

Politics of Law Enforcement:
Policing and Police Reform in New Democracies

Kyong Jun Choi

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Reading Committee:

Yong-Chool Ha, Chair

James Caporaso

Anthony Gill

Gary Hamilton

Program Authorized to Offer Degree:

Department of Political Science

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Kyong Jun Choi

University of Washington

Abstract

Politics of Law Enforcement: Policing and Police Reform in New Democracies

Kyong Jun Choi

Chair of the Supervisory Committee:

Yong-Chool Ha, Ph.D.

Jackson School of International Studies

Impartial law enforcement is necessary for the rule of law and the stable functioning of a democracy. The maintenance of public order and the enforcement of the law are the minimum requirements expected of a modern democratic state. This dissertation investigates the transformation of the police in new democracies and asks why they have difficulty building capable and impartial law enforcement agencies.

Comparative case studies of Korea, Taiwan, and Mexico on the continuity and change of law enforcement illustrate how and why the timing and direction of the transformation occur differently in new democracies. To determine the reasons for the failure to establish capable and impartial law enforcement agencies, this dissertation investigates three factors that contribute to change and continuity at different levels: (1) political democratization (institutional level); (2) police reform initiated by the president (agency/policy level); and (3) international and domestic factors, such as geopolitics and the structure of local politics (structural level).

The divergent routes taken by these three countries show that policing in a democracy is different from democratic policing and that the creation of impartial law enforcement agencies does not occur automatically after democratic transitions. Korea has accomplished only partial success in transforming its arbitrary enforcer into an impartial enforcer as it failed to eliminate all remnants of authoritarian policing or the arbitrary enforcement of law. Policing in Taiwan has been transformed from a limited arbitrary enforcer into a mediator, while policing in Mexico remained a palace guard during the period of democratic transition.

Politics of police reform and the failure to establish democratic policing in new democracies reveal that democratization is not omnipotent, while the transformation of policing follows its own political logic, sometimes frustrating the desire of society.

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Chapter 1

Introduction: Policing New Democracies

Democratization is not omnipotent. When the authoritarian regime collapses and free, fair, and competitive elections are introduced with the foundation of new democratic rules replacing oppressive ones of the past, people hope all good things will arrive ousting all existing evil things. However, the package delivered from the heavens soon proves to contain a mixed blessing of goods and evils when it opens. Agreed rules on fair and transparent political games are frequently infringed by arbitrary enforcement of law, while citizens tend to suffer aggravated public insecurity. Even countries that have been called the most successful examples of third-wave democracy, such as Korea, Taiwan, and Mexico, are not immune to the dark side of democratic transition. Gorgeous expressions for praising the miracle of democracy quickly disappear in vain as the fading mist around democracy reveals that the miracle was in fact a mirage. Democratic transition creates suffering for people living in a middle land between authoritarianism and mature democracy because nobody knows exactly which side is closer to them and how long it will take to reach a perfect democracy. This dissertation concerns these purgatorial sufferings of new democracies.

The impartial enforcement of law is a stepping stone for the rule of law and the stable functioning of democracy. The maintenance of public order and the enforcement of law are the minimum requirements expected of a modern democratic state. If the state fails to provide public security, people's liberties and rights to participate in politics and civil activities cannot be protected. The law should be capably enforced. If the state is unable to enforce the law, the rule of law will be simply a façade, resulting in the survival of the fittest as in a Hobbesian world. The law should also be enforced in an impartial manner to safeguard the rule of law and other crucial values of democracy, such as equality. If law enforcement agencies operate in an arbitrary and selective manner, even prejudiced against certain political, economic, or ethnic groups with minor positions in society, nobody will agree that democratic values, especially equality before the

law, are fulfilled in their society by the state. In such a case, the rules of the democracy cannot be fairly applied in practice, even when the legal and constitutional documents themselves are fair and impartial.

This dissertation asks why new democracies have difficulty in building capable law enforcement agencies that successfully enforce the law in impartial ways. Contrary to an intuitive knowledge—or a wishful thinking—that democratic transition leads to the creation and functioning of impartial law enforcement agencies, the trajectories of change in law enforcement in new democracies illustrate that democratization is not a single package within which all positive things are packed together. In fact, impartial law enforcement does not always go hand-in-hand with political democracy. Many countries in a democratic transition still struggle to create police forces that can maintain public security and implement their duties of law enforcement in an impartial manner, even though they have already passed the hard tests of an electoral democracy, i.e., implementation of free, fair, and competitive elections and the occurrence of regime turnovers. Both capable and impartial law enforcement seems to be a hard goal for people living in the purgatory of a new democracy. Some new democracies successfully maintain public security through the capable functioning of police forces with the sacrifice of fairness in law enforcement. Other new democracies are equipped with police whose capacity to enforce the law fails to reach people living beyond the narrow area of the political center of state.

To find reasons for the failure to found capable and impartial law enforcement agencies in new democracies, this dissertation will investigate three factors of change and continuity at different levels: (1) political democratization (institutional level); (2) police reform initiated by the president (agency/policy level); and (3) international and domestic intervening factors, such as geopolitics and the structure of local politics (structural level). Each exerts influence on the trajectories of change in law enforcement in fledgling democracies, either positively or negatively. In other words, political democratization and a president's police reform are "independent" variables, while change or continuity of law enforcement (policing) is a "dependent" variable. International/domestic conditions in which a country is situated are "intervening" variables. The scope condition of causality is new democracies, especially third-wave democracies such as

Korea, Taiwan, and Mexico, in which democracy has not yet become entrenched in spite of their quite remarkable accomplishments in electoral democracy.

First, the divergent effects of democratization on institutional change of law enforcement agencies will be investigated. Democratization does not exert any single and universal effect on each of the institutional components of the state in an equal manner. It causes multiple transitions (or processes of change) of state institutions that move at varying speeds, and at times, respond to different logics (Middlebrook, 2004: 2–3). Democratization could exert positive effects on some institutional components of the state, while at the same time exerting negative and detrimental effects on other parts. Its effects on other remaining pieces of the state might be even neutral (non-effective). As a result, transformation of the state with democratization from the macro-level perspective is full of inconsistency and disharmony since not all of the constituent parts of the state change at an equal pace in the same direction (Morris, 2009: 23). Various institutional properties of a single institutional agency of state, such as the police, could undergo very similar processes, i.e., multiple institutional changes that proceed at uneven rhythms and/or toward different (even opposite) directions (Bailey and Cornelius, 2007: 492). This dissertation will trace how democratization causes multiple changes toward divergent directions in each of the institutional aspects, i.e., police capacity and police accountability, of law enforcement agencies.

Second, a president's reform to transform the police will be examined for agency/policy level analysis. It will focus on the divergent police reform plans and strategies of presidents whose incentives to choose specific reform plans are structured by a new balance of power among different branches of government and the relationship between the president and officials of law enforcement agencies. It will be shown that the policy goals of a president's police reform are influenced by the political and bureaucratic conditions in which the president is imbedded. His police reform is an outcome of his strategic consideration of the political and bureaucratic conditions around him rather than a natural realization of democratic norms and values inside him, even if his police reform was triggered by societal pressure for building democratic policing. The divergent experiences of police reform taken by new democracies illustrate that a president's police reform is the product of power politics for the sake of maximization of political interests. By tracing

politics around police reform in new democracies, this dissertation will show why a police reform plan chosen by the president does not correspond with the most desirable path to the impartial enforcement of law, although it serves to maximize the political interests of the president. The best choice for the president is not necessarily the best choice for his citizens.

Last, international/domestic structure level factors will be analyzed to complete a full picture of the dynamics of changes to law enforcement in new democracies. The institutional change led by democratization and a president's police reform are constrained by structural conditions. This dissertation will examine the intervening effects of two factors—geopolitical condition and the politics of local power—at both the international and domestic levels on the transformation of law enforcement agencies. Geopolitical conditions, more specifically the existence of strong external threats, imbue law enforcement agencies with specific characteristics by simultaneously causing excessive growth in certain institutional qualities and stagnated growth in other institutional properties of these agencies. Structural relationships between center and periphery also intervene in the process of transformation of law enforcement agencies in new democracies. The existence of strong local forces (factions) and changed relationships between the central government and local elites exert various effects on the institutional qualities of law enforcement agencies.

By analyzing the causal effects of these factors at different levels on the continuity and change of law enforcement in new democracies, this dissertation will argue that the divergent trajectories of law enforcement change taken by new democracies are the outcomes of complex interactions among institutional, agency, and structural factors. Such differences in law enforcement change are neither simply end results triggered by politicians seeking to realize the norms and values of democracy, nor the manifestations of cultural values and behaviors that have endured by transcending the great waves of democratic transition. This dissertation's comparative case studies of Korea, Taiwan, and Mexico will illustrate why divergent police transformation routes are taken by new democracies and how the timing and direction of the institutional and behavioral transformation of the police are dictated by complex interactions among various institutional, structural, and agency factors.

I. Law Enforcement and the Rule of Law

(1) The Police: A Missing Piece of the Puzzle

Agencies with Violence and Rule of Law

The police are different from other institutional agencies of the state. Along with the military, the police are almost the only state agency that is equipped with coercive means of physical force for the fulfillment of their duties. The police are also the largest apparatus of the state whose authority reaches farther and deeper into society than that of any other state organ. The physical means mobilized by the police and their extensive organizational size make the police a unique institution within the state (Amir, 2001: 54). However, the police are not simply executive agents of force, unilaterally enforcing the regulations of the state on society in a top-down manner. They are also the primary contact that citizens have with their governments and justice systems. People encounter the police on the street in their everyday lives, and they perceive the existence of the state through this contact. In this way, the police reflect the relations between the state and society since they are at the front line of the state's border with society and fulfill their duties in the area where the state and society converge (Grant, Grabias, and Godson, 2006: 203). As a result, the treatment that people receive from police has an important effect not only on their perceptions of the fairness and effectiveness of their government, but also on the rule of law of their entire society (Hinton and Newburn, 2009: 4).

The rule of law is the ultimate goal that all law enforcement agencies in a democracy aim to accomplish through the fulfillment of their duties as impartial enforcers of law. The rule of law, at its most basic level, refers to a "system in which law is able to impose meaningful restraints on the state and individual members of the ruling elite" (Peerenboom, 2004: 2). Of course, "thick" conceptions of the rule of law emphasize the importance of democratic values, such as freedom and human rights, which the law aims to accomplish through its rule, while "thin" conceptions of the rule of law focus more on formal and instrumental aspects

of law that constrain arbitrariness on the part of the government to safeguard stability and prevent anarchy. However, regardless of these conceptual differences,¹ a country should be equipped with institutional devices for meaningful restraint of its political leaders if it wants to be said to be practicing the rule of law (Hahm, 2004: 386–387). If a state relies on law to govern but does not accept the basic requirement that law binds the state and state actors, as in the case of both ancient and modern dictators who have utilized the law as a tool for ruling efficiently and legitimately over their subjects, it is best described as a “rule by law,” not the rule of law (Chu and Im, 2013: 119).

Law Enforcement and Democratic Consolidation

Settlement of the rule of law is an object that impartial law enforcement intends to achieve. However, impartial law enforcement is not a sufficient condition for the rule of law since many other factors are also important for its successful foundation. Many scholars have emphasized the role of the independent court in establishing the rule of law in countries under democratic transition. An independent and effective judiciary or a court that is equipped with the means for constitutional and judicial review has been considered as a crucial element for the settlement of the rule of law in new democracies (Ginsburg, 2003). Without the existence of an independent and capable judiciary, neither the mechanism of checks and balances among different bodies of government, nor any institutional mechanisms of the police to secure the impartial enforcement of law can be effective (Trebilcock and Daniels, 2008: 116–117). For this reason, the court is one of the most important institutions for the effective working of the rule of law, not only in the beginning stage of democratic transition, but also during the entire phase of democratic consolidation.

However, without considering the role of law enforcement agencies² in impartial law enforcement, only a partial picture of the changes and development of the rule of law can be developed. While the court is the “*ex post*” mechanism for securing the rule of law, functioning only after the occurrence of a law violation, law enforcement agencies function as the “*ex ante*” mechanism for settling the rule of law, using their capacity to coerce people to follow the law and to prevent any possible violation of the law in advance. The settlement of the rule of law requires that those subject to the enforcement of legal obligations have

confidence that the enforcement of the law is carried out in an impartial way (Winn, 2007: 361). If law enforcement agencies either use their coercive power selectively and arbitrarily in the process of enforcement of the law, or fail to enforce the law due to the weakness of their capacity to coerce people to follow the law, the rule of law cannot be settled, even when the law itself is fair and legitimate and the court is fully independent for the sake of its impartiality. Thus, the rule of law cannot be securely entrenched without stable functioning of impartial law enforcement agencies (Mo, 2010: 90).

Moreover, as the most “visible arm” of the justice system, the police are the primary contact that citizens have with government and its administration of law (Trebilcock and Daniels, 2008: 107). No other branch of government has more “face to face” contacts with citizens and “intrusive” (coercive) powers than the police (Sherman, 2001: 19). People encounter the police on the street in their everyday life and they perceive and feel the existence of the state and its authority through their contact with the police. The authority of the state, which exists only at the abstract center for the people living in a periphery, is given concrete form even in the farthest and lowest levels of the country by the behavior of its police officers on the street (Donnelly and Shirk, 2010: 23–24). The impartial enforcement of law has crucial meaning not only for the rule of law, but also for the legitimacy of a democratic government, because citizens evaluate the performance of the government to consolidate the rule of law through their primary contact with police officers. When the police successfully demonstrate their willingness and capacity to enforce the law in an impartial manner, rather than serving the political interests of their masters, both the rule of law and the legitimacy of the democratic government can be entrenched in fledgling democracies (Grant, Grabias, and Godson, 2006: 202–203).

Law enforcement is a crucial link between democratization and the establishment of the rule of law. The police, as the main legal enforcement agency of the state, can illuminate the effect of political democratization on the foundation of the rule of law in new democracies. The ideal path of democratization from the initial phase of electoral democracy to the final stage of consolidation of democracy is driven by the concerted development of political society at the elite level and civil society at the public level vis-à-vis the stable functioning of the rule of law. The impartial enforcement of law plays a crucial role in building

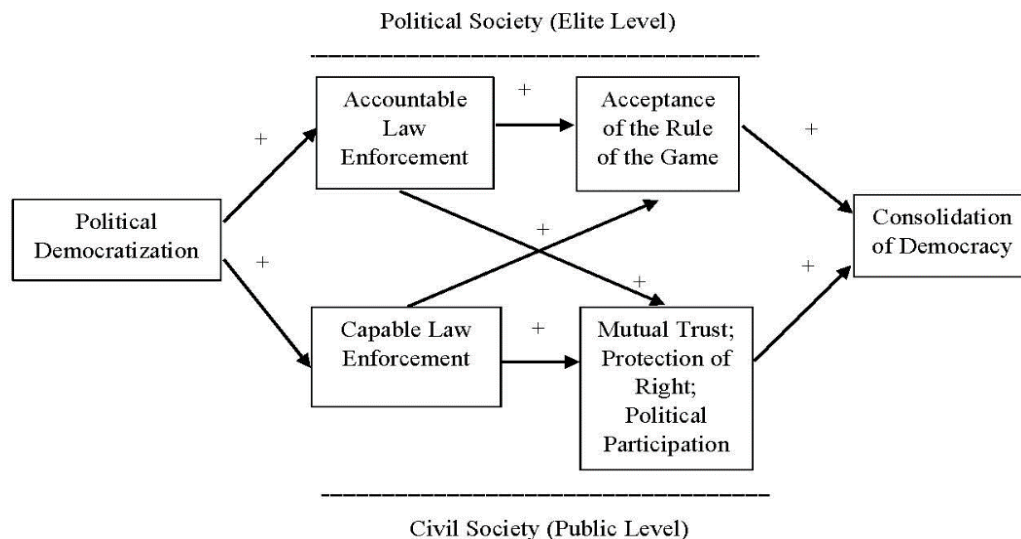
the complementary and mutually beneficial relationships among the developments of political society, civil society, and the rule of law. Acceptance of the rule of the political game agreed to by political elites is essential for the development of political society. If nobody believes that political rules are fairly applied to every participant in political games, political society based on the voluntary obedience to the results of political games, such as the electoral results, cannot be sustained. Mutual trust among members of society and protection of rights, such as property rights, human rights, and freedom of expression and political participation, are crucial elements that safeguard the maintenance of civil society. If citizens are not protected from any violation of rights and treated by state agencies in an unfair manner, civil society cannot flourish. For this reason, the rule of law is an indispensable element for the development of both political and civil societies (Linz and Stepan, 1996: 10).

If the rule of law is bolstered by the impartial enforcement of law, accountability and capacity are two main pillars that sustain that impartiality. Accountability means that an institutional agency is checked and constrained by other institutional actors for the sake of guaranteeing the impartiality of its function (O'Donnell, 1999: 29-30). Capacity refers to the quantitative and qualitative aspects of an institutional agency that enable successful implementation of its duties (Migdal, 1988: 4). If the police lack either capacity or accountability, they fail to accomplish the duties of impartial enforcement of law. Police who have only a strong capacity with no accountability tend to use their strong power to oppress people for the sake of the interests of the ruling groups who control the police. Conversely, police who are accountable to institutions or actors outside the executive body, but do not have the capacity to enforce the law, fail to enforce the law in an impartial manner, because nobody will comply with impotent police. Thus, to accomplish the impartial enforcement of law that is necessary for the foundation of the rule of law, the police should be equipped with not only a strong capacity but also strong accountability.

