government and populace. Taking the legislative mantle, they play the role of both principal and agent in the governmental structure, suggesting that principal-agent models may be of limited utility in the complex power distributions that characterize governments.

Relatedly, Taiwan's bureaucracy has built on, rather than simply rejected, its role in the country's dictatorial developmental-state period. Retaining its centrality in a modified way, it has framed itself as a key site for public participation for the common good. The freedom to pursue divergent political goals that democracy offers also presents the possibility of a disarray that throws the definition of the public good into question. During my fieldwork in the early 2000s, members of just about every social group with which I came in contact told me something along the lines of, "Taiwan is too democratic" (Bernstein 2017).^{xxxvi} Even some activists I studied—who would have been sanctioned for their activism under martial law (Lewis and Cohen 2013)—said so. The explanation most gave had to do with the loss of consensus (*gongsbi*) on questions of the public good. Administration, in contrast, can be framed as identifying and pushing for a general public interest in the face of the miscellany of private interests pursued by legislators beholden to individual constituents.

I do not mean to suggest that there is something unusual about interest group politics, which are surely a feature of any polity. What I emphasize here is the way my research subjects figured legislators' responsiveness to private interests as a challenge to public policy and even the rule of law, values that administrators presented themselves as furthering. Staffed with long-term career professionals representative of the population they govern and hired through an independent examination-based process, bureaucracy can be both a foundation for democracy and a bulwark against its potentially dangerous excesses.

Although here I focus on the views of administrators, my long-term research suggests that this view may be more widely shared by many in Taiwan. This impression has support in a survey that reports that only 24.7% of Taiwanese survey respondents agreed that "the legislature should check the executive" (Chu et al. 2010, 32). From one perspective, this result may look like an authoritarian hangover: the population of a country recently emerging from a dictatorship in which the executive monopolized public discourse retains the ideological predilections of that dictatorial

propaganda. It may indeed owe something to that history. But it builds also on a more recent history in which administrators have come to occupy a newly participatory administrative environment, and to treat that openness as central to their own legitimation, while legislatures retain their habits of personalistic deal-making. At least in some eyes, then, bureaucracy can be a fulcrum for popular participation and democratic legitimacy.

VIII. CONCLUSION: ADMINISTRATIVE CULTURE AS DEMOCRATIC INFRASTRUCTURE

I have argued here that studying the cultural aspects of bureaucracy—the bases on which people ascribe meaning to structures and practices—is key to understanding the legitimation of the administrative state. We should take the worldviews of bureaucrats as seriously as we take those of the people they regulate. Viewing administration as a cultural arena can provide insight into how governments justify their actions. And it opens up avenues to consider the variety of bases that even successful democracies can turn to for legitimacy.

Given Taiwan's remarkable success at democratic transition—all the more unlikely given its lack of recognized *de jure* sovereignty—it is worth considering the role of administrative culture in democratic viability more broadly. My findings here suggest that administrative culture provides a foundation for more visible indicators of democracy, like elections and constitutions, to take effect, even as it provides a bulwark against the potentially destabilizing effects of democratic transition. While scholarship and public discourse often counterpose administration with democracy, my interlocutors suggest a different way to understand the relationship. Bureaucracy, in their presentation, does not compete with democracy but provides its condition of possibility.

Administrators' descriptions of government present a particular ideal of democratic process. In this image, rather than being primarily bound by legal strictures, state actors work in ongoing, direct dialogue with the populace under their purview and the legislators who guide their discretion. Interested private parties speak directly to bureaucrats through meetings and comments. Scholars, another, mediating kind of private party, participate in writing laws, producing regulations, and making adjudicatory decisions.

Government employees, in turn, are the agents not just of the Premier who is their boss, nor of the Legislature which enacts their statutes, but also of the public itself (see Kahn and Brennan-Marquez **). In this vision, the bureaucracy represents the general will and furthers the public good at least as much as—perhaps more than—the democratically elected legislature. Ideologically, the administrative state plays a central role not just in implementing policy but in creating and legitimating it. It connects the people to their government. It even connects the legislature to its own legislation.

I do not mean to suggest that this ethical commitment renders Taiwan's government inherently legitimate, nor that it effectively ensures that all interests are considered in administrative decisions. Taiwanese citizens are not uniformly enamored of their government, and struggles about the distribution of power and the role of law constitute as much of the political life of this polity as of any other. My point, rather, is to elucidate how those citizens who populate the government present the grounds for its legitimacy.