As Figure 1-1 illustrates, accountable law enforcement facilitates the development of political society by assuring that the rules of political games (e.g., electoral rules) are not only fair for its own, but also impartially enforced. Political elites voluntarily obey new rules of democracy because they can believe

incumbent rulers will not use law enforcement agencies in a way that is advantageous for themselves and disadvantageous for their political opponents. Accountable law enforcement also contributes to the development of civil society by promoting mutual trust among citizens and guaranteeing equality before the law. On the other hand, capable law enforcement encourages the development of civil society at the public level. By providing the protection of rights (e.g., property rights, the right to vote) as well as protection of life from criminal offenses, it intensifies the growth of mutual trust among citizens and safeguards the free and equal participation of the public in representative politics in new democracies. By preventing and punishing any violence against the rules of political games, capable law enforcement also contributes to the development of political society at the elite level. All development of political and civil society and the rule of law supported by impartial law enforcement eventually culminate in the consolidation of democracy (Linz and Stepan, 1996: 7–8). In this way, nascent political democratization can smoothly shift to the phase of democratic consolidation. However, the problem is that not all new democracies follow this ideal path of development based on complementary relationships among the rule of law, political society, and civil society. The fate of the rule of law is divergent in new democracies.

[Figure 1-1] Ideal Path of Democratization and the Consolidation of Democracy



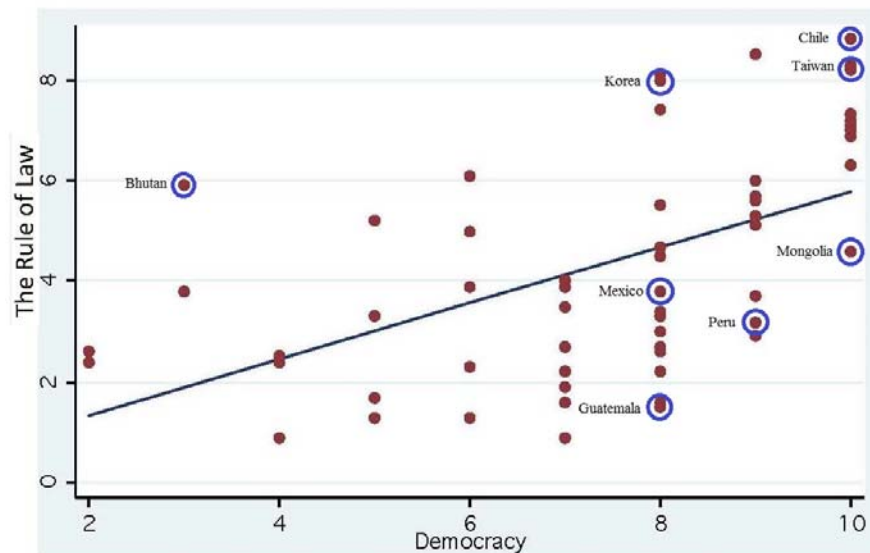
(2) Divergent Fates of the Rule of Law

The positive and essential role that the rule of law plays in democratic transition and consolidation of democracy leads to the belief that democracy and the rule of law always go hand-in-hand. However, the comparison between advanced democratic countries, especially in the West, and new (the third-wave) democracies, which entered the phase of democracy after the 1970s, indicates that the relationship between democracy and the rule of law is much more complicated in terms of sequence of events. For the advanced democratic countries in the West, the rule of law is an inherent part of democracy, because their history reveals that democracy has been supplemented by an already functioning rule of law (Wei, 2006). In England, for example, the rule of law, both as an idea and as a constitutional practice, preceded the emergence of democratic politics (Clark, 1999: 30, 33).

However, as Richard Rose and Doh Chull Shin (2001) point out, many third-wave democracies have shown the opposite sequence of historical events, because political democratization precedes the foundation of the rule of law. Although these new democracies have already introduced crucial components of electoral democracy—typically, free, fair, and competitive elections—they still struggle to establish the rule of law. In these countries, development of the rule of law is not automatically generated by the introduction of electoral democracy. The historical experience of these countries illustrates that the rule of law is not a precondition of democracy that should be in place before a society democratizes, but a goal that should be accomplished in order to reach the final stage of democratic consolidation (Carothers, 2007: 14).

Graph 1-1 illustrates the relationship between the level of democracy and the level of the rule of law shown by 59 new democracies in 2011. Each of these countries entered the phase of democracy after the 1970s and has subsequently maintained that state without any reversion (backlash) to authoritarianism. The statistical (cross-country) analysis reveals that democracy has a positive effect (Coef.: 0.5583756; $P > |t|$: 0.000) on the rule of law in these new democracies. This means that an increase in the level of democracy tends to cause an increase in the level of the rule of law; a country with a high level of democracy tends to show a high level of the rule of law compared to a country with a low level of democracy.

[Graph 1-1] The Relationship between Democracy and the Rule of Law in New Democracies (2011)



Source: The Polity IV data of Marshall, Jagers, and Gurr (2011); the 2011 Index of Rule of Law in the Worldwide Governance Indicators (WGI) Project.³

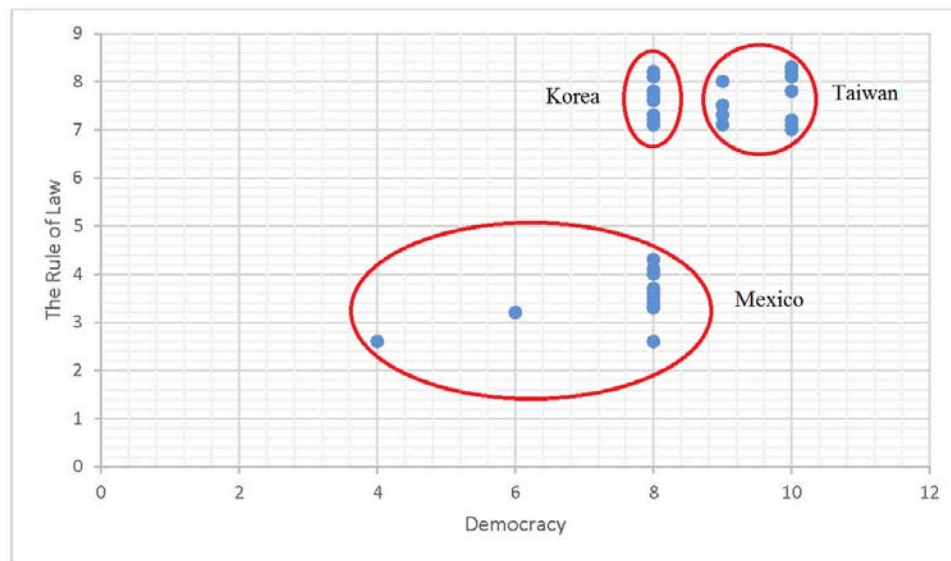
However, the statistical tendency based on a large-N analysis does not explain why some countries with a high level of democracy have a low level of rule of law, while other countries with a low level of democracy have a high level of rule of law. In fact, the snapshot of 2011 in Graph 1-1 portrays that new democracies are widely scattered depending on each country's level of rule of law and democracy: some countries have significantly different levels of rule of law although their levels of democracy are exactly the same; other countries have the same level of rule of law even though each country's level of democracy is quite different from one another.

For example, the comparison between Chile and Mongolia shows the most dramatic contrast; while Chile and Mongolia have exactly the same level of democracy, their levels of the rule of law are quite different. There is a high level of the rule of law in Chile and a very low level in Mongolia. Korea, Mexico, and Guatemala also show large disparities. Despite having the exact same level of democracy, their levels of the rule of law are quite different: a relatively high level of the rule of law in Korea, a much lower level

in Mexico, and almost the lowest in Guatemala. Korea and Taiwan—the two successful third-wave democracies—provide meaningful comparison. Although Taiwan has a much higher level of democracy than Korea, its level of the rule of law is almost the same. For Taiwan, the rule of law level is disappointing considering its level of democracy. Some other countries show extreme asymmetry between democracy and the rule of law. Like Mongolia, Peru and Guatemala can be classified as countries with a high level of democracy and a low level of the rule of law. Bhutan is the opposite case: it has a relatively high level of the rule of law, while its level of democracy is almost at the bottom of the scale.

Graph 1-1 shows a very divergent spectrum of rule of law development in new democracies. However, it does not show the trajectory of change in the level of the rule of law experienced by any specific new democracy since its entrance into the phase of democracy, because it is a snapshot of new democracies in 2011. The result of statistical cross-country analysis on the relationship between democracy and the rule of law, i.e., the positive effect of democracy on rule of law development, shown by new democracies in 2011, does not mean any specific country has taken that relationship all through the period of democratization. Graph 1-2 illustrates the steps toward democracy and the rule of law that have been taken by Korea, Taiwan, and Mexico from 1998 to 2011. Since 1996, Taiwan has accomplished quite higher levels of democracy than Korea and Mexico. However, its levels of rule of law have been similar to those of Korea, although they have been much higher than Mexico. The most dramatic increase of democracy has taken place in Mexico during this period: its level of democracy fell far behind Korea and Taiwan at the beginning, but has now reached the same level with Korea. In contrast, rule of law development in Mexico has been quite retarded: its level of rule of law has never increased to the levels obtained by Korea and Taiwan.

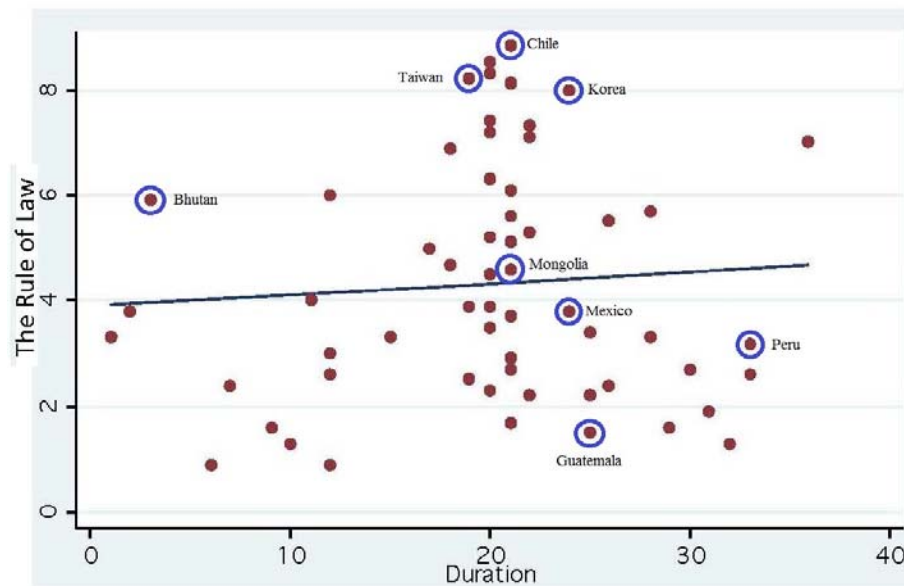
[Graph 1-2] Trajectories of Rule of Law with Democratization (1998–2011)



Source: The Polity IV data of Marshall, Jaggers, and Gurr (2011); the Index of Rule of Law in the Worldwide Governance Indicators (WGI) of the World Bank.

Graph 1-3 indicates that the age of a democracy in 2011 has no correlation with the levels of the rule of law. It illustrates the distribution of new democracies (N=59) depending on the age (duration) of democracy and the level of the rule of law. The coefficient test shows that there is no meaningful effect of the age of democracy on the rule of law in these countries (Coef.: 0.0214134; $P > |t|$: 0.585). This means that countries that started their political democracies early and have maintained democracy for a longer period of time do not necessarily enjoy higher levels of rule of law than countries that started democracy later and have a shorter history of democracy. For example, Peru is one of the oldest democracies among the new democracies. However, its level of rule of law is quite low compared to younger democracies, such as Korea, Chile, and Taiwan. The comparison between Korea and Mexico is also worth observing: even though their ages of democracy are exactly the same, their levels of rule of law are quite different. Bhutan is the extreme case: it started its democracy quite recently, but has a much higher level of rule of law than other older democracies, such as Mongolia, Mexico, Peru, and Guatemala.

[Graph 1-3] The Age of Democracy and the Rule of Law in New Democracies (2011)



Source: Jagers and Gurr (2011); the 2011 Index of Rule of Law in the Worldwide Governance Indicators (WGI) Project.

These comparisons illustrate that an early start of democratization does not guarantee a higher level of rule of law. The rule of law does not automatically increase simply because the political democracy has aged. Many new democracies are still struggling to secure the rule of law even after having entered political democratization (the electoral democracy) a long time ago. Graph 1-3 portrays a snapshot of 2011 that does not show the full history (trajectory) of rule of law changes in any specific countries through time after their entrance into a phase of democracy. However, it tells us that new democracies have taken divergent trajectories of changes in the rule of law during the period of democratic transition and have reached different results in terms of their levels of democracy and the rule of law. Even if democracy and rule of law development might go hand-in-hand, the speed and rhythm of the development of democracy and the rule of law have differed as Graph 1-2 and Graph 1-3 indicate. In some countries, rule of law development has exceeded the speed of democratic development, while, in other countries, the rule of law has been slowly developed compared to a highly accelerating speed of democratic development. However,

accelerating democracy ahead of decelerated rule of law is not a miracle, but a mirage since democracy cannot become entrenched without the foundation of the rule of law.

The divergent trajectories of changes in the rule of law in new democracies raise the following questions: Why do some new democracies succeed in establishing the rule of law while others fail, and what are the necessary conditions for the proper functioning and stabilization of the rule of law? A positive or negative effect of democracy on the rule of law cannot simply be assumed. Rather, both the effect of democracy on the rule of law and the importance of the stable functioning of the rule of law in democratic consolidation need to be examined in the specific political, bureaucratic, and geopolitical contexts of new democracies. Law enforcement is the missing piece of the puzzle that will show the full picture of the dynamic and complicated relationships among political democratization, the rule of law, and the consolidation of democracy.

II. Law Enforcement Agencies in New Democracies

(1) Forces of Democratization

Democratization is not a single force of change. It contains multiple forces of change that exert influence on the institutional and practical aspects of law enforcement agencies. The effects exerted by each of these multiple forces of democracy on different institutional and practical dimensions of the police—i.e., police capacity and police accountability—are not homogeneous. As a result, the speed and direction of change of each of the parts of the institutional and practical aspects of the police led by democratization are different.

Legitimacy and the Physical Oppression

Democratization causes the reduction of the physical means of oppression, which had been held by the authoritarian state and its police force. The reduction of physical oppression would cause a decrease in police capacity. Citizens who have complied with the direction and order of the police simply because the

police were equipped with physical means have no reason to obey the police when the police lose the means of physical oppression. However, the opposite result—increased police capacity could be caused by political democratization, since it increases the legitimacy of the state. Compared to its authoritarian counterpart, the democratic government enjoys a much higher level of legitimacy, because it is established by the people through free, fair, and competitive electoral processes. Its authority of rule is based on a consensus among its people rather than any physical means it uses against the people. The heightened level of legitimacy of the state exerts a positive effect on the capacity of police because people in democratic societies voluntarily comply with the police due to their belief that police represent the will of a legitimate government and eventually the will of the people who selected the government. Compared to coercive compliance, such voluntary compliance provides the police with the benefit of cost effectiveness, because the same unit of inputs⁴ produces more outputs in police operations when people voluntarily comply with them.

The Civil Society Growth

As civil society develops with democratization, the role of citizens in monitoring the police operation is also intensified. While people under the authoritarian rule remain passive subjects against whom the police unilaterally enforce the law, people in a democracy play more active roles as customers of public goods produced by the police and as watchmen who monitor and oversee any deviation of the police from expected behavior as a law enforcement agency. In this way, the intensified civil society monitoring over the police activities led by democratization contributes to an increase in police accountability, especially the vertical accountability of the police, i.e., the responsibility of the police to citizens, as compared to the horizontal accountability of the police, i.e., the responsibility of the police to other branches of government, such as the legislature. In fact, the election itself is one of the strongest institutional measures of vertical accountability of police, along with other accountability measures, such as ombudsmen (Maravall and Przeworski, 2003: 9).

Competition in Politics

Democratization intensifies the level of political competition. Any types of monopolistic occupation of power, such as the military dictatorship of the president, and hegemonic rule of a single party, are transformed into a competitive form of political games among multiple parties when electoral democracy unfolds and replaces authoritarianism.

The effect of competitive politics on the rule of law has been a subject of debates. Rebecca Bill Chavez (2004) examines the relationship between open elections and the rule of law and seeks to uncover the conditions under which free, fair, and competitive elections yield the rule of law. She argues the dispersal of political power among competing actors of comparable strength is necessary for the development of the rule of law because the emergence or maintenance of any dominant political forces that perfectly overwhelm other forces prevents the development of any constraints on arbitrariness on the part of the government. Not formal institutions for electoral competition, but the actual state of competitive politics fosters the rule of law, while a lack of competition—the concentration of political power within a specific political group—hinders the construction of the rule of law, despite a successful electoral democracy.

If Chavez's argument is true, the intensified competition in politics led by democratization contributes to an increase in police accountability. Dispersal of political power among competing actors with equal strength might naturally transform the police into being responsible to these competing actors rather than loyal to a single political force. The police placed under intensified political competition should be given more strengthened accountability.

On the other hand, Dian E. Davis (2006) stresses the opposite effect of political fragmentation since she argues for a detrimental effect of the competitive politics on the rule of law in new democracies. According to her, the strengthening of competitive party politics led by democratization exerts strong negative effects on the rule of law, because it causes the fragmentation of the coercive power of the police. Moreover, the emergence of new and more vicious intrastate and bureaucratic conflicts under the condition of heightened political competition strips new democratic governments of capacity to reform police forces sufficiently to

guarantee public security. The result of intensified political competition in new democracies is an overall situation of public insecurity and the “un-rule of law” (p. 58).

While Chavez implies that the intensified political competition exerts a positive effect on police accountability, Davis sheds light on the possibility that competitive party politics exercise a negative effect on police capacity. Moreover, contrary to Chavez’s point that increased political competition among parties with comparable power leads to the enhancement of police accountability, the same factor could exert a detrimental effect on police accountability. In practice, a responsibility to everyone is a responsibility to no one, because too much dispersed responsibility of the police to various institutional agencies prevents efficient and coherent checks and constraints on the arbitrariness of police operations. Moreover, frequent changes in the ruling party and in dominant forces in the executive and legislative bodies of government increase unpredictability with regard to who occupies those institutions to which the police are accountable. Those institutions that take charge of constraining arbitrary police enforcement of the law are gradually filled with people who have no chance to accumulate knowledge of the police due to frequent transfers of power. In these ways, increased competition in politics in new democracies exerts either positive or negative effects on police capacity and police accountability.

(2) Structural Factors

Geopolitics

Creation and transformation of state institutions are deeply constrained by the structural conditions in which a country is embedded. Geopolitics is a powerful constraint on the changes of law enforcement agencies, since it imbues them with specific institutional characteristics. For example, the existence of strong external threats leads to the formation of what Harold Lasswell (1997) called a “garrison state.” The strong military threats from external enemies necessitate building strong armed forces to maintain national security. The intensified importance of military forces is not restricted to the domain of national security since it also exerts effects on political and institutional aspects in other areas. As coercive state organs gradually take

charge of extended and intensified roles, the predominating influence of a country is taken by specialists on violence, while economic and social life is systemically subordinated to the “fighting forces”—coercive organs of the state, such as the military and the police (Lasswell, 1997: 43). The geopolitical condition of strong external threats intensifies the capacity of police.

However, the same factor exerts a negative effect on another institutional aspect of the police—accountability. The targets of coercive and physical means that have been created for national security are easily switched from external enemies to internal political opponents of ruling groups. The political elites resort to large-scale coercion in order to maintain their power and to coerce external or internal challengers (Lasswell, 1997: 81, 82). While the police of the garrison state perform extended functions, such as close and thorough investigation of the loyalty of personnel within the system, with intensified operational capacity, the development of institutional measures of police accountability severely lags behind for the sake of convenient exploitation of the police for the political goals of ruling elites (p. 98). In this way, geopolitical conditions that create a strong military tension with other countries increase police capacity and decrease police accountability.

Local Power

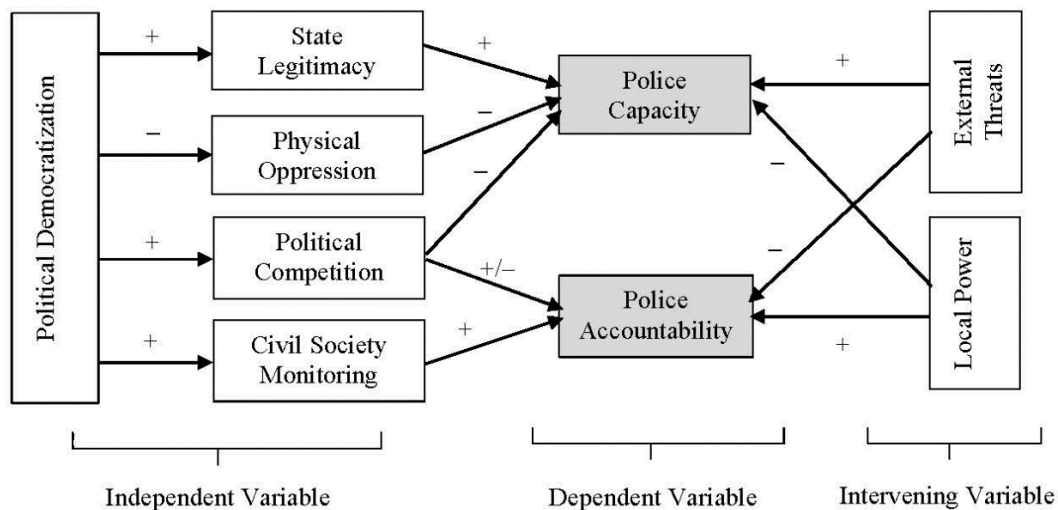
New democracies do not initiate their democratic transition from the same starting point. The unfolding of democracy embarks from different initial conditions in each country. Among many structural factors at the domestic level, the existence of strong local power is especially important in terms of its effect on the institutional transformation of police forces. The strong power of local elites in local politics exerts positive effects on police accountability. Unlike the politicians at the national political level, the local politicians connect with police officers at a closer distance and take charge of oversight on police law enforcement more efficiently at the community level. While the intensified competition in party politics at the center prevents efficient and coherent checks and constraints on the arbitrariness in police operations due to frequent changes of watchmen and increased unpredictability of who will police the police, heightened political competition in local politics does not cause such dangers, because all the local politicians are

members of the local community. The police become more accountable to local communities since coherent and efficient oversights on the police are possible when local power is strong.

However, the same factor that is beneficial to police accountability—especially vertical accountability—exerts a negative effect on police capacity. Excessive strength of local elites with the sacrifice of central government causes the danger of police capture by local forces. The close relationship between the police and local elites that enables efficient functioning of police accountability measures could degenerate into their collusion, which in turn, prevents successful enforcement of the law in an impartial manner. When the police are captured by local forces, they have no capacity to enforce universal rules of the country at the local level since they serve the particularistic interests of local factions. In this situation, law enforcement by the police cannot be impartial, because the police coerce the sacrifice of powerless people for the benefits of powerful people who form close and collusive connections with the police. In this way, the existence of strong local power increases police accountability, while at the same time weakening police capacity.

Figure 1-2 summarizes the causal effects of democratization and structural factors at the international and domestic levels, which have been discussed above. Each of the factors—democratization, external threats, and local power—do not exert homogenous effects on different institutional dimensions of the police in an equal manner. They exercise either positive or negative effects on each different aspects of the police—police capacity and police accountability. So, it cannot be said democratization leads to any universal change of the police toward a certain form. Transformation of the police in new democracies should be examined case by case in order to identify the divergent causal effects of these institutional and structural factors on continuity and change in police forces.

[Figure 1-2] Democratization, Structural Forces, and the Change of the Police



(3) Agencies

Institutional and structural factors exert causal effects on the continuity and change of law enforcement agencies, as Figure 1-2 illustrates. However, what is missing in the causal flows shown in Figure 1-2 is the role of agency. Actually, what causes changes in the unfolding of institutional changes of the state, including the police, are the actions of players who create, reform, and abolish the state's institutional agencies. Emphasis on the role of the agency entails the presumption that each player has the capacity to make his or her own choices. Agents use their cognitive and motivational capabilities to make choices that are in principle reasonable in terms of the situation in which they are embedded and the goals that they are pursuing (O'Donnell, 2010: 17–33). Democratic transition entails changes in the perceptions, incentives, and strategies of various players, such as politicians, bureaucrats, and citizens (social forces). Democracy provides new conditions in which these actors interact with one another for the fulfillment of their own individual or organizational goals. These actors do not have uniform perceptions and strategic choices of behavior in a condition of democratic transition.

First, presidents in a new democracy have a normative goal to transform the police into impartial law enforcement agencies. In fact, they also have very practical reasons to reform the police in order to send their message to the electorate that they are democratic leaders equipped with a strong commitment to the protection and respect of civil rights and the rule of law. By transforming the old police forces from political tools of oppressive dictators to the civil servants who protect the lives and property of citizens from criminal offenses and enforce the law in an impartial way, the president surely expects not only the increased legitimacy of his or her government, but also intensified support for the ruling party in forthcoming elections.

However, politics has its own logic of operation, and politicians who participate in the game of politics hardly escape it. Regardless of regime type, the unchangeable logic of politics is that power is the first priority of politicians. The president in a democratic political system also prioritizes the increase and maintenance of his power above any other goals. This logic of politics—the prioritization of power—applies to his decisions regarding suggestions and implementation of police reform. A president’s police reform could take various forms, each of which might satisfy societal demands for the transformation of law enforcement. However, the selection of a specific form of police reform among various options is influenced by the political calculations of the president. He might have an incentive to use the police to oppress political rivals and oppose social forces to prolong his political survival if he believes that he can compete in electoral contests more effectively with the advantage of holding law enforcement agencies under his control (Bailey and Cornelius, 2007: 494). In this case, police reform would entail the intensification of police capacity and maintenance of police accountability at a low level, because it serves the political interest of the president, i.e., it secures and maintains power.

The president plays a crucial role in mediating the effects of intensified political competition in electoral democracy on the changes of police capacity and police accountability. As will be shown in Chapter 2, his intention to either increase or decrease police capacity and police accountability is determined by the political and bureaucratic situations in which he is embedded. What induces a president’s decision to increase police accountability is the degree of his capacity to control the police, since he utilizes the

measures of police accountability to secure that control. When the president already holds tight control over the police, the intensified political competition among different parties does not increase police accountability, because institutional reform of the police encounters a serious stalemate in the legislature. The president who controls the police wants to increase or at least maintain its strength and has every incentive to block mechanisms that may enhance police accountability. Conversely, the opposition forces that worry about the president's political use of the police under his control want to reduce police capacity and increase police accountability. These totally different approaches to police reform culminate in a deadlock situation if high competition among divergent political forces prevails in politics.⁵ Only when the president has a weak capacity to control the police is any police reform geared toward increased police accountability led by intensified political competition. However, in this case, strong police capacity, which is required for the maintenance of public security and enforcement of law, can hardly be expected from police reform, because the president who lacks a capacity to control the police has no incentive to increase the capacity of the police, who are beyond his control.

Second, police officers also have various incentives to strategically decide their behavior in a condition of democratic transition. Police officers, as bureaucratic members of police organizations, rationally respond to the changed political condition that they face, including democratization and police reforms initiated by the president (Benson, 1995: 61). They might perceive democratic transition as a new opportunity to change their oppressive image and duties into a socially accountable one. On the contrary, they might pursue more vigorously the protection and realization of their interests at either the individual or organization level, such as maximization of budget and job security (Trebilcock and Daniels, 2008: 116–117). Democratization provides bureaucrats with another option for strategic behavior. They occupy an advantageous position with respect to politicians in a democracy, since the time horizons of democratic rulers are typically shorter than those of dictators. Police officers who do not like the instructions and reform policies of the new president need only wait until the next election, when the incumbent president may be out of power and replaced by a new boss (Ginsburg, 2009: 7). This uncooperative bureaucratic response of police officials could lead to failure of police reform.

Furthermore, democratic transition could provide police officers with a feeling of relative deprivation. Rank-and-file police officers might feel powerlessness, especially when they experience a loss of administrative sanctions power, an increase in judicial control, and more frequent exposure of their malpractice to the extensive media, as compared to the past. They also might feel their occupational and social status decline from a bureaucracy above citizens to a service-oriented agency (Cao, Huang, and Sun, 2014: 78). This feeling of deprivation could culminate in the organizational resistance of police officers to the police reform initiated and implemented by the president.

Third, the responses of citizens and social forces to the police are also divergent during a democratic transition. The initial response from citizens might be disrespect of police authority and disregard of the law that the police aim to enforce, since up until then, the police have served the interest of ruling groups in a discriminating, arbitrary, and oppressive manner. In particular, when an authoritarian regime is replaced by a democratic one through a bottom-up type of democratization, the police tend to be the first organization exposed to not only emotional but also physical attack by the people who had been oppressed under the authoritarian rule. If the police continue to maintain an image of being a political tool for an authoritarian ruler, as police officers had actively served the authoritarianism, the police may lose legitimacy as a guardian of citizens, as well as their capacity to enforce the law at a deep level of society (Amir, 2001: 65).

By contrast, citizens might try to buy the police through bribery for their interests in everyday life due to their belief that the police in a democratic society are easy to deal with compared to the police of authoritarianism. In this case, the police remain fragile to the infiltration of social forces from outside, which pursue their particularistic interests when they are dealing with the police. In fact, corruption of the police is interconnected with, and often legitimated by, the corruptive behaviors of citizens, although in many cases the police coerce citizens to provide bribes to them (Silva, 2007: 184). Egoistic interest groups, and even criminal organizations, might challenge governmental authority and seek particularistic solutions to their problems, filling the power vacuum left by the retreating authoritarian state. If democratization is accompanied by the weakening capacity of the state vis-à-vis the forces of social groups, it opens more access points whereby citizens can use bribery to influence government decisions and makes it easy for

societal interests to infiltrate and capture institutional agencies of the state, including the police, through bribery (Morris, 2009: 57, 77).

III. Police Reform and Democratic Policing

(1) Police Reform

Law enforcement agencies do not exist in a political vacuum (Mo, 2010: 90). Authoritarian rulers frequently use the police as a means to accomplish their political purposes rather than to maintain public security and to enforce the law in an impartial manner. It cannot be said that democratic rulers are different from their authoritarian counterparts simply because they live in a democracy. They share the same characteristics with authoritarian leaders in terms of their priority in the realm of politics: the ultimate goal in politics is to increase their power and protect their interests. Democratic leaders of new democracies in fact inherit a powerful and easily available toolkit from their authoritarian predecessors and encounter the strong temptation to open the box to use the tools for their political goals as their predecessors did. Political democratization does not automatically lead to police reform toward democratic policing. Even if those political leaders in new democracies are forced by the pressure of democratic waves to implement police reform, the police reform selected by politicians takes different forms in terms of target goals, depending on the political and bureaucratic conditions in which they are situated.

Law enforcement and its intended goal of the rule of law need to be addressed as a political phenomenon, i.e., the product of politics, rather than simply a normative product (Maravall and Przeworski, 2003: 2–3, 15). A politician's police reform might be motivated by a normative belief in the values of democratic policing. However, his preference for a certain form of police reform is influenced by the political and bureaucratic conditions in which he is embedded. As will be discussed in Chapter 2, the goals and contents of the police reform proposed and implemented by a president are determined by two factors: (1) the president's capacity to control the police and (2) the president's capacity to control the legislature. The

tragedy of new democracies is that the president's choice of police reform, among various options available to him, is not the best option for the transformation of the police into a democratic policing unit, even if it is the best option for the fulfillment of the political goals of the president. This dissertation will show why police reform in pursuit of impartial law enforcement is a remote and challenging goal in new democracies.

(2) Police Practice

A president's police reform is an important factor that exerts influence on the transformation of police forces in new democracies. However, legal and institutional changes of the police through the police reform implemented by the president's will do not guarantee changes in the actual practices of the police. The evaluation of changes in law enforcement should be based on not only the formal enactment of police reform, but also the actual practice of enforcement of the law conducted by the police (Ingram and Shirk, 2012: 128). The targeted goals of police reform should be distinguished from the subsequent conduct of police practice that is taken by the police after the implementation of reform. It is difficult to conclude any simple and direct causal relations between police reform and subsequent police practice because police reform causes divergent outcomes—intended changes, unintended changes, and even no change—while subsequent police practice is influenced by various factors, such as different initial conditions, geopolitical structure, and relationship between center and periphery, let alone the police reform.

To trace the trajectories of changes in law enforcement in new democracies, not only the institutional change of the police, but also the practice of the police, should be investigated. Institutional aspects of the police are mainly related with the input side of policing, such as budget, manpower, promotion system, discipline, and oversight system. Police practices, however, are more connected with the procedure and output sides of policing, such as crime clearance, police corruption, human rights violations, and political neutrality. All of these inputs, procedures, and output sides of policing are indicators of the levels of police capacity and police accountability. In other words, for the valid evaluation of changes in police in new democracies with regard to capacity and accountability—the two indispensable requirements for impartial

law enforcement—not only institutional, but also behavioral aspects of the police need to be examined with equal emphasis.

The police can be defined broadly. David Bayley (1990), for example, defines the police as “people authorized by a group to regulate interpersonal relations within the group through the application of physical force” (p. 7). For Bayley, the police are not necessarily restricted to institutional agencies of the state. Non-state agencies could be called police because the group that authorizes policing—the use of physical force to regulate interpersonal relations—does not need to be a state. If people are paid and directed by the community that authorizes policing, they are even “public” police of the community (p. 27). However, in this dissertation a narrower definition of the police will be accepted to focus on the transformation of coercive organs of the state with democratization. The police will refer the “state’s primary legal enforcers and embodiment of the law, providing in principal protection, access to justice, and redress” (Hinton and Newburn, 2009: 4). In other words, only public and legal institutional agencies of the state that are officially authorized to perform policing will be examined in this dissertation, whereas any forms of private or non-state agencies, such as private protection companies and militia corps, will be excluded from the subject of its analysis, although, in specific conditions, such as state failure, those private agencies play a crucial role in the fulfillment of police duties—prevention and investigation of crime and enforcement of rules—in place of official and public law enforcement agencies of the state.

IV. Methods, Cases, and Research Design

(1) Case Studies

To investigate the transformation of law enforcement agencies in new democracies, this dissertation will employ the approach of comparative and context oriented case studies, since it can fully show the multiple and complex causal dynamics among various factors at the institutional, structural, and agency (policy) levels. The main focus of the dissertation is how political democratization creates institutional environments

in which political actors strategically decide trajectories of police reform. Of course, the actual transformation of police does not exactly follow the course that the political actors initially set up, because other structural and political constraints intervene in the process of change in institutional and behavioral aspects of the police. The comparative case studies approach employed in the dissertation is suitable for the investigation of these dynamic relations among structures, institutions, and agencies. In fact, it aims to bring back “people” (agency) who have their own choices in specific situations and who have been forced out to the boundary by statistical (cross-country) analyses (Arthur and Marenin, 1995: 208–209).

Korea, Taiwan, and Mexico are ideal cases to investigate a president’s strategic decision of police reform in the complex chain of causal effects of various factors. These most successful “third-wave” democracies have shared quite similar trajectories of democratic transition since the late 1980s, although the fates of law enforcement and rule of law development have taken various routes in each of these countries. Similarities in major events of democratic transition as well as their sequence and timing provide a valuable opportunity to identify the causal dynamics that led to different results in the status of law enforcement and rule of law development in these quite similar cases of new democracies.

First, each has witnessed regime turnover at least twice through free, fair, and competitive elections. Since the start of democratization in the late 1980s, two parties—the “hegemonic ruling party” (hereafter the HRP), which reigned over the country during the authoritarian period, and the “dominant challenger party” (hereafter the DCP) that intensified its political influence with democratization by taking over the government and legislature after a long period as an opposition party—competed with one another for the presidency and dominance over the legislature in all three countries. Very similar political events have been led by political competition between the HRPs and the DCPs since the initiation of democratic transition. Every HRP in each of these three countries won the first democratically held presidential elections, lost two consecutive presidential elections to the DCP, and then restored its presidency again in a succeeding presidential election.