Qualitative research on administrators does not generally see bureaucracy as a site for popular participation. Yet that is how the bureaucrats I study present their workplace. They imagine government not as a superordinate decider but as an embedded social actor, implicated in normal social processes and subject to their strictures, conventions, and values. Key to this role is both the administration's ongoing cooperation with the legislature and its relationships of creatively evolving accountability and obligation with the public. On this view, democracy ties the populace not just to elected representatives, but to the administrative state itself.

This bureaucratically oriented version of direct democracy—perhaps I should say direct bureaucracy—helps constitute the legitimacy of administrative action for those who practice it my field site. This local ideology illuminates how bureaucracy, rather than sully or competing with democracy, can be seen as co-constitutive with it. For my subjects, a key aspect of this legitimately democratic bureaucracy is its ongoing entanglement with things outside itself. Bureaucrats describe a highly porous administration shot through with multiple influences from other institutions, groups, and individuals. And they describe that as how it should be.

References

Agha, Asif, "The Social Life of Cultural Value." *Language and Communication* 23, no. 3-4 (2003): 231-273.

Amsden, Alice H. "The State and Taiwan's Economic Development." In *Bringing the State Back In*, edited by Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, 78-106. Cambridge: Cambridge University Press, 1985.

Asimow, Michael. "Five Models of Administrative Adjudication." *American Journal of Comparative Law* 63 (2015): 3-31.

Baum, Jeeyang Rhee. *Responsive Democracy: Increasing State Accountability in East Asia*. Ann Arbor: University of Michigan Press, 2011.

—. "Breaking Authoritarian Bonds: The Political Origins of the Taiwan Administrative Procedure Act." *Journal of East Asian Studies* 5, no. 3 (2005): 365-399.

Bernstein, Anya. "The Songs of Other Birds." In *Insiders, Outsiders, Injuries, and Law: Revisiting The Oven Bird's Song*, edited by Mary Nell Trautner, 219-236. New York: Cambridge University Press, 2018.

—. "Bureaucratic Speech: Language Choice and Democratic Identity in the Taipei Bureaucracy." *PoLAR: Political and Legal Anthropology Review* 40 (2017): 28-51.

Bignami, Francesca. "From Expert Administration to Accountability Network: A New Paradigm for Comparative Administrative Law." *American Journal of Comparative Law* 59 (2011): 859-907.

Bignami, Francesca and David Zaring, editors. *Comparative Law and Regulation: Understanding the Global Regulatory Process*. New York: Edward Elgar, 2016.

Bishai, Martha Fitzpatrick. "The Development of Industrial Land in Taiwan: A Legal Framework for State Control." *Journal of Developing Areas* 26 (1991): 53-64.

Bosco, Joseph. "Taiwan Factions: *Guanxi*, Patronage, and the State in Local Politics." *Ethnology* 31, no. 2 (1992): 157-184.

Boughey, Janina. "Administrative Law: The Next Frontier for Comparative Law." *International and Comparative Law Quarterly* 62 (2013): 55-95.

Bourdieu, Pierre. *On the State: Lectures at the Collège de France, 1989-1992*, translated by David Fernbach. Cambridge: Polity Press, 2014.

Cabot, Heath. *On the Doorstep of Europe: Asylum and Citizenship in Greece*. Philadelphia: University of Pennsylvania Press, 2014.

Carothers, Thomas. "The End of the Transition Paradigm." *Journal of Democracy* 13, no. 1 (2002): 5-21.

Chang, W. C. "The Role of Judicial Review in Consolidating Democracy: the Case of Taiwan." *Asia Law Review* 2, no. 2 (2005): 73-88.

Chang, Yun-chien. "The Evolution of Property Law in Taiwan: An Unconventional Interest Group Story." In *Private Law in China and Taiwan: Law and Economic Analyses*, edited by Yun-chien Chang, Wei Shen, and Wen Yeu Wang. Cambridge: Cambridge University Press, 2016.

—. "An Empirical Study of Administrative Appeal in Taiwan: A Cautionary Tale." *Transnational Law & Contemporary Problems* 23 (2014): 263-304.

Chen, Chia-Ming. "Searching for Constitutional Authority in the Sunflower Movement." *Hong Kong Law Journal* 45, no. 1 (2015): 211-228.

Chin, Ko-lin. *Heijin: Organized Crime, Business, and Politics in Taiwan*. Armonk, NY: M.E. Sharpe, 2003.