Second, unlike most other democratic transitions, democratization and the coming to power of an opposition party did not converge at first (Göbel, 2013: 228), since the first democratic presidential

elections in these countries were won by candidates of the HRPs, which inherited the authoritarian rule: Roh Tae-Woo in 1987; Lee Teng-Hui in 1996; and Ernesto Zedillo in 1994. Moreover, except Roh in Korea, Lee and Zedillo succeeded in dominating each of their legislative bodies, because their ruling parties occupied the majority in the legislature or maintained at least the status of the largest party. Roh also quickly restored his control over the legislature when his ruling party merged with other minor parties to create a majority. As a result, democratization did not lead to a dramatic change in the ruling groups in any of these countries, since the two bodies of government—the executive and the legislature—were still occupied by those ruling groups that had reigned over each of these countries during the authoritarian period.

Third, they experienced a divided government, i.e., the executive and legislature ruled by different parties, when the first historic regime turnovers took place in these countries. That means the president who took over the executive branch through a first regime turnover—or the DCP president—encountered serious political tensions with the legislature that the HRP, now the opposition party, occupied. The HRPs have shown very strenuous vitality in the legislature since the end of authoritarianism and the beginning of democratization. The KMT in Taiwan had lost the majority in the legislative *Yuan* in 2001, but restored its majority in 2008. The PRI in Mexico had lost its majority in 1997 for the first time after its rule of seven decades, but survived as the largest party until 2006, and finally succeeded in restoring its majority in 2009. In Korea, parties have changed their names almost every time they have encountered forthcoming elections in order to show innovative images to the electorate.⁶ However, like the KMT and the PRI, the HRP (the current name is the New Frontier Party (NFP) or the *Saenuri* Party) in Korea has maintained a majority, or at least the status of the largest party, since the late 1980s. The only exception was the short period between 2004 and 2008.

The continued influence of the HRPs and the repeated—at least twice—regime turnovers from the HRPs to the DCPs, and vice versa, in Korea, Taiwan, and Mexico mean that presidents in these countries under democratic transition encountered very divergent political and bureaucratic situations. Some presidents experienced very favorable executive-legislative relations due to their control over the legislature, while other presidents had to cope with tensions between the two different bodies of government. While

authoritarian rulers had always enjoyed full control over all bodies of government, elected presidents in new democracies are now unable to expect control over the legislature when the ruling parties fail to dominate the legislature. A new balance of power among different branches of government started to replace the president's absolute monopoly of power, not only over the legislature, but also over the bureaucrats of the executive body, since the president from the opposition party had no existing foundation of control over the bureaucrats.

With the unfolding of democratic transition the power taken by each president over different bodies of government became divergent. Now, the political influence of individual presidents over their own executive and other branches of government varies depending on the power balance among different parties and the occurrence of regime turnover. Some presidents enjoy high levels of control over both bureaucrats and the legislature, while other presidents enjoy control over only one or neither. These divergent situations encountered by presidents provide a valuable chance to investigate how a president's incentive to reform the police is differently influenced by the political and bureaucratic conditions in which he is embedded. Comparative case studies of Korea, Taiwan, and Mexico will illustrate why reform in pursuit of capable and accountable law enforcement agencies is not necessarily led by presidents who were elected through free, fair, and competitive elections. Divergent trajectories of changes in law enforcement in these three countries will show why new democracies struggle, and, in many cases, fail to build capable and accountable law enforcement agencies.

(2) Data and Measurement

Transformation of law enforcement agencies in new democracies entails the change or continuity in institutional and behavioral aspects of police capacity and police accountability, which will be measured at three different levels—(1) input, (2) process, and (3) output—by utilizing a combination of various indicators.

Capacity

There are various indicators for the measurement of police capacity. Perhaps, police expenditure (budget), absolute number of police officers, and the ratio of police officers to the total population (or police officers per 100,000 residents in the population) might be the most common indicators of police capacity at an input level (Ruddell and Thomas, 2009: 658). Other indicators at the process level, such as voluntary compliance, coercive compliance, and non-compliance, are also useful to measure police capacity. Output level indicators, such as arrest rate and indictment rate, can also be utilized for the measurement of police capacity. All of these indicators at the input, process, and output levels should be equally emphasized since they show divergent dimensions of police reform and police practice. The input aspect of police capacity is crucial for estimating the intention and goals of a president's police reform. The process and output aspects of the police are necessary for evaluating the effects of democratization and police reform on police practices.

The necessity of equal consideration of these input, process, and output level indicators further increases when each indicator at different levels shows different and even conflicting degrees of police capacity. For example, high input level, such as high police expenditure, does not mean that the police have a strong capacity at the process level, if people comply with the police only when they are coerced, rather than voluntarily comply. A contradiction between input level police capacity and output level police capacity happens when high police expenditure or the existence of a large number of police officers does not result in a low level crime rate. For this reason, a combination of measurements at different levels of police capacity might be useful to increase the reliability of its measurement. For instance, the efficiency level measured by the output (e.g., crime rates) produced by the same unit of the input (e.g., manpower, budget) might be a more reliable indicator of police capacity than solely input or output indicators.

However, the combination of indicators at different levels of police capacity does not fully guarantee the validity of measurement of police capacity, because the same indicators can be interpreted in quite different ways, causing confusion and conflict in the measurement of police capacity. For example, the same statistics of reported crime on the rise can be a signal of either an increase in police capability or a decrease in police capacity. On the one hand, the increase of reported crime can signify the deterioration of

public security led by the inability of the police to deter the occurrence of crime. By contrast, the same increase of reported crime can be a sign of intensified police capacity, in which they successfully detect and prosecute more crimes (Yoon and Joo, 2005: 31–32). Similarly, the declining number of reported crimes can be an indicator of either the increase of police capacity or the decrease of police capacity, if a significant gap exists between “known crime” and “reported crime.” The low level of reported crime might mean that the police successfully conduct their duties of crime prevention. However, it can also signify that the police hold only a weak capacity to monitor and record the occurrence of crime and that victims do not report crimes to the police due to weak confidence in the capacity and integrity of the police (Morris, 2009: 119). To secure the validity of indicators related with crime statistics, a comparison⁷ of all four categories of crime statistics—known crime, reported crime, investigated crime, and crimes resulting in arrest and sentencing—needs to be utilized (Shirk and Cázares, 2007: 13).

Accountability

The input level of police accountability is mainly related with institutional measures for the constraints and oversights on any deviation of the police from expected behavior. These institutional measures for police accountability can take various forms. For example, mandating the presence of nominees for high-ranking police offices at a legislative hearing before their appointment is an indicator of intensified horizontal police accountability at the input level. Foundation of an ombudsman system that safeguards citizens’ oversights on any malpractice of the police, including corruption and human rights violations, shows vertical accountability of the police at the input level. These institutional and input level aspects of police accountability are important to evaluate the intention and goals of the president when he proposes and implements his police reform plan.

Compared to input level police accountability—creation of institutional measures for responsible police behavior—it is difficult to distinguish between process level police accountability and result level police accountability since the outcome of police accountability—responsible police behavior—is in fact about the responsible police behavior in the process of fulfillment of police duties. While the input level of police

accountability is measured by quantities and qualities of institutional devices for police oversight, the process and outcome levels of police accountability are measured by the degree to which the police do not deviate from expected behavior. Corruption, human rights violations, and political intervention committed by the police are indicators that show deviation of the police from expected behavior, or a low degree of police accountability at the process and output levels.

Data

To conduct the measurement of these behavioral and institutional aspects of the police at the input, process, and output levels, various statistical and episodic data will be employed. First, official data on crime and police performance published by governments (e.g., National Police Agency, Prosecutors' Office, Ministry of Statistical Information Service, and Election Management Committee) will be utilized. Official data are generally inaccurate and largely unreliable, especially when they are produced by authoritarian governments or less transparent governments in new democracies. In these countries, the government and the police tend to fabricate data in order to exaggerate their accomplishments in public security and the rule of law. Data distortion for a political purpose seriously reduces the reliability of official data. Researchers use such official data because in many cases it is the only data available, although they are aware of the reliability problem (Arthur and Marenin, 1997: 209). However, for the reliable measure of institutional and behavioral aspects of the police, official government data should be complemented with and cross-checked by other indicators produced by non-government entities. In this dissertation, data from various sources will be utilized to examine the transformation of law enforcement agencies and changes in the rule of law. Various data produced by domestic and international non-governmental organizations, such as the East-Asian Barometer, World Values Survey, and *Latinobarómetro*, will be used to evaluate the status of law enforcement and the rule of law in Korea, Taiwan, and Mexico. Newspaper articles will provide episodic data for the behavioral aspects of law enforcement agencies.

V. Structure of the Dissertation

Through a comparative analysis of the divergent police transformation routes taken by Korea, Taiwan, and Mexico, the dissertation investigates how the timing and direction of the institutional and behavioral transformation of the police are dictated by complex interactions among various institutional, structural, and agency-related factors.

Chapter 2 addresses the theory of democratic policing and the politics of police reform. It argues that democratic policing is different from policing in democracy and suggests four ideal types of policing. The concepts of the capacity and accountability of the police are emphasized to differentiate democratic policing from other types. Then, the president's disparate incentives to reform the police are discussed. This shows how a politician's police reform plans, which are influenced by different political and bureaucratic conditions of a new democracy, tend to conflict with the ideal pathway toward democratic policing.

Korea, Taiwan, and Mexico encountered the wave of democratization and started the transformations of their law enforcement agencies from dissimilar initial conditions since they had developed their own forms of police forces during the authoritarian period. Chapter 3 examines the formation and functioning of authoritarian police prior to the democratic transitions in each of these countries. Differences of structural conditions, forms of authoritarian rule, and bureaucratic traditions are examined in order to trace the origins of the various forms of authoritarian policing in these countries.

Chapters 4 through 9 constitute cases studies of law enforcement agencies in Korea, Taiwan, and Mexico. Chapter 4 traces the various police reforms that new political leaders proposed and implemented during the democratic transition in Korea. It shows how the president's control over the police and the legislature plays a crucial role in dictating the timing and goals of police reform. The tragic aspect of police reform in Korea was that, although political democratization led to mounting public demands for reforming the police into impartial law enforcement agencies, the changes initiated by each new democratic leader did not facilitate a transition toward a police force with strong capacity and accountability.

The president's reforms are important for deciding the direction of the transformation of the police in a new democracy. However, the implementation of reforms does not necessarily lead to a change in police

practice. Moreover, changes in and continuity of police practice are influenced by not only the president's reform policies, but also various domestic and international factors, such as geopolitics and strong local factions. Chapter 5 examines the effect of reforms on police behavior and the transformation of policing in Korea by scrutinizing the process and outcome of the implementation of the duties of the police, such as maintenance of public security and impartial enforcement of law, since the democratic transition in the late 1980s. This investigation illustrates that Korea's struggle to build impartial law enforcement agencies has met with only partial success.

Chapter 6 examines police reform in Taiwan. The trajectory of this reform since the country's democratic transition in the late 1980s illustrates the dynamic interactions among the various actors in the realm of politics and bureaucracy. The wave of democratic transition in Taiwan directed the transformation of the police, which had existed as a political tool under the authoritarian rule of the KMT. The Taiwanese police system experienced an early movement toward impartiality, but soon fell into internal disorder as a reform bill in the legislature reached an impasse. The change in police practice and the effects of reforms on the transformation of the Taiwanese police are examined in Chapter 7. This section shows how and why the Taiwanese police have moved in a direction that neither the presidents nor the citizens anticipated when the country entered the phase of democratic transition. It illustrates why impartial law enforcement, the rule of law, and the democratic value of equality before the law cannot be sustained when the police simply function as mediators.

Chapter 8 analyzes new political leaders' various efforts to engender more capable and accountable law enforcement agencies during the evolution of democracy in Mexico. Although the creation of impartial agencies through police reform is a normative goal to which every politician and citizen in a new democracy aspires, Mexico's police reform during its democratic transition demonstrates that political logic sometimes frustrates common desires, even in a democracy. Throughout its recent history, Mexico has struggled to make the central state powerful enough to provide at least a minimum level of public security. Intensified accountability measures that establish constraints on coercive central state power were pushed aside as secondary goals since the central state and its police forces lacked the full capacity to enforce laws. However,

Mexico's public security problem has escalated with the changing dynamics of organized crime, the collapse of PRI hegemony, and the accelerating political transition to democratization. Chapter 9 explores how Mexico during its democratic transition has encountered a significant decline in public security rather than an improvement of state capacity to enforce the law.

The concluding chapter provides a comparative analysis of the divergent police transformation routes taken by these countries. It focuses on contributing to the theory of democratization and exploring the implications of the development of the rule of law and democratic consolidation in new democracies. First, it discusses why the actual direction of proposed police reform has not always corresponded its anticipated direction. Various factors, such as the alternative options for the president and the characteristics of local politics, are offered as explanations of such deviation from the anticipated routes of police reform. Second, it examines how complex interactions among various institutional, structural, and agency-related factors caused the divergent trajectories of change in these countries. It shows how each of these factors differently impacts the speed and direction of institutional and practical changes in law enforcement. Last, it addresses the effect of failure to create impartial law enforcement agencies on the proper functioning of the rule of law and consolidation of democracy. An examination of the status of the rule of law and the stability of democratic governance in these three countries illustrates that, despite remarkable achievements in electoral democracy, without the stable functioning of impartial law enforcement, neither the rule of law nor democracy itself could take hold.

Chapter 2

Democratic Transition and Politics of Police Reform

Democratization contains many positive connotations for citizens who have just started the democratic transition: Every “evil thing” of authoritarianism will be eliminated, while every “good thing” will come with democratization. The impartial enforcement of law is one of the positive connotations of democratization, and the citizens expect that the oppressive and unfair enforcement of law will be transformed into democratic policing with the end of authoritarianism and the unfolding of democratic transition. However, democratic policing is simply one of the many types of policing in a democracy. Non-democratic types of policing can remain in new democracies because the introduction of electoral democracy does not automatically lead to the replacement of authoritarian policing with democratic policing. The transformation of policing follows its own political logic. In this chapter, two issues will be discussed with regard to the transformation of authoritarian policing into democratic policing. First, the definition of democratic policing will be discussed, and the concepts of the capacity and accountability of the police force will be focused on to differentiate democratic policing from other types of policing. Second, the divergent incentives of the president to reform the police will also be discussed. This will show how a politician’s police reform plans, which are influenced by the different political and bureaucratic conditions of the new democracy, tend to contrast with the ideal pathway toward democratic policing.

I. Foundation of Democratic Policing

(1) Democratic Policing vs. Policing in a Democracy

Democratic transition provides the police with a difficult assignment. Contrary to the rosy expectation of a favorable transition from authoritarian policing to democratic policing, policing under democratic transition

encounters significant dilemmas. The police in a democratic society are charged with the protection of democratic values, such as freedom, human rights, and equality before the law. The dilemma of the police is that they have to accomplish these duties using coercive, and sometimes even physical, means that might oppress those democratic values. The use of coercive means by the police against the voices and bodies of certain citizens is inevitably tied to the criticism of the violation of freedom, one of the crucial values of a democratic society. In essence, the police protect democracy from internal and external threats by utilizing undemocratic means of coercion (Marx, 2001: 42). The inevitable tension between the goals of police duties (i.e., protection of democratic values) and the means for carrying out police duties (i.e., coercive use of power) makes the transition from policing in a new democracy into democratic policing a tricky job.

Any imbalance on either side (democratic values or coercive means) has the danger of leading to a crisis of democracy or the authoritarian backlash against democracy. First, a disproportionate emphasis on democratic values, with the sacrifice of coercive means, is problematic. If the coercive means of the police are disregarded because of the potential threat to democratic values, such as freedom of expression, the democratic polity itself is exposed to other dangers. The protection of the democratic polity from anti-democratic forces, and the safety of citizens from criminal offenses, cannot be ensured without the strong coercive means of the police. Second, excessive emphasis on the coercive means of the police also causes a significant problem. If the coercive means of the police are overly stressed, for the sake of efficiency in security maintenance, the very coercive means of the police could endanger the democracy by restraining and oppressing democratic values. An exaggerated emphasis on the utility of the coercive means of the police has to be restrained, considering the fact that, among the various agents of government, the police are the largest and most expensive organization and have the widest sphere of discretion and physical means. With their specially allocated powers, such as the right to use firearms and the authority to arrest and detain suspects, the police pose a threat to democratic values, which is greater than that which any other government agency might hold (Amir, 2001: 59, 62). The essential problem of the police is that the police are a “major support” of democracy as well as a “major threat” to democratic society. The dilemma of

securing both protection “by” the police and protection “from” the police becomes a salient problem for a country under democratic transition (Marx, 2001: 36, 43).

Democratic policing has to be distinguished from policing in a democracy. Policing in a democracy is not equivalent to democratic policing because what the police do in a democracy is not necessarily democratic policing (Marx, 2001: 36). Policing in a democracy could take either authoritarian or democratic form, as the democratic transition from authoritarianism itself does not automatically transform authoritarian policing into democratic policing. If the police fail to provide their citizens either protection “by” the police or protection “from” the police, it cannot be said they are conducting democratic policing, regardless of transformation into electoral democracy. To be considered democratic policing, the police should be the provider of the “impartial enforcement of law,” which secures not only protection “by” the police but also protection “from” the police.

The impartial enforcement of the law, the most crucial element of democratic policing, contains two aspects: (1) the law is enforced capably by the police (i.e., enforcement), and (2) the enforcement of law should be impartial (i.e., impartiality). The capable enforcement of law means that protection “by” the police is given to a society because the law reaches the farthest and deepest levels of the country rather than simply existing as lifeless letters in a book. By capably enforcing the law, the police maintain social order, public security, and eventually the safety of the democratic polity. On the other hand, the impartiality of law enforcement signifies that no (groups of) people are discriminated against in the process of law enforcement. When the law is enforced impartially by the police, citizens are given protection “from” the police because the police are restrained from the arbitrary and discriminatory use of coercive means. By guaranteeing the impartiality of law enforcement, democratic societies can protect the crucial values of democracies, such as human rights and equality. When the police capably fulfill the duties of the impartial enforcement of law, it can finally be called democratic policing.

(2) Impartial Law Enforcement

To be considered democratic policing, the police have to enforce the law in an impartial manner. There are two crucial requirements for police to fulfil the duties of the impartial enforcement of law: (1) the capacity of the police to enforce the law and (2) the accountability of the police to institutions or actors outside the executive branches of the government. If the police lack either capacity or accountability, the police fail to accomplish the duties of democratic policing, or the impartial enforcement of law. On one hand, police who have strong capacity yet with no accountability tend to use their specially allocated power to oppress people for the sake of the interests of the ruling groups who control the police rather than enforcing the law in an impartial way. On the other hand, police who are accountable to institutions or actors outside the executive body, but who do not have the capacity to enforce the law, also fail to enforce the law in an impartial manner because nobody will comply with impotent police. Furthermore, police with no capacity are easily captured by those institutions or actors to which they are accountable. Thus, to accomplish the impartial enforcement of law that is necessary for the foundation of the rule of law, the police should be equipped with not only strong capacity but also strong accountability (Bailey and Dammert, 2006: 20).

Police Capacity

The importance of the police's capacity for the successful implementation of the rule of law in new democracies has not been given sufficient attention because of the influence of liberal democratic thinking on the rule of law. At the center of the liberal understanding of the rule of law is the notion that the enhancement of the rule of law can occur only at the expense of a weakening of governmental or public power (Jayasuria, 1999: 2). The police force is one of the core elements of coercive state power, along with the military, and many authoritarian rulers have used the police force to oppress political rivals and democratic social forces. According to liberal democratic thinking, the enfeeblement of the police's capacity, which had been exploited by authoritarian leaders, means the reduction of state oppression, which leads to democratic developments. Certainly, the success of a liberal democracy depends on the effective constraint of state power through checks and balances among different institutions. Unchecked state power equipped with strong coercive institutions poses a serious threat to democracy. However, at the same time,

if a democratic polity is not given enough coercive means of power to enforce the law and maintain public security, the polity cannot be said to be a good form of governance, regardless of the importance of the democratic values that are pursued by the polity (Fukuyama, 2013: 4).

To correspond with the required qualities of good governance, the democratic polity should also produce public goods, among which public security and impartial law enforcement constitute crucial elements. For these duties of good governance, the police in a democracy should be given capacity strong enough to enforce the law in an impartial manner and maintain public safety. The state's willingness and capacity to secure the rule of law is especially important in new democracies, particularly with regard to the entrenchment of electoral law, protection of political and civil rights, and trust in the rules that govern the political process. If new democracies continue to have weak state capacity, they cannot effectively enforce the laws, especially those rules that have just been introduced for the maintenance of free, fair, and competitive elections (Holzner, 2010: 40). In a new democracy, where the newly introduced rules of politics have not yet been securely entrenched, the strength of law enforcement agencies must be emphasized for the settlement of newly agreed upon political rules, including the rules for electoral democracy, compared to mature democracies in which the rules of politics have already been consolidated (Peerenboom, 2004: 2).

The police, as an organization in government, require both an extensive and intensive capacity for the successful implementation of law and the maintenance of public security. According to Michael Mann (2012), the power or the capacity of organizations can be categorized into two types: (1) extensive capacity and (2) intensive capacity. The extensive capacity of a certain organization refers to the "ability to organize large numbers of people over vast territories in order to engage in minimally stable cooperation," while intensive capacity refers to the "ability to organize tightly and command a high level of mobilization or commitment from the participants, whether the area and numbers covered are great or small" (p. 7). Extensive capacity emphasizes quantitative dimensions, such as size, or the number of workers available to do a particular job that these organizations wish to accomplish. Conversely, intensive capacity stresses the qualitative dimensions, such as discipline, loyalty, and internal cohesion, which are necessary for the

maintenance of organizational efficiency and successful implementation of organizational goals through strict mobilization.

Strong extensive police capacity enables the state to extend its coercive means to the farthest—and lowest—reaches of society. Police with strong extensive capacity successfully fulfil the duties of “low policing”—the prevention and investigation of criminal offenses and the maintenance of public order at the societal level. Intensive police capacity is also helpful for the successful fulfilment of duties of “low policing” because it enables the police to successfully cope with organized forms of criminal offenses, such as organized crime and drug cartels, which threaten public security and the stable enforcement of law. However, compared to extensive police capacity, strong intensive police capacity provides additional benefits to the ruling politicians who intend to utilize the police for “high policing”—which includes duties of intelligence and police investigation that are targeting any oppositional political forces. Police who are equipped with strong internal discipline, cohesion, and loyalty to the ruling groups operate more successfully in terms of realizing the political interests of the ruling elites than do police with merely a large organizational size (Mawby, 2001: 23).

Police Accountability

If an institutional actor is responsible solely to a single entity who orders the direction of its operation, and is completely insulated from any external influence outside the line of command, it is absolutely dependent on the very entity who commands it. Neutrality or impartiality is not possible for an institutional actor who is completely dependent on its commander. The democratic system introduces the mechanism of “checks and oversight” on the exercise of power to safeguard the neutral and impartial fulfillment of the duties of government agencies. Accountability refers to those mechanisms of surveillance and institutional constraints on the exercise of power (Schedler, 1999: 13). If the institutional actors hold accountability, they anticipate that a deviation from the expected behavior will subject them to punishment from other actors. The important thing is multiple responsibility. The number of actors who are charged with punishing the actor who deviated from the expected behavior should be larger than two, and at least one of them

should be an entity outside the chain of command (Amir, 2001: 53). In other words, accountability is another form of checks and balances within the government. As many entities hold the power to punish the institutional actors who deviate from the expected behavior, the accountability of those institutional actors becomes intensified. Of course, the quantitative aspect should not sacrifice the merit of a qualitative one. A strong institutional mechanism that guarantees accountability to a single outside entity might be better than a weak institutional device of accountability to many nominal entities who fail to inflict punishment.

There are two kinds of accountability: (1) horizontal accountability and (2) vertical accountability. What distinguishes horizontal accountability from vertical accountability is whether the sanctions of the institutional actors are internal or external to the government. Horizontal accountability refers to sanctions that are inflicted by one government agency upon another. Legislative and judicial reviews of the executive branch are typical of this type of accountability. To maintain horizontal accountability, the institutional actors of the government must have the ability to act as checks on one another. Vertical accountability, on the other hand, refers to sanctions that are administered by actors outside the government, especially citizens, through institutions that ensure their input into the government. Elections and ombudsmen are typical mechanisms of vertical accountability (O'Donnell, 1999: 29-30; Hamilton, 2011: 141).

The accountability of the police is best expressed by “policing the police.” The police maintain order by investigating and punishing the crimes of their citizens. However, who investigates and punishes the crimes committed by the police if the authority of the investigation and punishment is monopolized by the police themselves? Compared to other government agencies, the accountability of the police raises more difficult problems in a democracy because the police use physical means while they maintain a semi-militarized organizational culture with a tight command system. The unaccountability of the police, or the failure to police the police, causes serious threats to the values of democracy and the legitimacy of the democratic regime. To be considered an impartial law enforcement agency, the police should be accountable to other institutional actors outside the executive body that directs the police. The vertical accountability of the police (the accountability to citizens or local societies) might more safely uphold the impartiality of the police, since horizontal accountability (the accountability to the legislature or court) sometimes reveals its

limitations to check and oversee the activity of the police when the president, who ultimately directs the police, also controls the other branches of the government. To fully safeguard the impartial enforcement of the law, the police need to be accountable not only horizontally but also vertically (Hazenbergh, 2001: 182).

Police accountability should be distinguished from other related concepts, such as political autonomy (or independence) and the decentralization of the police force. First, the accountability of the police is different from the political autonomy of the police from the president or the insulation of the police from any political influence of the president. Because the police have been utilized as a political tool of the president in many authoritarian countries, it is commonly believed that ensuring the political autonomy of the police from the president would guarantee the neutrality and impartiality of law enforcement by the police. If police are completely dependent on the president, without having any institutional mechanism for protecting themselves from political influence, the president and his ruling bloc can easily disturb any operations of the police that might threaten their interests and political survival. Moreover, the police easily succumb to the political pressure of ruling groups who mobilize the police to punish or harass their political opponents (Johnson, 2004: 56-57).

However, the complete independence of the police from any entity, including the president, who directs the police, and without the accountability of the police to any institutional actors, presents a double-edged sword. It might protect the police from political interference from the president and other political actors; however, it does not prevent the self-politicization of the police. Each individual police official holds their own political propensity. The political inclination and beliefs of high-ranking police officials matter, especially when police operations are related to political issues, such as the investigation of crimes conducted by the politicians of the ruling party. If the police enjoy perfect political independence, they might voluntarily cooperate with certain political forces that share the same political orientation with the police. Moreover, similar to other institutional actors, the police also have their own organizational interests, such as the acquisition of a larger budget and the maintenance of human resources. If the police are given complete freedom of activity, they can actively cooperate with specific political forces who promise to secure the police's organizational interests (Amir, 2001: 55-56). The political freedom of the police does

not prevent the voluntary politicization of the police for the sake of the individual interests of the police officials, or the organizational interests of the entire police force, although it might protect the police from coerced political mobilization by the president. The independence of the police is thus not a panacea for the impartiality of the police. The police must be held more accountable as they become more independent from the political powers that be (Johnson, 2004: 67).

Police accountability is also different from the decentralization of police forces. Democratization is generally accompanied by the delegation of the central government's power to local governments, and the centralized police forces under the control of the central government also undergo the process of decentralization to some degree. However, the decentralization of the police forces, or the delegation of control over the police from the central government to local governments, does not lead to an increase in police accountability if the newly created or intensified local police are still responsible to local executive bodies without any institutional mechanism that guarantees the responsibility of the local police to institutions or entities outside the executive bodies, such as local councils and citizens. In other words, the decentralization of the police is not the same as the intensification of the vertical accountability of the police. If the local police are not accountable to institutional actors outside the local executive body, the possibility of the local police to be dependent on local executives is still high, and the local police might serve as political tools for their new masters (the heads of local executive bodies) in substitution of their old masters (leaders of central government). Accountability is the other name for checks and balances in government, and for this reason, the decentralization of the police should guarantee checks and oversight of the exercise of police power by institutions outside the local executive body to secure the accountability of the police.

II. Different Types of Policing

(1) Types of Policing

Strong capacity and accountability are crucial requirements for democratic policing, or impartial law enforcement. However, capacity and accountability are not always simultaneously permitted to all law enforcement agencies. Even the police in a democracy can lack either one of the two requirements of democratic policing, while the police in an autocracy could satisfy either of these requirements. As Table 2-1 illustrates, there are four different types of police: (1) “arbitrary enforcers” (oppressive police), (2) “impartial enforcers” (democratic police), (3) “palace guards” (secret police), and (4) “mediators” (parochial police), depending on the degree of the capacity and accountability held by police.⁸ Only the democratic type of police, or the “impartial enforcer,” is equipped with both capacity and accountability, while the other types lack either one or both of them.

[Table 2-1] Different Ideal Types of Police

		Accountability	
		Weak	Strong
Capacity	Strong	I. Arbitrary Enforcer (Oppressive Police)	II. Impartial Enforcer (Democratic Police)
	Weak	III. Palace Guard (Secret Police)	IV. Mediator (Parochial Police)

The “Arbitrary Enforcer”

If the police have strong capacity but fail to possess strong accountability, they are called “arbitrary enforcers” (oppressive police). Arbitrary enforcers successfully enforce the law and maintain public security by using their strong capacity. However, because they are dependent on the political leaders who direct them and lack any checks or oversights of their exercise of power by outside actors, their enforcement

of law is not impartial and follows the whimsical will of their political masters. Many law enforcement agencies in authoritarian regimes fall under this category. “Arbitrary enforcers” are efficient at preventing and investigating crimes at the level of civil society. However, they are exploited by politicians as a violent means to accomplish certain political objectives, such as the oppression of political opponents and oppositional social forces at the level of political society. In essence, there are two types of “arbitrary enforcers”: the “fat arbitrary enforcer” and the “hard arbitrary enforcer.” The “fat arbitrary enforcer” has a strong extensive capacity that is efficient for controlling societies over wide-reaching territories and/or for fulfilling the duties of “low policing,” while the “hard arbitrary enforcer” holds a strong intensive capacity that is helpful in controlling any organized forms of political, social, and criminal forces, such as criminal organizations and oppositional political forces, or in fulfilling the duties of “high policing.”

When law enforcement is undertaken by the “arbitrary enforcer,” neither political society nor civil society can fully develop. Political society is exposed to danger because political elites do not believe in the fair application of the political rules of the democracy. At the same time, civil society development is difficult because mutual trust and the equal and free participation of the public in the political process of representation are hampered by the arbitrary and oppressive uses of power by the police and the unfair enforcement of law. Eventually, the rule of law and consolidation of democracy become a remote goal when the “arbitrary enforcers” continue to dominate the duties of law enforcement in new democracies.

The “Impartial Enforcer”

Police who are equipped with both strong capacity and strong accountability can be called “impartial enforcers” (democratic police). “Impartial enforcers” successfully enforce the law to the farthest extent and lowest levels of the country by frustrating any individual or organizational efforts to neutralize the authority of law and its enforcement agencies. Since “impartial enforcers” are restrained by the checks and oversights of various outside institutional agencies, any partiality or unfairness in their enforcement of law could be successfully monitored and punished. In this way, the “impartial enforcer” provides its citizens with both protection “by” the police and protection “from” the police.

When law enforcement is undertaken by “impartial enforcers,” political elites believe in the fair and equal application of the rules of democracy because any attempts by politicians to exploit the police force to oppress their political opponents are constrained by the accountability mechanism. The acceptance of the legitimacy of the political rules leads to the stable development of a political society. Additionally, the capable and fair enforcement of law at the level of civil society also bolsters mutual trust, respect for fundamental human rights, and the equal participation of citizens in the political processes of representation. In this way, the “impartial enforcer” contributes to the foundation of the rule of law and the consolidation of democracy.

The “Palace Guard”

When the police lack both capability and accountability, they can be called “palace guards” (secret police). “Palace guards” have no capacity to successfully enforce the law and maintain public security at remote places in the country because the power of the police reaches only near the political center, such as the capital and the main cities, where the ruling groups reside. If the “palace guards” undertake the role of law enforcement, “low policing” (the duties of the police such as the prevention and investigation of crime for the maintenance of public security) takes an inferior place in the priorities of police work, while “high policing” (the duties of police related to political affairs and intelligence) is exaggerated as their *raison d’être* (Mawby, 2001: 23). The police exist for the fulfillment of the political goals of the ruling groups and faithfully devote themselves to the role of secret police by utilizing even unlawful measures, such as eavesdropping and the lynching of political opponents and oppositional social forces. Some authoritarian countries have this type of police when their sources of political power come from a series of alliances among regional, tribal, or familial factions. Countries whose levels of state building and the institutional development of the state apparatus are still low also have the “palace guards” as their law enforcement agencies, regardless of regime type.

When the “palace guards” prevail as the dominant form of police forces in a country, not only the impartial enforcement of law but also the development of political and civil society is nearly impossible.

The vacancies left behind by the public law enforcement agencies are filled by non-state security agencies, such as private protection companies, militia corps, and vigilante groups, which undertake the duties of safety maintenance and the enforcement of law (which is private and no longer public) by substituting for the role of the public police.

The “Mediator”

Finally, the police who have a weak capacity to enforce law and order but a strong accountability to outside institutional actors can be called “mediators” (parochial police). “Mediators” are not used as oppressive means by the president because checks and oversights of the operation of the police by entities outside the executive body limit the president’s power to exploit the police for political purposes. However, the police are also unable to fulfill the duties of the enforcement of law and maintenance of public security due to a lack of capacity for the successful achievement of those institutional goals. The strong accountability of “mediators” does not secure the impartiality of law enforcement, since “mediators” cannot protect themselves from particularistic infiltration from the political and social forces to which they are accountable, such as parochial neighborhoods and local powers. The high accountability of police, without the maintenance of strong police capacity, leads to “police capture” by forces of parochial interest groups because weak institutional agencies that are accountable to outside forces become easy prey for those external forces. In essence, there are two types of “mediators”: the “patrician mediator” and the “plebeian mediator.” The “patrician mediator” emerges when the police are accountable to the legislature horizontally, while the “plebeian mediator” is accountable to citizens vertically.

The “mediators” fail not only to maintain public security but also to enforce the universal legal principles of the country because the police under the control of parochial forces are forced to represent the narrow interests (e.g., the protection of the political and business interests of local factions) of the people who control the police. When “mediators” take charge of law enforcement in a country, the impartial enforcement of law is not possible because the police simply try to make compromises between competing interests in an ad hoc manner rather than endeavor to enforce the universal principles of law across the

country in a coherent way. The maintenance of public security is also endangered because the “mediators” lack the capacity necessary to perform the duties required for public safety.

(2) Duties and Violence

Each of these four different types of police forces emphasizes different functional duties and causes divergent consequences in terms of the kinds and levels of violence. Table 2-2 illustrates how different types of police forces provide citizens with different environments of—or lack thereof—public safety. When the capacity of police is weak, the protection of citizens “by” the police is weakly provided, and citizens are exposed to a higher level of “societal (criminal) violence” (violence produced by social units, such as organized criminals). If the police hold a strong capacity, the citizens are effectively protected by the police, and societal violence is maintained at a low level. On the other hand, when police accountability is weakly institutionalized, the protection of the citizens “from” the police is not guaranteed, since nobody successfully checks and oversees the oppressive and abusive behavior of the police against the citizens. In this condition, “state (political) violence” (violence produced by the coercive organs of the state) escalates to a higher level. If the police are equipped with a strongly institutionalized accountability system, the citizens are provided with strong protection “from” the police, and the level of state violence decreases.