Chu, Yun-han, Larry Diamond, Andrew J. Nathan, and Doh Chull Shin, eds. *How East Asians View Democracy*. New York: Columbia University Press, 2010.

Chuang, Ya-Chung. "Democracy in Action: The Making of Social Movement Webs in Taiwan." *Critique of Anthropology* 24, no. 3 (2004): 235-255.

Chun, Allen. "From Nationalism to Nationalizing: Cultural Imagination and State Formation in Post-War Taiwan." In *Chinese Nationalism*, edited by Jonathan Unger, 49-69. Armonk NY: M. E. Sharpe, 1996.

—. "Democracy as Hegemony, Globalization as Indigenization, or the 'Culture' in Taiwanese National Politics." *Journal of Asian and African Studies* 35, no. 1 (2000): 7-27.

Constitution of the Republic of China (Taiwan). Available at <https://english.president.gov.tw/Page/94>.

Daniels, Brigham. "Agency as Principal." *Georgia Law Review* 48 (2014): 335-423.

Dewey, John. *The Public and Its Problems*. In *John Dewey: The Later Works, 1925-1953*, edited by Jo Ann Boydston, vol. 2. Carbondale: University of Illinois Press, 1984.

Dirlik, Arif. "The Ideological Foundations of the New Life Movement: A Study in Counterrevolution." *Journal of Asian Studies* 34, no. 4 (1975):947-978.

Economist Intelligence Unit. 2017. *Democracy Index 2017: Free Speech Under Attack*. Available at http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2017.pdf&mode=wp&campaignid=DemocracyIndex2017.

Enfield, N.J. and Paul Kockelman. 2017. *Distributed Agency*. Oxford: Oxford University Press.

Engel, David M. "The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community." *Law and Society Review* 18, no. 4 (1984): 551-582.

—. "Globalization and the Decline of Legal Consciousness: Torts, Ghosts, and Karma in Thailand." *Law & Social Inquiry* 30, no. 3 (2005): 469-514.

- Eppinger, Monica. "Sages, Savages, and Other Speech Act Communities: Culture in Comparative Law." *St. Louis University Law Journal* 57 (2013): 407-428.
- Ernst, Daniel R. *Tocqueville's Nightmare: The Administrative State Emerges in America, 1900-1940*. Oxford: Oxford University Press, 2014.
- Espeland, Wendy Nelson. "Bureaucratizing democracy, democratizing bureaucracy." *Law & Social Inquiry* 25, no. 4 (2000): 1077-1109.
- Evans, Peter. *Embedded Autonomy: States and Industrial Transformation*. Princeton: Princeton University Press, 1995.
- Fassin, Didier, Yasmine Bouagga, Isabelle Coutant, et al. *At the Heart of the State: The Moral World of Institutions*. Translated by Patrick Brown and Didier Fassin. London: Pluto Press, 2015 [2013].
- Fei, Xiaotong. *From the Soil: The Foundations of Chinese Society*. Translated by Gary Hamilton and Wang Zheng. Berkeley: University of California Press, 1992.
- Fingarette, Herbert. *Confucius: The Secular as Sacred*. Waveland Press, 1998[1972].
- Freedom House. 2018. Interactive Map. Available at <https://freedomhouse.org/report/freedom-world/freedom-world-2018>.
- Gal, Susan. "Language Ideologies Compared: Metaphors of Public/Private." *Journal of Linguistic Anthropology* 15 (2005): 23-37.
- Geertz, Clifford. 1974. "'From the Native's Point of View': On the Nature of Anthropological Understanding." *Bulletin of the American Academy of Arts and Sciences* 28(1), 26-45.
- Ginsburg, Tom. "Written Constitutions and the Administrative State: On the Constitutional Character of Administrative Law." In *Comparative Administrative Law*, edited by Susan Rose-Ackerman and Peter Lindseth, 117-127. New York: Edward Elgar, 2010.
- . "Administrative Law and the Judicial Control of Agents in Authoritarian Regimes." In *Rule by Law: The Politics of Courts in Authoritarian Regimes*, edited by Tom Ginsburg and Tamir Moustafa, 58-73. Cambridge: Cambridge University Press, 2008.
- . "Comparative Administrative Procedure: Evidence from Northeast Asia." *Constitutional Political Economy* 13 (2002a), 247-264.
- . "Confucian Constitutionalism? The Emergence of Constitutional Review in Korea and Taiwan." *Law & Social Inquiry* 27, no. 4 (2002b): 763-799.
- . "Dismantling the Developmental State? Administrative Procedure Reform in Japan and Korea." *The American Journal of Comparative Law* 49, no. 4 (2001): 585-625.
- Gold, Thomas B. *State and Society in the Taiwan Miracle*. Armonk, NY: M. E. Sharpe, 1986.
- Greenhalgh, Susan. "Networks and their nodes: Urban society on Taiwan." *The China Quarterly* 99 (1984): 529-552.
- Hamburger, Philip. *Is Administrative Law Unlawful?* Chicago: University of Chicago Press, 2014.

- Hayes, Chris. *A Colony in a Nation*. New York: W.W. Norton & Co, 2017.
- Herzfeld, Michael. *The Social Production Of Indifference: Exploring The Symbolic Roots Of Western Bureaucracy*. New York: Berg, 1992.
- Hoag, Colin. "The Magic of the Populace: An Ethnography of Illegibility in the South African Immigration Bureaucracy." *PoLAR: Political and Legal Anthropology Review* 33, no. 1 (2010): 6–25.
- Hoag, Colin and Matthew Hull. "A Review of the Anthropological Literature on the Civil Service," *World Bank Group Development Research Group Impact Evaluation Team Policy Working Research Paper 8081*, 2017.
- Huang, Cheng-Yi. "Unpopular Sovereignty: Constitutional Identity through the Lens of the Umbrella and Sunflower Movements." In *Law and Politics of the Taiwan Sunflower and Hong Kong Umbrella Movements*, edited by Brian Christopher Jones, 117-126. New York: Routledge, 2017.
- . "Enacting the 'Incomprehensible China': Modern European Jurisprudence and the Japanese Reconstruction of Qing Political Law." *Law and Social Inquiry* 33, no. 4 (2008): 955-1001.
- Huang, Cheng-Yi and David S. Law. "Proportionality Review of Administrative Action in Japan, Korea, Taiwan, and China." In *Comparative Law and Regulation: Understanding the Global Regulatory Process*, edited by Francesca Bignami and David Zaring, 305-334. Edward Elgar, 2016.
- Hull, Matthew. *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan*. Berkeley: University of California Press, 2012.
- Huntington, Samuel. *The Third Wave: Democratization in the Late Twentieth Century*. Oklahoma: University of Oklahoma Press, 1991.
- Johnson, Chalmers. *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975*. Palo Alto: Stanford University Press, 1982.
- Jones, H. Stuart. *The French State in Question: Public Law and Political Argument in the Third Republic*. Cambridge; Cambridge University Press, 2002.
- Kagan, Elena. "Presidential Administration." *Harvard Law Review* 114 (2001), 2245-2385.
- Katyal, Neal Kumar. "Internal Separation of Powers: Checking Today's Most Dangerous Branch from Within." *Yale Law Journal* 115 (2005), 2314-2349.
- Kerr, George H. *Formosa Betrayed*. Boston: Houghton Mifflin, 1965.
- Kirby, William C. "Continuity and Change in Modern China: Economic Planning on the Mainland and on Taiwan, 1943-1958." *Australian Journal of Chinese Affairs* 24 (1990), 121-141.
- . *Germany and Republican China*. Palo Alto, CA: Stanford University Press, 1984.
- Langbein, John H. "Cultural Chauvinism in Comparative Law." *Cardozo Journal of International and Comparative Law* 5 (1997), 41–49.

Lin, Chien-Chih. "Pace of Constitutional Transition Matters: The Judicialization of Politics in Indonesia and Korea," *UCLA Journal of International Law and Foreign Affairs* 20, no. 2 (2016), 275-316.

Law, David and Mila Versteeg. "Sham Constitutions." *California Law Review* 101 (2013): 863-952.

Lee, Young-ho (Yi Yeong-ho). "Colonial Modernity and the Investigation of Land Customs: A Comparison of Japan, Taiwan, and Korea." *Korea Journal* 44, no. 2 (2004): 149-173.

Legrand, Pierre. "The Impossibility of Legal Transplants." *Maastricht Journal of European & Comparative Law* 4 (1997), 111-124.

Lerman, Arthur. *Taiwan's Politics: The Provincial Assemblyman's World*. Washington DC: University Press of America, 1978.

Lewis, Margaret K., and Jerome A. Cohen. "How Taiwan's Constitutional Court Reined in Police Power: Lessons for the People's Republic of China." *Fordham International Law Journal* 37, no. 4 (2013), 863-937.