[Table 2-2] Protection by/from the Police and Levels of State/Societal Violence

		Protection from Police	
		Weak	Strong
Protection by Police	Strong	<i>Arbitrary Enforcer (I)</i> State Violence (High) Societal Violence (Low)	<i>Impartial Enforcer (II)</i> State Violence (Low) Societal Violence (Low)
	Weak	<i>Palace Guard (III)</i> State Violence (High) Societal Violence (High)	<i>Mediator (IV)</i> State Violence (Low) Societal Violence (High)

Citizens under “arbitrary enforcers” enjoy strong protection “by” the police and a low level of societal violence, while they are exposed to weak protection “from” the police and a high level of state violence. “Impartial enforcers,” on the other hand, not only provide their citizens with both strong protection “by” the police and strong protection “from” the police but also succeed in maintaining both state violence and societal violence at lower levels. “Palace guards” provide neither strong protection “by” the police nor strong protection “from” the police to their citizens, who, as a result, are exposed to higher levels of both state violence and societal violence. Citizens under “mediators” enjoy strong protection “from” the police and a low level of state violence. However, they are vulnerable to a higher level of societal violence, since protection “by” the police is only weakly provided to them. Table 2-3 summarizes the levels of protection “by” the police, protection “from” the police, state violence, and societal violence in each of the four different types of police forces.

[Table 2-3] Summary of Protection and Violence in Different Types of Policing

Police Type	Protection by Police	Protection from Police	State (Political) Violence	Societal (Criminal) Violence
Arbitrary Enforcer (I)	Strong	Weak	High	Low
Impartial Enforcer (II)	Strong	Strong	Low	Low
Palace Guard (III)	Weak	Weak	High	High
Mediator (IV)	Weak	Strong	Low	High

The police of authoritarian regimes are either “arbitrary enforcers” or “palace guards,” while new democracies endeavor to transform their old types of police into “impartial enforcers” (democratic police). The creation of “impartial enforcers,” which successfully maintains both state violence and societal violence at a lower level, is the dream of the citizens in all new democracies. However, police reforms in new democracies do not always follow the ideal path of the transformation of authoritarian policing into “impartial enforcers.” Certain political and bureaucratic conditions of democratic transition, in which the politicians responsible for the police reform are imbedded, create an incentive structure to *not* simultaneously increase both the police capacity and police accountability. Politicians in new democracies are incentivized to choose only one, police capacity or police accountability, at the expense of the other.

III. Politics of Police Reform

(1) Politicians and Police Reform

New Balance of Power

Many authoritarian presidents enjoy a stable monopoly of power over government institutions through either formal (legal) mechanisms or informal means: formally, the constitution and laws of authoritarianism provide the president with unlimited powers by abolishing any constraints imposed by the legislature and judiciary. Informally, the authoritarian president, as the chair of a hegemonic ruling party, manipulates the decisions of the legislature and controls the judiciary by appointing his loyal subordinates in the courts. In this way, the president in authoritarianism controls not only the executive branch of the government but also entire bodies of the state apparatus.

Democratization weakens the overly concentrated power around an authoritarian president by creating checks and balances among different branches of government. First, the new constitutions of new democracies stipulate practical constraints on the power of the president and his executive branch. The

president's right to issue edicts for extraordinary measures, such as emergency decrees, is abolished or strictly restricted, while the legislature and judiciary become empowered in order to efficiently check the power of the president and the executive body. Second, a competitive electoral system and party politics lead to a divided government. While in authoritarianism, the executive and legislative bodies of government are simultaneously under the control of the president, in the party politics of a democracy, each of these bodies of government can be controlled by different parties (i.e., the legislature under the control of the opposition party). The realization of checks and balances within the government takes place when the executive branch and legislature are occupied by different political forces.

This new balance of power among different branches of government (i.e., strengthened legislative power and weakened executive power, led by the president), where the executive and legislative bodies of government are controlled by different parties, limits the president's ability to implement his policies. The initiatives and bills of the executive branch, which had previously been automatically passed by the rubber-stamping legislature, become the subject of debate, delays, and obstruction due to inter- and even intra-party conflicts (Hamilton, 2011: 162). This sometimes creates interminable delays in enacting the legislation submitted by the executive branch, or even in authorizing a national budget (Oh, 1999: 110-111). The newly emboldened legislature also demonstrates its power by exercising its authority to inspect and audit the activities of the executive branch. As a result, a divided government (control over the executive and legislative branches by different parties) leads to partisan paralysis in some new democracies, such as Korea, Taiwan, and Mexico, which have experienced this during the period of democratic transition (Gold, 2000: 112).

This situation of deadlock-prone governments in new democracies is intensified when the president has difficulty in controlling the executive branch itself. Free, fair, and competitive elections produce first regime turnovers,⁹ the most dramatic political event of democratic transition, in new democracies. However, the president who is elected with regime turnover encounters difficulty in controlling the executive body, and not simply because he lacks the full set of skills required to manage the executive branch. The incoming president from the opposition party takes over the bureaucratic organizations that are full of officials who

have been appointed by past authoritarian regimes and still hold vested interests in the old political system and its ideology. Moreover, if the opposition party (or the previous ruling party), which had controlled these bureaucratic organizations during the authoritarian period still occupies the majority in the legislature, the situation of the president is further worsened. The president has to cope with uncooperative bureaucrats within the executive branch who maintain close ties with the dominant opposition party, although the president needs both efficient and loyal bureaucrats for the successful implementation of democratic programs in the new government, including police reform.

Democratic transition, in this way, involves a complex struggle over the state and its bureaucratic apparatus from the perspective of the president (Baum, 2011: 3). Contrary to authoritarian leaders, the control over the state apparatus is not a *fait accompli* for the president in a new democracy, who has to struggle with those bureaucrats who favor the maintenance of the status quo and resist the president's efforts to take control over them. The opposition party members in the legislature does not support the president's efforts to increase the bureaucratic competence of his executive branch, since any presidential achievements through capable bureaucratic machinery will reduce their own future electoral prospects (Geddes, 1994: 150). The opposition party is acutely aware of any efforts of the president to intensify the capacity of the bureaucratic apparatus in the executive body, especially those institutional agencies equipped with coercive means, such as law enforcement agencies, which can be exploited by the president at any time as a political tool. As a result, the president's control over the executive body and the degree of its capacity emerges as a crucial issue in a new democracy, with which the president, the legislature, and the bureaucrats are deeply concerned.

Police Accountability as Political Measures

The president in a new democracy, who wants to intensify his control over the bureaucracy, must find institutional measures that do not invite severe resistance from opposition parties in the legislature. The intensified accountability of the bureaucracy successfully serves the president with institutional measures for taming the bureaucrats in his executive body without stimulating opposition parties. Tom Ginsburg

(2008) argues that accountability measures, such as the administrative procedure law, are introduced by the president as mechanisms for solving agency problems. According to him, the president intensifies the accountability of the executive body to monitor government officials when the relative price of other alternative measures, such as the internalization of the ruling ideology and the creation of specialized agents for hierarchical supervision, is likely to be higher (p. 66, 71). By making the bureaucrats accountable and responsible to other institutional agencies, the president, at the very least, secures the transparency of the bureaucrats and prevents any possible challenges from the bureaucrats against himself.

Jeeyang Rhee Baum (2011) also argues that the president's efforts to increase the accountability of the administrative body are attempts to overcome his difficulties in controlling the bureaucrats. The total replacement of the old bureaucrats with new loyal staff might be the best choice for the president for ensuring control over the executive branch. However, it is impossible to replace a country's whole civil servant workforce overnight, not only because the president has limited human resources available to him, but also, in some countries, he is constrained by constitutional appointment rules, such as a fixed merit-based system. The new political leaders in a newly established democratic regime not only have to struggle with, but also rely to some degree on, the bureaucracy that is the product of the old authoritarian regime. However, according to Baum, accountability measures help the president to tame the bureaucracy or to solve the delegation (principal-agency) problem without violating the constitutional constraints (p. 146). By intensifying the accountability of the bureaucracy to other institutional agencies, the president is able to tame the bureaucrats and prevent any challenges, not by using his own hands, but by borrowing the hands of other entities, such as the legislature and citizens.¹⁰

The president also utilizes these measures of accountability to secure his control over law enforcement agencies. His impulse to safeguard his control over the police is even stronger than any other government agency, since law enforcement agencies, along with the military, are the most extensive institutional agencies of the government that are equipped with coercive and physical means. The president's police reform, which entails an increase in police accountability, satisfies the necessity of the president to secure his control over the police when other measures, such as indoctrination, buying-off, and purging, cannot be

utilized by the president due to the high costs of these alternative measures or constitutional restraints on the violation of the meritocratic system. As Renate Weber's (2001) case study of the police in Yugoslavia illustrates, intensified accountability measures for the police are introduced by the president for the sake of stable control over the police, rather than simply for the implementation of the noble ideals of transparency through the civilian supervision of the police (p. 62). The alignment of the practical purpose of the president with the ideals of democracy produces the intensified transparency of the police through accountability measures.

Political Meaning of Police Capacity

To fully explain the environment in which the president utilizes the measures of police accountability for the intensification of his control over the police, the capacity of the police should also be considered. In the new political condition of the balance of power among the different branches of government, accountability is not the only issue involved with the president's reform initiatives for the police. The capacity of the police also has political meaning, both to the president, who occupies the executive body, and to the opposition parties, which in many new democracies dominate the legislature. Even if the president has an incentive to increase police accountability because he struggles with the problem of securing his control over the police, it does not necessarily mean that the president also wants to intensify the capability of the police. Of course, the president needs capable police forces for the successful maintenance of public security and the enforcement of law. However, if the police are filled with police officials who still maintain loyalty to the politicians of the previous regime, the strong capacity of the police beyond the control of the president is a potential threat to the president. The president's intention to increase police capacity is also influenced by the political situations in which he is imbedded.

If the police hold weak loyalty to the president, the potential threat raised by police forces with strong capacities is perceived by the president as a serious problem due to the unique characteristics of the police. Unlike other institutional agencies in the executive branch, the police use coercive and physical means in the fulfillment of their duties of law enforcement and maintenance of public security. Ideally, these coercive

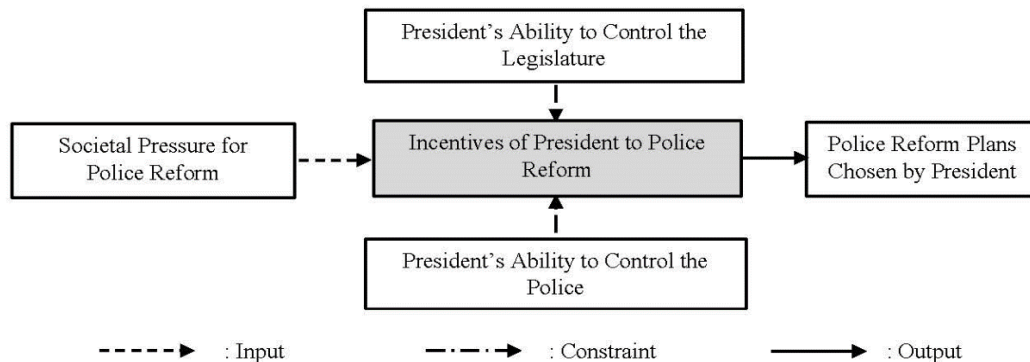
and physical means should be equally utilized against the president and his ruling parties as they are against political opponents and the opposition parties. However, the dilemma of the police is that they are asked to remain politically neutral and insulated from any political influence of the president, although they are a part of the executive branch of the government, headed by the president. For the president, strong police capability is a double-edged sword: if he successfully controls the police, they are a powerful tool serving for his needs, but if he fails, they might serve as a powerful tool for the interests of the political opponents of the president. For the same reason, the opposition parties are also very sensitive to the political propensity of the police and levels of police capacity: They are fully aware of the fact that the coercive means of the police could be utilized by the president to annihilate his political opponents. The president hesitates to intensify the capacity of the police forces which are beyond his control, and the opposition parties resist the intensification of the capacity of the police forces if they perceive that the police are under the tight control of the president. In this way, complicated strategic interactions among the president, the opposition parties, and police officials surround not only police accountability but also the police capacity.

(2) President's Strategic Choice of Police Reform Plan

The president in a new democracy is under the pressure of a public demand for reforming the police force. However, police reform can take various forms. Through police reform, the president can either pursue an increase in police capacity or an increase in police accountability. Of course, the situation in which the president chooses to increase both the capacity and accountability of the police is desirable for the new democracy to accomplish the transformation of the police's function into democratic policing or the police's role as "impartial enforcers." However, the preference of the president for an increase in each of the two aspects of the police is determined in the specific political and bureaucratic conditions in which the president is embedded. As Figure 2-1 illustrates, the president's incentives to either increase or decrease the capacity and accountability of the police through reform are influenced by two political and bureaucratic

factors: (1) the president's capacity to control the police and (2) the president's capacity to control the legislature.

[Figure 2-1] Incentive Structure of the President's Police Reform



First, the president's incentive to increase/decrease police capacity and accountability is determined by his ability to control the police. If he already has a strong capacity to control the police, he has an incentive to increase police capacity because there is little possibility that the police will function as a double-edged sword against him or be controlled by opposition forces. By intensifying police capacity, the president can demonstrate his commitment to the public security of citizens who ask for the police reform in the new democratic government. However, if the president lacks the sufficient capacity to control the police, he has no incentive to increase the capacity of the police, which freely operate beyond his control. In this situation, the president utilizes measures of police accountability to secure his control over the police, and the accountability, not the capacity, takes an important place in his police reform initiative.

The president's ability to control the police is influenced by two factors: (1) the appointment and promotion system of the police and (2) the occurrence of regime turnover. If the president can freely recruit and promote his loyal subordinates and fire potentially disloyal police officials, he enjoys a strong capacity for controlling the police. However, if a fixed merit-based system exists within the police, the president has little capacity to control the police because he cannot freely appoint and dismiss police officials, who are protected by the merit-based system. His ability to control the police is also influenced by the occurrence

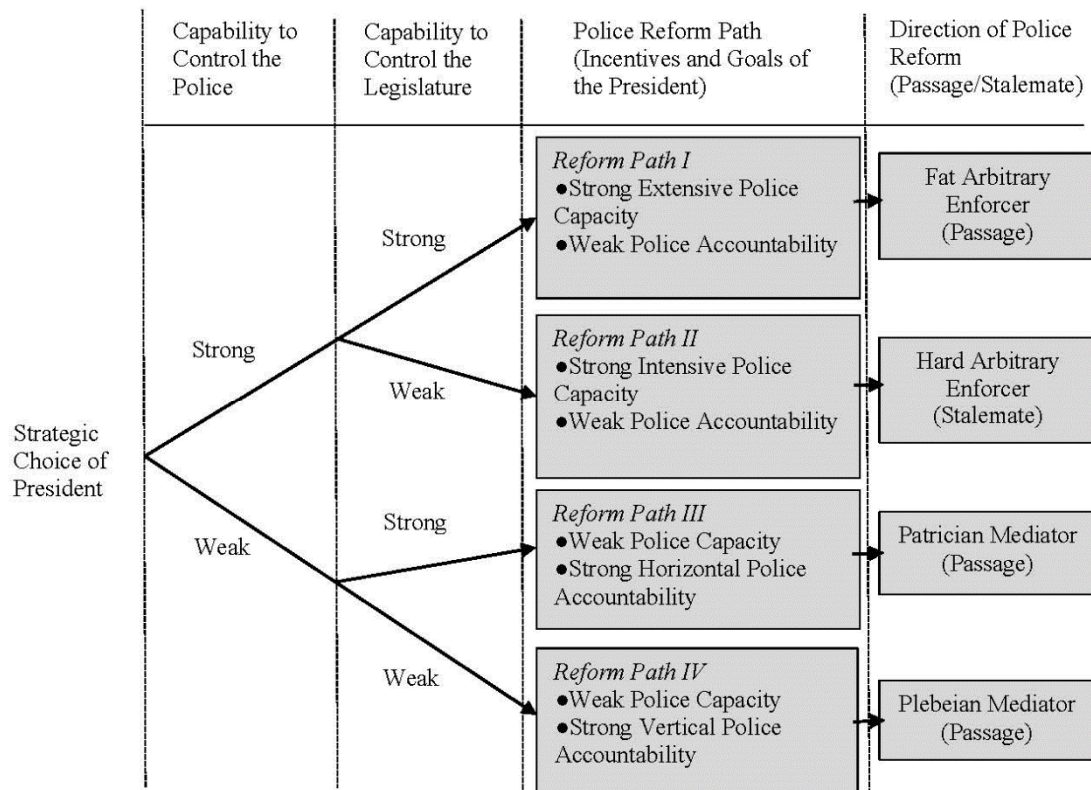
of regime turnover. If the president won the presidential election as a candidate of the ruling party, causing no regime turnover, he enjoys a strong capacity to control the police because he simply inherits the police force which his predecessor had already groomed for him. However, if the president won the election with regime turnover, he has little capacity to control the police because the police are full of police officials who had been loyal to his political opponents.

Second, the president's incentive to increase/decrease police capacity and accountability is also constrained by his capacity to control the legislature. In a democratic political system, the capacity of the president to control the legislature is determined by the position of the ruling party in the legislature. If the ruling party occupies the majority, or at least the position of the largest party, the president enjoys strong capacity and control over the legislature. However, if the ruling party fails to occupy the majority, or even exists as the second-largest party in the legislature, the president possesses little capacity to control the legislature. The status of the ruling party in the legislature constrains the preference of the president for a specific institutional form of police accountability. If the president's capacity to control the legislature is strong, thanks to the ruling party which occupies the majority in the legislature, the president prefers horizontal accountability of the police (police accountability to the legislature) as a means for intensifying his control over the police to vertical accountability of the police (police accountability to citizens) because the legislature occupied by his ruling party is more reliable than the unpredictable citizens. However, if the president has weak capacity to control the legislature, due to the humble status of his ruling party in the legislature, he prefers vertical accountability of the police as a measure for safeguarding his control over the police to horizontal accountability of the police because intensifying the accountability of the police to the legislature, which is dominated by opposition parties, essentially constitutes nothing but offering the police forces to his political opponents.