Lipsky, Michael. "Street-Level Bureaucracy and the Analysis of Urban Reform," *Urban Affairs Quarterly* 6, no. 4 (1971): 391-409.

Markell, Patchen. *Bound by Recognition*. Princeton: Princeton University Press, 2003.

Martin, Jeffrey T. "Legitimate Force in a Particularistic Democracy: Street Police and Outlaw Legislators in the Republic of China on Taiwan." *Law & Social Inquiry* 38, no. 3 (2013): 615-642.
———. "A Reasonable Balance of Law and Sentiment: Social Order in Democratic Taiwan from the Policeman's Point of View." *Law & Society Review* 41, no. 3 (2007): 665-97.
———. "Policing an Occupied Legislature: Symbolic Struggle over the Police Image in Taiwan's Sunflower Movement." *Hong Kong Law Journal* 45, no. 1 (2015): 229-248.
———. *Bureaucratic Intimacy and Republican Virtue*. Cornell: Cornell University Press, 2019 (forthcoming).

Mathur, Nayanika. *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*. Cambridge University Press, 2016.

Mashaw, Jerry L. "Norms, Practices, and the Paradox of Deference: A Preliminary Inquiry into Agency Statutory Interpretation," *Administrative Law Review* 57 (2005), 501-542 .
———. "Agency-Centered Or Court-Centered Administrative Law? A Dialogue With Richard Pierce On Agency Statutory Interpretation," *Administrative Law Review* 59 (2007), 889-904.

Meidinger, Errol. "Regulatory Culture: A Theoretical Outline," *Law and Policy* 9, no. 4 (1987): 355-386.

Mitchell, Timothy. "State, Economy, and the State Effect." In *State/Culture: State-Formation after the Cultural Turn*, edited by George Steinmetz, 76-97. Ithaca: Cornell University Press, 1999.

- Miyazaki, Ichisada. *China's Examination Hell: The Civil Service Examinations of Imperial China*. Translated by Conrad Schirokauer. New Haven: Yale University Press, 1981.
- Novak, William J. "Beyond Max Weber: The need for a democratic (not aristocratic) theory of the modern state," *The Tocqueville Review/La revue Tocqueville* 36, no. 1 (2015): 43-91.
- Öniş, Ziya. "The Logic of the Developmental State." *Comparative Politics* 24, no. 1 (1991): 109-126.
- Paley, Julia. *Democracy: Anthropological Approaches*. Santa Fe, NM: School for Advanced Research, 2008.
- Parrillo, Nicholas R. "Leviathan and Interpretive Revolution: The Administrative State, the Judiciary, and the Rise of Legislative History, 1890-1950." *Yale Law Journal* 123 (2013), 266-403 .
- Novak, William. "A Revisionist History of Regulatory Capture." In *Preventing Regulatory Capture: Special Interest Influence and How to Limit It*, edited by Daniel Carpenter and David Moss, 35-48. Cambridge University Press, 2013.
- Pettit, Philip. *Republicanism: A Theory of Freedom and Government*. Oxford: Clarendon Press, 1997.
- Phillips, Steven E. *Between Assimilation and Independence: The Taiwanese Encounter with Nationalist China, 1945-1950*. Stanford, CA: Stanford University Press, 2003.
- Read, Benjamin. *Roots of the State: Neighborhood Organization and Social Networks in Beijing and Taipei*. Palo Alto, CA: Stanford University Press, 2012.
- Rigger, Shelley. *Politics in Taiwan: Voting for Democracy*. New York: Routledge, 1999.
- Rose-Ackerman, Rose and Peter Lindseth, eds. *Comparative Administrative Law*. New York: Edward Elgar, 2010.
- Silverstein, Michael and Greg Urban. "The natural history of discourse." In *Natural Histories of Discourse*, edited by Michael Silverstein and Greg Urban, 1-17. Chicago: University of Chicago Press, 1996.
- Sahlins, Marshall. Colors and cultures. *Semiotica* 16, no. 1 (1976): 1-22.
- Shobe, Jarrod. "Agencies as Legislators: An Empirical Study of the Role of Agencies in the Legislative Process." *George Washington Law Review* 85 (2017): 451-535.
- Singh, Mahendra P. *German Administrative Law in Common Law Perspective*. Heidelberg: Springer Verlag, 2001.
- Supreme Administrative Court (Zuigao Xingzheng Fayuan)*, n.d. (materials published by the Supreme Administrative Court).