As a result, depending on the levels of the ability of the president to control the police and the legislature, police reform in new democracies takes divergent trajectories, as shown in Figure 2-2. The president strategically chooses his police reform plans to maximize his political goals, considering the bureaucratic and political environments in which he is situated. The tragic aspect of countries under democratic transition

is that the most desirable police reform plan for the president is not necessarily the most desirable for the citizens in new democracies who wish for the transformation of authoritarian policing into democratic policing, or “impartial enforcers.”

[Figure 2-2] President’s Strategic Choices of Police Reform Plan



Reform Path I

First, if the president enjoys strong control over the police due to the lack of a merit-based police system and no regime turnover, he has no incentive to increase their accountability and no incentive to decrease their capability. No accountability mechanism needs to be introduced for the purpose of the president’s control over the police because he already possesses sufficient control or expects to hold it soon by freely appointing his loyal subordinates and dismissing disloyal police officials. Furthermore, because the police

force, which is under his tight control, poses no potential threat to him, the president has a strong incentive to increase the police capacity for the possible use of the police as his political tool. If the president also enjoys strong control over the legislature, due to the position of his ruling party as the majority in the legislature, he will not hesitate to initiate police reform that aims to increase police capability with no increase in accountability, either horizontally or vertically. Of course the legislature, a strong ally of the president, will not object to this police reform of intensified police capacity with weak measures of police accountability. More specifically, the president has a strong incentive to increase the extensive capacity of the police, rather than the intensive capacity of the police, because the necessity to extend the police capacity over vast territories for the successful implementation of duties of “low policing” takes priority over fulfilling “high policing” or coping with any of the president’s organized oppositional groups when he already controls the legislature and leads a dominant force in political society. The outcome of the police reform is, therefore, a police force acting as a “fat arbitrary enforcer”—police with strong extensive capacity and weak accountability.

Reform Path II

If the president does not have strong control over the legislature due to the ruling party’s humble status in the legislature as a minority or, more seriously, as the second-largest party, yet has a strong capacity to control the police, severe conflicts between the president and the legislature will ensue and result in a stalemate in terms of the police reform. The president has a strong incentive to intensify the capacity of the police under his control to cope with his political opponents, while he has no incentive to increase police accountability. More specifically, he wants to increase the intensive capacity of the police because, for the president, who encounters strong oppositional political forces in the legislature, the necessity to retain police with tight internal discipline and organizational cohesion (i.e., intensive capacity) and who are immune from control by the opposition forces is more urgent than the capacity of the police to cover vast areas of territory (i.e., extensive capacity). With this in mind, the president aims to create a “hard arbitrary enforcer”—a police force with strong intensive capacity and weak accountability—through his police

reform. However, the president's pursuit of police reform seeking to secure the "hard arbitrary enforcer" will encounter severe objection from the legislature because the police force that the president intends to create could be used as a powerful political means to oppress his political rivals, opposition parties, and critical social forces. In response to the president's police reform attempt to create the "arbitrary enforcer," the legislature dominated by opposition parties will push back toward weak police capacity and strong police accountability, especially accountability to the legislature (i.e., police reform oriented toward the "mediator"). However, this will not be accepted by the president, who wants to build a police force with strong capacity and weak accountability, or the "arbitrary enforcer." The executive-legislative conflict on the issue of police reform is inescapable, and it results in reform failure as long as each of these bodies of government are controlled by different political forces. No meaningful police reform will be accomplished in this dead-locked political condition.

Reform Path III

If the president has a weak capacity to control the police, he does not have an incentive to increase the capacity of the police. He prefers a decrease in the capacity of the police force, which exists beyond his control and of whose loyalty he is uncertain. This happens when the police force is staffed with agents who were appointed by and are still loyal to the old regime and where a fixed merit-based system of policing makes it difficult for the president to replace disloyal police officials with his loyal subordinates. The president who takes over the government through a regime turnover is easily engulfed in this situation. In this case, if the ruling party is the majority in the legislature, the president prefers horizontal accountability measures, such that the police will be accountable to the legislature when he initiates police reform. Because the legislature is on the president's side, and the police reform is designed to increase the legislature's control over the police through intensified horizontal police accountability measures, lawmakers in the legislature, regardless of their party affiliation, have no reason to object to the president's reform proposal to decrease police capacity and increase their horizontal accountability. Moreover, since the legislature is on the same side as the president due to the majority of the ruling party, the president can safely increase

police accountability to the legislature without any fear of control of the police by opposition parties in the legislature. However, in this case, the intensified police accountability to the legislature tends to have the limitation to significantly increase the fairness of the police activities because the police accountability to the legislature might remain simply a nominal form of accountability, as long as the legislature maintains an alliance with the president, who controls and directs the police. The danger still remains that the police will continue to function as a political tool of the president and his ruling party. The police reform which entails weak police capacity and strong horizontal accountability leads to the transformation of the police into a “patrician mediator.”

Reform Path IV

If the president holds a weak capacity to control the legislature, as well as a weak capacity to control the police, he has a different kind of incentive when he decides on his police reform plan. The president is unwilling to increase police accountability to the legislature (i.e., horizontal accountability) because that will create the danger of police control by the opposition parties in the legislature. This situation happens when the ruling party is a minority or, at most, the second-largest party in the legislature. In this situation, the president’s police reform will seek to control the police through the mechanism of vertical accountability, such that the police are accountable to the citizens or local community. The dominant opposition party in the legislature, which occupies the legislative body as the majority or largest party, does not resist the president’s reform proposal for the intensification of police accountability to the citizens because it might increase the transparency of the police through the citizens’ oversight on police activities, although it prefers horizontal accountability rather than vertical. Regarding the capacity of police, the president has no incentive to increase the capacity of police force that exists beyond the control of the president. A reduction in police capacity reduces the cost that the president has to pay when the police are controlled by the opposition party, which might happen to the president right after the regime turnover. At a glance, the opposition party might prefer to increase the capacity of the police if the police force is still filled with police officials who were appointed when it controlled the police as the ruling party. However,

the opposition party also worries about the increase of police capacity not only because the police are now beyond its direct control but also because the increased capacity of the police would be a serious threat to the opposition party when the president restores his control over police forces in the future. The legislature, thus, does not object to the police reform proposal suggested by the president, which aims to reduce police capacity. As a result, a decrease in police capacity and an increase in their vertical accountability become the goals of the president's police reform, and the police undergo transformation into a "plebeian mediator."

As these four different trajectories of police reform illustrate, the president's police reform in new democracies does not necessarily follow the most desirable trajectory toward democratic policing or the "impartial enforcer." The strategic interaction between the president and the legislature with regard to police reform, which is structured by the political and bureaucratic conditions of new democracies (i.e., a new balance of power among different branches of government and the president's capacity to control the bureaucracy) causes unintended negative consequences in terms of transitioning to democratic policing. The president's police reform takes routes toward either the "arbitrary enforcer" or the "mediator." Or, it is engulfed in a stalemate and reform failure if the president who holds a strong capacity to control the police and weak capacity to control the legislature intends to intensify the police capacity without any efforts to increase police accountability. The problem is that the president has no intention of increasing police accountability when he already tightly controls the police force, while the legislature asks for a reduction in police capacity and an increase in police accountability in this situation.

Strong police capacity and strong police accountability cannot be easily compatible in the police reform plans of new democracies, which are still undergoing democratic transition. The president's distrust of the uncontrollable police incentivizes him to increase police accountability but causes a disincentive to increase the capacity of the police. The president's strong capacity to control the police incentivizes him to increase the capacity of the police. However, if he has no capacity to control the legislature, his intention to intensify the police force cannot be realized because the legislature's anxiety over a strong police force under the president's influence prevents the increase in police capability up to the levels that support the successful

enforcement of the law. The president, who tightly controls the police force, has no incentive to increase police accountability. The legislature dominated by the ruling party does not demand the increase of police accountability, while the legislature occupied by opposition parties asks for the intensification of police accountability but not the enhancement of police capacity. Hence, police reform toward building law enforcement agencies with both strong capability and strong accountability tends to be a remote and challenging goal in new democracies.

IV. Conclusion

Democratic policing is different from policing in a democracy. To be considered democratic policing, the police in a democracy should provide both protection “by” the police and protection “from” the police. The “impartial enforcers,” which are equipped with a strong capacity to enforce the law and strong accountability to safeguard the impartiality of their duties of law enforcement, satisfies the requirement of democratic policing. However, in the specific bureaucratic and political situations of new democracies, the most desirable choice of the president among his police reform plans is not the most desirable one for the transformation of the police force to democratic policing. The president is exposed to incentive structures in which he is pulled toward other types of policing different from that of the “impartial enforcer.”

The president’s control over the police and the distribution of power among the different branches of government, especially the executive and the legislative branches, play a crucial role in dictating the goals of the president’s police reform. The bureaucratic and political situations in which the president is embedded provide specific incentive structures when the president makes a strategic decision about police reform. However, it does not necessarily mean that the implementation of police reform chosen by the president is equivalent to changes in police practice. The real changes in police practice are influenced by various factors, such as geopolitical conditions, power relations between the center and periphery (or the political influence of local powers), and the historical aspects of the legal tradition. Moreover, each new democracy starts its transformation of the police from different initial conditions. The implementation of

police reform and the trajectories of change in police practice should be distinguished, and the transformation of the police in new democracies should be traced at the level of police practice with the consideration of the various international, domestic, and historical factors that exert influence on the actual practice of policing. These factors will be discussed in the next chapters.

Chapter 3

Formation of Authoritarian Policing

The creation of coercive state institutions, such as the police, is closely related with the process of modern state formation. It was only after the emergence of the modern state with clear national borders that the police became functionally differentiated from the military and specialized in internal security and the prevention of public dangers (Marx, 2001: 36). The existence of a properly operating police force symbolically demonstrates that the state satisfies what Max Weber called the crucial element of a modern state, i.e., the state's monopolization of the legitimate use of physical force as a means of domination within its territory (Pansters, 2012: 19).

However, the history of governmental efforts to control a monopoly of the means of coercion within their given territory has not followed the same trajectory in each country (Tilly, 1985, 175). Not all states in the world have succeeded in building solid police institutions. Moreover, even if countries have succeeded in building institutional agencies of the police, the types of police are not the same in all countries. The formation and change of police are influenced by various structural and historical factors, such as geopolitical conditions and colonial legacies. This chapter will examine the formation and functioning of authoritarian police in Korea, Taiwan, and Mexico prior to the unfolding of a democratic transition in each of these countries. These countries had developed their own forms of police forces during the authoritarian period. Differences of structural conditions, forms of authoritarian rule, and bureaucratic tradition will be examined in order to trace the origins of divergent forms of authoritarian policing in these countries.

I. Foundation of Building State Coercion

(1) Geopolitics

Korea: National Division and Garrison State

The national division between the North and the South intensified the arbitrariness of law enforcement in South Korea because the authoritarian regime utilized the police to oppress political opponents in the name of national security or protection of the country from the external threat of communism. Since the establishment of two separate governments in 1948 and the outbreak of the Korean War (1950–1953), the Korean peninsula has been one of the most intensively militarized regions in the world due to its status as a foremost front of the Cold War. Although the Cold War ended at the global level with the collapse of the communist bloc in the late 1980s, the military tension between the North and the South is still intact as the North Korean government continues to firmly adhere to its system of communism and military-first policy. The threat of North Korea does not simply remain at an intellectual level among South Korean people. North Korea has demonstrated it is a concrete and physical threat to South Korea by undertaking a series of offensive operations, including a commando raid on the Blue House in 1968, a terrorist attack in Myanmar in 1983, and a bomb attack on a South Korean airliner in 1987 (Moran, 1998: 4, 17).

This geopolitical situation created an environment in which what Lasswell called a “garrison state” emerged in Korea with its institutional characteristics of the extended and intensified role of the police. The mounting military threat from the North generated a preoccupation with a national security issue that justified the foundation of strong coercive institutional agencies—i.e., the military and the police—under the tight control of top political leaders in a highly centralized form (Woo, 2011: 14, 28). These coercive state agencies were charged with not only the responsibility of protecting the country from a physical attack from the North but also to oversee the prevention of any forms of infiltration of influence from the North into South Korean society. The police thus evolved as a quasi-military force that played quite an extensive role. Their duties were mainly focused on the maintenance of order and stability through the measures of social control, such as monitoring and surveillance, rather than the typical roles of the police in democratic societies, such as crime prevention and service for the citizens (Lee and Kim, 2009: 27). This highly militarized police that undertook extended duties served their authoritarian leaders in other ways. The institutional mechanisms developed to ensure the internal control for the sake of the protection of the

country from the external threat were easily utilized for political means: authoritarian rulers utilized the police forces to oppress, monitor, and punish their political opponents.

Taiwan: Ethnic Division inside National Division

Quite similar to Korea, the crisis of national security led by threats from communist China in the mainland provided fertile soil for the KMT regime to exploit institutional agencies for the duties of public security as a political tool for the regime's security. Since Taiwan encountered the confrontation with mainland China and was precariously situated in the international environment of the Cold War, the KMT regime was given a nearly permanent excuse for its repression of political opponents and oppositional forces. Any domestic opposition was easily branded by the regime as a rebellion or collusion with the communists operating just across the narrow Taiwanese strait (Wade, 1990: 234). The overall functional forms of state institutions in Taiwan therefore reflected the KMT regime's deep concerns with national security. The looming threat the regime encountered justified the maintenance of strong police forces that undertook quite extensive duties, including the suppression of democratic movements, through which the KMT was able to safeguard the regime's security (Martin, Chang, and Yeh, 2006: 231-33).

Taiwan's international status is unique: although it lacks international recognition of its sovereignty, it possesses de facto qualities of a sovereign state (Martin, 2014: 462). The KMT government in Taiwan had existed as an émigré regime since it was forced to move to the island in the late 1940s. The narrowest part of the Taiwan Strait (or Formosa Strait), which separates the island from the mainland, is only 130 km across. Since this short geographical distance was not helpful in protecting Taiwan from an impending offensive of communist China, the KMT regime implemented the construction of a fortified country on the island right after it determined to continue their fight against the communists. The Constitution was suspended and martial law was imposed on the entire island. The primary aim of Chiang Kai-Shek during his authoritarian rule (1948–1975) in Taiwan was to recover from his military defeat and create an economic and military bastion against the communist government in mainland China. Anti-communism and “return

to the mainland” became the unchallengeable national policy of the KMT government (McBeath, 1979: 163).

However, the KMT’s retreat into Taiwan caused not only the national division between the island and the mainland but also ethnic division inside the island. When the KMT government retreated to Taiwan, about 1.5 million mainland Chinese also crossed the strait with it. These “mainlanders”—people who came to Taiwan with the KMT and their descendants—constitute a little more than 12 percent of the total population (about 23 million) in Taiwan. On the other hand, about 75 percent of the population consists of native “Taiwanese” (Ho-lo), whose ancestors moved to Taiwan from Fujian Province in China hundreds of years ago. Hakka people, whose ancestors came to Taiwan from eastern Guangdong many generations ago, constitute the remaining 10 percent (Lo, 2011: 91-92; Gingerich, Chu, and Chang, 2011: 51). Although they are demographically a minority, the “mainlanders” had ruled Taiwan as a dominant group by occupying most elite political posts and top positions within the bureaucracy, especially at the central government level. Moreover, the slaughter of thousands of Taiwanese by the KMT and its accompanying mainlanders on February 28, 1947 (the so-called “2.28 incident”) instigated a portrayal of Taiwan under the KMT rule as being occupied by foreign “invaders”—i.e., the KMT and mainlanders—who committed the “white terror”¹¹ in the name of protection of the island from the communist threat (Cao, Huang and Sun, 2014: 7, 16).

Mexico: Ambiguity between Foes and Friends

The lack of national division and any visible strong external enemy provide Mexico with a structural condition in which the police with extended duties for the maintenance of national security are hard to be developed. The geopolitical location of Mexico between a world superpower (the U.S.) in the north and a chain of small Central American states in the south relieved it of any militaristic regional rivalry or warfare with neighboring countries (Knight, 2002: 239). Of course, the U.S. once posed serious security threats to Mexico, and the two countries have even engaged in military conflicts in the past. The U.S.-Mexican War (1845–1848) culminated in the cession of nearly one-third of Mexico’s northern territory to the United

States (Hamilton, 2011: 26). President Porfirio Díaz's statement, "Poor Mexico, so far from God and so close to the U.S.," illustrates the geopolitical influence of the U.S. on the history of modern nation-state building in Mexico (Morton, 2012: 1637).

However, the presence of the U.S. did not lead to the creation of a garrison state in Mexico through a military buildup (Knight, 2002: 230). After the war, ties between Mexico and the U.S. significantly improved, especially under the presidency of Porfirio Díaz due to his modernization policy based on expanded trade with the U.S. Although the reconstruction of the Mexican state after the Mexican Revolution (1910–1920) temporarily renewed tensions between the two countries, the U.S.-Mexican relationship has developed into a cooperative one through economic integration and combined efforts in the realms of politics and security (Shirk, 2012: 52-55). Mexico's southern border that abuts two small-sized Central American countries is relatively safe from a military invasion. Mexico's geopolitical position not only liberated the country from a regional arms race with neighboring countries but also prevented the intensification of coercive agencies of the state to detect and punish internal enemies who colluded with external foes (Pansters, 2012, 22). Prior to the democratic transition in the 1990s, although it was called a "perfect dictatorship," the political system founded in Mexico was not heavily repressive (Philip, 1998: 27). The intervention of the military in politics had been strictly restrained. Mexico is one of the only countries in Latin America that did not experience a military rule. It was thus hard to establish the garrison state in Mexico.