Tai, Po-fen 戴伯芬 and Zonghong Lin 林宗弘. *高教崩壞: 市場化, 官僚化與少子女化的危機 (Higher Education Collapse: The Crisis of Marketization, Bureaucratization, and Low Birthrate)*. Taipei: 群學出版社(Qunxue Publishing), 2015.

Taiwan Administrative Procedure Act (Taiwan APA). Available at <https://db.lawbank.com.tw/Eng/FLAW/FLAWDAT01.asp?lsid=FL000632>.

Thelen, Tatjana, Larissa Vetter, and Keebet von Benda-Beckman. "Introduction to Stategraphy: Toward a Relational Anthropology of the State." *Social Analysis* 58, no. 3 (2014): 1-19.

de Tocqueville, Alexis. *Democracy in America*. Harvey C. Mansfield and Delba Winthrop, trans. Chicago: University of Chicago Press, 2000.

Tu, Wen-ling 杜文苓. *環境風險與公共治理：探索台灣環境民主實踐之道 (Environmental Risk and Public Administration: Exploring the Path of Taiwan's Environmental Democratic Practice)*. Taipei: Wunan Book Inc, 2015.

Wang, Tay-sheng. "Translation, Codification, and Transplantation of Foreign Laws in Taiwan." *Washington International Law Journal* 25, no. 2 (2016): 307-329.

Vermeule, Adrian. *Law's Abnegation*. Cambridge MA: Harvard University Press, 2016.

Watson, Alan. *Legal Transplants: An Approach to Comparative Law*. Georgia: University of Georgia Press, 1993[1974].

Weber, Max. *Economy and society: An Outline of Interpretive Sociology*. Vol. 1. Berkeley: University of California Press, 1978.

Weller, Robert P. *Alternate Civilities: Democracy and Culture in China and Taiwan*. Boulder CO: Westview Press, 1999.

Winn, Jane Kaufman. "Relational Practices and the Marginalization of Law: Informal Financial Practices of Small Businesses in Taiwan." *Law & Society Review* 28, no. 2 (1994): 193-232.

Wu, Nai-teh. *The Politics of a Regime Patronage System: Mobilization and Control Within an Authoritarian Regime*. Unpublished PhD diss. University of Chicago, 1987.

Wyman, Bruce. *The Principles of the Administrative Law Governing the Relations of Public Officers*. Keefe-Davidson Company, 1903.

Yeh Jiunn-Rong. "Changing Forces of Constitutional and Regulatory Reform in Taiwan." *Journal of Chinese Law* 4, no. 1 (1990): 83-100.

—. "Democracy-driven Transformation to Regulatory State: The Case of Taiwan." *National Taiwan University Law Review* 3, no. 2 (2008): 31-59.

Zakaria, Fareed. "The Rise of Illiberal Democracy." *Foreign Affairs* 76, no. 6 (1997): 22-43.

Zhang, Angela Huyue, Jingchen Liu, and Nuno Garoupa. “Judging in Europe: Do Legal Traditions Matter?” *Journal of Competition Law and Economics* 14, no. 1 (2018): 144-178.

Zweigert, Konrad and Hein Kötz. *An Introduction to Comparative Law*, revised edition, translated by Tony Weir. Clarendon Press, 1998.

ⁱ The research for this article included interviews with around 30 participants in Taiwan’s central government and the government of its capital, Taipei, in 2015-2017, as well as numerous informal conversations with others. My interviewees and interlocutors included administrators at a range of levels of bureaucratic hierarchy and from a range of departments; judges at all levels of the Administrative Court system (a coequal parallel to the civil-criminal court system); activists for legal reform; and scholars. I also draw on almost two years of fieldwork in Taipei in 2002-2004, during which I spent roughly a year of participant observation with a politically active community organization and around nine months working as a full-time volunteer in a Taipei City Government administrative agency. In this capacity, I attended meetings involving numerous government agencies and private parties, had daily conversations with multiple administrators across the city government, took outings with administrators for work and leisure, and recorded roughly thirty hours of interviews with administrators at all levels of the agency.

The fluidity of my research between the Taipei city government and the Taiwan central government mirrors the fluidity of those government apparatuses themselves. Taipei is not only Taiwan’s capital but also its political, cultural, and financial center. Taipei administrators often present themselves as a democratic vanguard holding a nationally recognized ideological leadership role (Bernstein 2017), and regularly move on to posts in the central government, just a few subway stops away. Social ties, ideologies, and techniques of governance move with them. I

held all interviews and conversations for this project in Chinese. I use pseudonyms for my interlocutors.

ⁱⁱ For reference, Freedom House (2018) gives Taiwan a score of 93 out of 100 (as compared, for instance, to South Korea at 84, Japan at 96, and the United States at 86).

The current Democracy Index (Economist Intelligence Unit 2019) ranks Taiwan 32nd out of 167, right between Belgium and Italy, and gives it higher marks on “electoral process and pluralism,” “functioning of government,” and “civil liberties” than the United States.

ⁱⁱⁱ An example of the way that sovereignty issues hover over daily life: in an oral exam for a language class in Taipei, I was asked to demonstrate my improved speaking skills by discussing what would happen if China invaded Taiwan.

^{iv} “憲法是等於凍結了 *xianfa shi dengyu dongjiele*.” Interview with Weng Yueh-Sheng, December 2016.

^v “人都不能談啊，我也不願意在台灣那個時候叫憲法 *rendou buneng tan ah, woye buyuanyi zai Taiwan neige shihou jiao xianfa*.” Interview with Weng Yueh-Sheng, December 2016.

^{vi} Interview with government reform activist, December 2016.

^{vii} In the early years of KMT rule, the party launched an offensive that killed much of the Taiwanese elite, though exact numbers are not known (Phillips 2003). Ethnicized distinctions were made easier by language background. People living in Taiwan before 1945 primarily spoke Taiwanese (*Taiyü* 台語 or *Taiwanhua* 台灣話), a variant of the Southern Min dialect (*Minnanyü* 閩南語) spoken in China’s Fujian province, and the Japanese that they learned in Japanese colonial schools, rather than the Mandarin (*Guoyü* 國語 in Taiwan, *Putonghua* 普通話 in China)

that became the official language under the KMT (Bernstein 2017). Local Taiwanese mostly entered a laboring and small entrepreneur class, while the families of Chinese migrants dominated government and large industry (Gates 1981).

^{viii} “我講行政法，比較不會跟政治有關係 *wo jiang xingzhengfa, bijiao buhui gen zhengzhi you guanxi.*” Interview with Weng Yueh-Sheng, December 2016. Weng proposed revising the administrative appeals process to provide easier access to independent courts, a proposal followed in 1998, ten years after the end of martial law.

^{ix} “*Women dou juli jiehun, sheng xiaohai.* 我們都局裡結婚，生小孩。” Interview with Taiwanese government administrators, November 2017.

^x “*Jiben shang zhege zifagui doushi cong mufa laide* 基本上這個子法規都是從母法來的。” Interview with Taiwanese government administrators, November 2017.

^{xi} For instance, the idiomatic way to refer to students in classes above or below the speaker draws on the vocabulary used to identify siblings.

^{xii} Taiwan’s central government is divided into five branches called *yuan* (a word derived from the power nodes of the Chinese empire and currently used in many terms for institutional sites). The Legislative (*Lifa*), Executive (*Xingzheng*), and Judicial (*Sifa*) branches serve the primary functions of government, while an Examination (*Kaoshi*) branch takes charge of civil service hiring and a Control (*Jiancha*) branch investigates and disciplines official malfeasance. The President (*Zongtong*), elected by majority popular vote, appoints the Premier, or “President of the Executive Yuan” (*Xingzheng Yuanzhang*, Executive Branch Head). The central government administrators I talked to—from career civil servants to political appointees—agreed that, in one person’s words, “the

Premier is my boss (*Xingzheng Yuanzhang shi wode laoban* 行政院長是我的老闆).”

The Premier is appointed by the President but reports to the Legislature, creating a “semi-presidential (dual-executive) system” (Wang 2002, 542). The influence of parliamentary systems on Taiwan’s Constitution is also evident in the executive’s independent authority to propose legislation.

^{xiii} “*Zheige jiaozuo* accountability. . . *Wo dui zhexie shiqing fu zeren, wo renwei zhexie shiqing zuode you xuyao jiantao de shihou wo jiu yinggai yao tichu women de jianyi. Suoyi zai xingzheng bumen tichu fa’an shi feichang zhengdang erqie helide* 這個叫做accountability. 我對這些事情負責任，我認為這些事情做得有需要檢討的時候我就應該要提出我們的建議。所以，在行政部門提出法案是非常正當而且合理的。” Interview with Taiwanese government administrators, November 2017.

^{xiv} “*Na shi hen qiguai ah! Keshi ta—xingzheng bumen—ta dui tade zhengce fuze* 那是很奇怪啊！可是他——行政部門——他對他的正則要負責。” Interview with Taiwanese government administrators, November 2017.

^{xv} Interview with Taipei City Government administrator, November 2016.

^{xvi} “*Women de minzhu man chengshou* 我們的民主蠻成熟。” Interview with Taiwanese government administrators, November 2017.

^{xvii} Interview with Administrative Court judges, December 2016.

^{xviii} The principal-agent model of administrative accountability sometimes designates executives rather than legislatures as principal (for instance, Kagan 2001).

^{xix} Interview with Taiwanese central government administrator, December 2016.

^{xx} “*Hen duo dou bixuyao gen yiqie lai zuo xieshang...doyao touguo kaihui gen yiqie, gen xiaofeizhe kaihui, shenzhilian yisheng...Buzhishi zai wangyeshang gongkai...Wode kaihui you daibiaoxing, ...you gongshi* 很多都必需要跟一切來做協商...都要透過開會跟一切，跟消費者開會，甚至連醫生...不只是在網頁上公開...我的開會有代表性...有共識。” Interview with Taiwanese government administrators, November 2017.

^{xxi} Scholars’ heavy involvement in government may stem from the KMT’s use of academia as a support network for party loyalists, especially those who came to Taiwan from China in the 1940s and their families (Tai 2015). Academe has, in the meantime, greatly diversified.

^{xxii} Yun-Chien Chang has found that the Legislature adopted 97% of amendments proposed by a scholarly task force in the area of property law, making “scholarly judges and property professors (particularly the latter)...the dominant force behind the evolution of property laws in Taiwan in 2007–2010,” though he notes that this figure may be somewhat lower in other doctrinal areas (Chang 2016, 21-22).

^{xxiii} Taiwan has adopted the civil law model of parallel, coequal court systems: one for private and criminal law cases, the other for agencies involving administrative agencies (see Zhang et al. 2018). The Administrative Court system took its current form around 2000, but has continued to develop and change (*Supreme Administrative Court* n.d.).

^{xxiv} Interview with High Administrative Court judge, November 2017.

^{xxv} Interview with Taiwanese government administrator, November 2017. This attitude presents a stark contrast to that expressed by administrators I have interviewed in the United States federal

government, who regularly speak about litigation risk as a major consideration in the regulatory process.

^{xxvi} Interview with Taiwanese government administrator, November 2017.

^{xxvii} Interview with Taipei City administrator, November 2017. Although much has changed in the law and politics of Taiwan, this attitude resembles what I found at the city government in the early 2000s (Bernstein 2008, 2017).

^{xxviii} “*Tamen xiang shuo, zheshi zhengfu yinggai zuode shi* 他們想說這是政府應該做的事。”

Interview with environmental activist, November 2017.

^{xxix} The prevalence of peaceful protest in Taiwan’s recent history, which Yeh (1990) points out, may have also influenced my interlocutors’ sensitivity to public criticism.

^{xxx} Conversations with environmental activists, December 2016 and November 2017.

^{xxxi} Taiwan Constitutional Court Interpretation 753 (October 6, 2017). In this, Taiwan may end up tracking the American development of notice and comment rulemaking, in which judicial rulings drove the compilation of rulemaking records and the publication of responses to comments.

^{xxxii} *See, e.g.,* United States v. Nova Scotia Food Corp., 568 F.2d 240 (2d Cir. 1977); 5 U.S.C. § 553.

^{xxxiii} “*Women hui qu pinggu, tamen yijian youmeiyou daoli* 我們回去評估，他們意見有沒有道理”;

“*Weishenme ni bu caina, neibu yao xianban* 為什麼你不採納，內部要先辦”;

“*Qishi, zhi shi ba chengxu shang zai duiwai er yi* 其實，只是把程序上再對外而已。” Interview with

Taiwanese government administrator, November 2017.

^{xxxiv} District Court Administrative Tribunals can adjudicate claims for amounts up to 400,000 New Taiwan Dollars (around \$13,000 U.S.). Their decisions can be appealed to the High Administrative Court (*Gao Xingzheng Fayuan*). Alternatively, litigants with larger monetary claims, or claims about rights that do not directly involve money, can bring suit directly in the High Administrative Court, from which they may appeal a case to the Supreme Administrative Court (*Zuigao Xingzheng Fayuan*).

^{xxxv} Interviews with Supreme Administrative Court justices, December 2016.

^{xxxvi} The phrasing many used was “*Taiwan tai minzhule* 台灣太民主了。”