(2) Colonialism

Korea: The State as Centralized Machinery

The Japanese colonial period (1910–1945) in Korea was characterized by the intensified and extended role of coercive state organs for the sake of effective control over colonial societies to the deepest level and repression of any resistance to the colonial rule. The police were given strong and arbitrary power and the sub-police station (*pachulso*) system was created in order to effectively monitor and suppress Koreans at

the local level. Even though the sub-police stations were geographically decentralized across the whole country, their system of administration was based on highly centralized control and direction from the colonial state (Moon and Morash, 2009: 108). The police did not specialize in the duties of crime prevention and investigation since they performed significantly extended duties, including thought control, publication censorship, fire control, and any other action that the colonial government felt was necessary to ensure full control over the colonial people (Hoffman, 1982: 7; Moon, 2003: 130). Since there was no constitutional law in colonial Korea, the governor-general enjoyed unrestrained power over both the executive and legislative branches (Kwon, 2011: 155).

The introduction of a modern police system through the colonization process bestowed a very negative legacy in Korea in terms of people's perception and attitude toward the entire justice system. For Koreans, the law was something that was imposed by alien forces in a top-down manner and the police were perceived as an instrument of oppression utilized by colonial rulers. The Korean police officers who worked in the colonial police were treated as traitors serving foreign masters and working against Korean people. In the context of colonization, resistance to the Japanese rule was expressed in destructive forms, such as violation of the law and non-compliance with the police, which were admired as a "patriotic" activity by Korean people. The colonial government's lack of legitimacy intensified its dependency on the physical use of state organs, which in turn deepened people's distrust in the justice and fairness of law, its enforcement, and the authority of the state itself (Hahm, 1967: 212; Yoon, 2008: 12-13).

The weak legitimacy of law enforcement agencies continued after Korea's liberation from Japanese colonial rule. The justice system and the police were still staffed by people who had served in the colonial government and collaborated with Japanese imperialism (Hahm, 2004: 392). Due to the shortage of manpower for the effective rule in Korea, the U.S. Army Government in South Korea (USAMGIK), which had been stationed in Korea after the end of World War Two, utilized former Korean officers who had worked for the Japanese colonial government as high-ranking officers in the newly established Korean police force (Moon and Morash, 2009: 106). This led to further weakening the legitimacy of the police. The outbreak of the Korean War and the anticommunist politics in Korea deprived it of a final chance to cleanse

the police organizations of people who had collaborated with the Japanese. As pro-Japanese Koreans continued to retain high posts in government, the influence of the colonial legacy remained in the justice system and law enforcement. The oppressive image of colonial police became deeply entrenched in the minds of Korean people (Kwon, 2011: 156).

Taiwan: Utilization of Tradition

The Japanese colonial rule (1895–1945) bestowed the Taiwanese state with a strong capacity to infiltrate society at the local level. The Japanese had established a strong colonial state in Taiwan during the colonial rule. They had to expend great effort to subdue resistance by the people on the island when they arrived as a new master. The first eight years of Japanese rule in Taiwan was tainted with cruel counterinsurgency. However, the Japanese were soon able to establish their own institutional ruling system of control and guidance by transplanting a new administrative structure (Wade, 1990: 231).

In colonial Taiwan, the supreme authority resided in the governor-general, who had extensive political, bureaucratic, military, and even legislative power (Gold, 1986: 35). The Japanese police system in Taiwan was developed primarily for the task of political pacification. An extensive network of police substations (*paichusuo*) was created across every rural village and urban neighborhood. These substations embodied the authority of colonial government in local societies. By mobilizing the traditional social-control institution in Taiwan, known as the *Baojia* (or the *Hoko*), the police substation system functioned not only as the backbone of Japanese administration, but also as the primary site of interaction between the state and local societies. Families of indigenous people were grouped into *Ko* and *Ho* to take collective responsibility for the behavior of all its members, while *Hoko* leaders were required to collaborate with Japanese police for population registration and police administration (Martin, 2007: 672; Martin, 2014: 480).

When the KMT took over the island in 1945, approximately 13,000 police officers had been maintained by the colonial state. Among these officers, 5,600 were Taiwanese and most of them worked in the low ranks, while the Japanese police officers occupied posts in the high ranks (Gingerich, Chu, and Chang, 2011: 51). When the KMT assumed control of Taiwan, it replaced the Japanese police force with newly

trained Chinese nationalist administrators from the mainland, unlike liberated Korea, which failed to expel colonial collaborators from the police after the war (Fell, 2012: 14). The subordinate *Baojia* was also replaced with a new system of police zones (*qunqu*) through which individual police patrolmen were assigned direct jurisdiction over populations of individual families without additional formal bureaucratic intermediation from other institutions. However, the substation, which had been created by the Japanese, continued to function as a key institution in mediating the interaction between the central political authority and the local social order (Martin, 2007: 672).

Mexico: Unfinished State-Building

The Spanish colonial rule (1521–1821) did not provide the Mexican state with a chance to build a state with a strong capacity to govern and infiltrate into local societies. Spanish colonialism in Mexico bestowed the Mexican state with a legacy of fragmented sovereignty and weak territorial cohesion (Pansters, 2012: 22). While Japan created highly centralized colonial states in Korea and Taiwan, the Spanish colonial state in Mexico was at most a semi-centralized state, not a unitary one. Most of the northern part of Mexico was beyond the control of the colonial state, which lacked even a solid territorial cohesion. Each part of the Spanish empire in America was intimately connected to Madrid, while the linkage that bound each separate region of the empire was very loose. The post-colonial setting did not provide an opportunity to create and consolidate a stable political and institutional framework for domination by a central government since the Mexican War of Independence and the Mexican civil wars resulted in a long period of chaos, disorder, and public insecurity in Mexico. These series of wars destroyed the existing system of political authority and frustrated many efforts to impose central authority on the provinces, which challenged the authority of the central government (Centeno, 2002: 64-65, 72). For the nineteenth and much of the early twentieth centuries, the state in Mexico had to grant large measures of autonomy to regional and local forces to maintain its authority (Thomson, 2002: 190).

As a result, post-colonial leaders in Mexico were obsessed with the quest for a state that was capable of creating both order and sovereignty. The permanent trouble that the Mexican political leaders had

encountered was not the overly developed coercive means of the state but the poor status of the development of state organs that failed to maintain order and public security. These Mexican leaders were asked to undertake not the self-limitation of state power through institutional measures for safeguarding individual rights, but rather the achievement and consolidation of state power for the sake of construction of social order and public security (Williams, 2011: 11). Restraint on the coercive power of the state matters when the state is given excessive power. When the state and its police forces lack the capacity to enforce the law, building impartial law enforcement agencies and providing constraints on coercive state power are pushed to the wayside as secondary goals. Mexico, throughout all of its modern history, has struggled to intensify state power to make it strong enough to provide at least the minimum level of public security.

II. Politics and Bureaucracy of Authoritarianism

(1) Korea

Centralized Politics under Military Dictatorship

Policing under the authoritarian rule is characterized by the political influence of ruling political groups on the fulfillment of duties of the police as law enforcement agencies. The police controlled by the authoritarian rulers are utilized for political purposes rather than for the enforcement of law in an impartial way. The authoritarian president's strong control over the police force, together with weak institutional measures to secure the police accountability, need be understood in the context of not only formal (legal) but also informal sources of power given to the president under the authoritarian political system.

During the authoritarian *Yushin* period (1972–1979) in Korea, the president Park Chung-Hee (1972–1979) enjoyed unlimited power, which no branch of government was able to check and restrain. The *Yushin* Constitution renounced the principle of separation of powers among different branches of government by providing nearly unlimited legal, executive, and judicial powers to the president (Bedeski, 1994: 25). The legislature and the judiciary were not equipped with any measures to place constraints on the president's

strong and arbitrary power since the president reigned above the legislature and the judiciary with various means to neutralize those institutions (Hahm, 2004: 392, 404). He held power to issue a directive for extraordinary measures free from legislative restraint and to suspend any provision of the constitution. He was also able to appoint a third of the legislators, to dissolve the National Assembly, and to appoint and remove judges at all levels of the court. The legislature had no authority to inspect affairs of government and the exercise of judicial power was almost nonexistent (Yoon, 1990: 74). The president was allowed an indefinite number of six-year terms through indirect vote by an electoral college (National Conference for Unification). Since its members were selected by the president after screening, the president was able to firmly secure their support for his endless reelection (Yoon, 2008: 19, 99-100).

The assassination of President Park in 1979 did not lead to an end of authoritarianism and the unfolding of democracy in Korea. The military coup led by General Chun Doo-Hwan caused an extension of authoritarianism for another seven years. To justify the seizure of power through military means and to appease public sentiment, Chun's military leadership revised the Constitution that now stipulated a single term of seven years for the presidency. However, the system of indirect election of the president continued frustrating people's desire for a popular vote for the presidency (Yoon, 2008: 20). Moreover, the new constitution still provided the president with strong and arbitrary power and severely limited the power of other branches of government. For example, the president was able to almost freely prolong emergency rule since it could not be lifted until a majority of the National Assembly decided the lift. In a situation where the president had the right to dissolve the National Assembly, any challenge of the legislature against the president was unimaginable. The legislature's role of checks and constraints on the president could thus not be expected.

The survival of political parties and the legal effect of law passed by the legislature depended on the will of the president since he appointed all nine members of the Constitutional Committee, which held the power to dissolve political parties and to decide on the constitutionality of laws made by legislators (Bedeski, 1994: 36-37). The Committee remained inactive and existed only on paper as a nominal institution. Its main function was to demonstrate to the outside world that a system of judicial review existed

in Korea. Not a single case had been referred to the Committee until it was replaced by the newly established Constitutional Court in 1987 (Yang, 2000: 34; Roh: 2003: 197).

Meritocracy with Weak Legitimacy

Korea has a long tradition of the competitive entrance examination of public officials and a stable merit-based bureaucratic system. The Yi Dynasty developed a highly centralized bureaucratic structure, under which officials of all ranks were centrally appointed through periodic examinations (Hahn, 1975, 292). The Japanese colonial state discriminated against Koreans by providing them only some minor posts in the colonial administration system. However, after the liberation, the bureaucratic structure of the state soon restored a merit-based system open to all Koreans. With the amendment of the National Civil Service Act in 1963, the number of bureaucrats who were newly recruited on the basis of open and competitive examinations had significantly increased. The staff higher than section chief level (*samugwan*) began to be recruited mainly by the higher civil servant examination (HCSE). The ratio of bureaucrats who were recruited by passing the HCSE to the total director-general-level civil servants increased to 58.3 percent in 2006, while it was only 3.2 percent in years prior to 1960 (Rho and Lee, 2010: 333-334, 340).

However, strong bureaucratic tradition did not guarantee the full protection of bureaucrats from the influence of informal networks based on school and regional ties, especially in the process of promotion. An open and competitive system of entrance examinations has successfully established fairness in the recruitment process of new bureaucrats. However, informal networks of personal ties gradually infiltrated into the process of promotion of bureaucrats, who already passed the entrance examination. As a result, the combination of meritocratic recruitment and clientelistic promotion has prevailed in the bureaucratic system in Korea (Ha, 2007: 371). However, the infiltration of informal ties into the promotion process does not mean that the merit-based bureaucratic structure became entirely dysfunctional or that it was replaced by patron-clientelism. The passage of official examinations has been the dominant way for Koreans to become bureaucrats, while the National Civil Service Law has continued to stabilize the legal status of public servants and guarantee their job security. To prevent the influence of political and informal networks of

patronage on the recruitment process, the National Civil Service Act has strictly prescribed 12 cases in which noncompetitive recruitment is allowed (Rho and Lee, 2010: 347).

Compared to the strong bureaucratic tradition and high social status of public officials, their moral legitimacy in Korean society was not strong during the authoritarian period. Korean bureaucrats, especially officials in law enforcement agencies, such as police officers, had very weak legitimacy because of their shameful experience of collaboration with the Japanese during the colonial period. This weak legitimacy of bureaucrats was exploited by politicians for political purposes. For example, the first president, Rhee Syng-Man, adroitly exploited the original sin of Korean bureaucrats—i.e., their collusion with the Japanese in the past—in order to intensify their dependency on the president (Ha, 2006: 74). Police officers who had been disregarded by their own people due to their colonial experience were normatively inferior to the president who represented the will of Koreans liberated from the oppression of colonial rule. The normative alienation of the police from the public intensified their political dependency on the president.

(2) Taiwan

The One-Party-Dominant Rule

The ROC Constitution of 1947 created its unique power scheme based on five branches of government—the Legislative, Executive, Judicial, Control, and Examination *Yuans*—reflecting Sun Yat-Sen's idea regarding government structure and inspired by institutions from Chinese history (Ginsburg, 2003: 112). Formally, the official power of the president given by the Constitution was not very strong,¹² while the legislature was permitted to constrain the president with some meaningful institutional measures. The Legislative *Yuan* held deliberative authority over government bills and a two-thirds vote of opposition in the legislature could force the Executive *Yuan* to comply with the legislative resolution. The consent of the Legislative *Yuan* was required for the presidential appointment of the premier (the chairman of the Executive *Yuan*). When disagreements arose between the legislative and executive branches regarding budgets and treaties, the premier could be forced to resign by the legislature (Tien, 1989: 141).

However, top leaders of the KMT regime in Taiwan enjoyed almost unlimited power since any institutional measures provided by the Constitution for the constraints on presidential power became meaningless when the Constitution itself was suspended. Right after its retreat to the island, the KMT promulgated a state of “national emergency” and administered the island under martial law (Peng, 1971: 471). The enactment of the “Temporary Provisions Effective during the Period of Communist Rebellion” suspended the Constitution and continued in force until 1991. It granted extraordinary power to the president, just as *Yushin* and the Fifth Republic Constitution provided almost unlimited power to the president in Korea, including the capacity to suspend basic freedoms. The Temporary Provisions removed almost every constitutional measure for safeguarding checks and constraints on presidential power. The president became absolutely free to declare martial law and govern the island by presidential decree without any need for Legislative *Yuan* approval. The Temporary Provisions also suspended the two-term limit on the presidency stipulated by the Constitution. Chiang Kai-Shek reigned for twenty-six years in Taiwan. His son, Chiang Ching-Kuo, succeeded his presidency in 1976 and ruled the country until he died in 1988 (Ginsburg, 2003: 113-114).

Moreover, the president controlled all branches of government as a chair of the KMT, which had existed as a ruling party—in fact, the only party on the island—for nearly a half century.¹³ While parties had little political meaning in the military dictatorship of Korea, the KMT party in Taiwan assumed a central role not only in politics but also in almost every sector of Taiwanese society due to the authoritarian corporatist system on the island (Gold, 2000: 89, 96). The KMT regime created a Leninist party-state system in which the KMT and the state were in fact two different faces of a single body. The state functioned as the executive apparatus of the party (KMT), which controlled all branches of the government and managed the corporatist collaboration between the party-state and society (Gold, 2007: 251).

During the KMT’s rule, the legislature remained simply as a rubber stamp. Its essential function as a law-making body was nominal because it seldom initiated a bill. The first bill that was initiated by legislators was in 1987 (Rigger, 1999: 61). The legislative body continued to be filled by people who had been elected before the KMT’s retreat to the island and enjoyed almost permanent positions since legislative

election was suspended by the Temporary Provision. They served the rubber-stamping functions designed by the KMT government rather than playing an active role as a legislative body. The role of the legislature became even more passive due to Taiwan's corporatist system in which the party-state, not the legislature, represented the demands of business, agriculture, and other sectors of society (Kao, 2007: 198-199). Legislators were also exposed to the arbitrary power of the coercive organs of the state. The Constitution stated that "No member of the Legislative *Yuan* shall be held responsible outside the *Yuan* for opinions expressed or votes cast in the *Yuan*," and that "No member of the Legislative *Yuan* shall, except in case of *flagrante delicto*, be arrested or detained without permission of the Legislative *Yuan*." However, these immunities and privileges were not granted in practice to members of the central or provincial legislature (Peng, 1971: 479).

The enactment of martial law (1949-1987) severely repressed freedom and political rights in Taiwan. It prohibited people from organizing parties and deprived them of freedom of speech, assembly, association, and communication (Cooney, 2004: 418). Public meetings, strikes, demonstrations, or petitions were strictly forbidden, and circulating rumors and beguiling the public were crimes punishable by death. It also suspended civilian judicial proceedings for certain categories of offenses that were related with national security; the military organ possessed the authority to try offences against the security of the state. Moreover, local administrative officials and judges were accountable to the local military commander regarding local administrative and judicial matters (Peng, 1971: 472-74). The Council of Grand Justices (the Supreme Court) failed to limit the exercise of presidential power through oppressive state organs. Rather, it legally justified the dictatorship of the KMT. In 1954, it legitimized the KMT's authoritarian rule by officially granting the KMT regime permission to suspend national elections. That decision enabled the KMT to maintain its rule indefinitely for almost four decades (Cooney, 1999: 256).

Strategic Dependency on Local Factions

The unlimited power of the president and concentration of power in the KMT did not mean that the KMT government also enjoyed the full capacity to control the entire Taiwanese society. Their capacity to rule

over the entire country relied on the cooptation of local elites (factions) due to the status of the KMT government as an émigré regime. Because the KMT was a minority alien force that had retreated from the outside (the mainland), it was unable to infiltrate the local Taiwanese society to the deepest level on its own. The KMT thus strategically utilized local factions¹⁴ to establish and maintain its influence in local politics. It bought local factions over to its side by giving them “carrots” as a reward for their political support. Almost all local faction politicians were running as KMT candidates in local elections, and in exchange for their political loyalty to the KMT, they received various types of privileges, such as monopoly control over important local resources, allowance to operate financial institutions, low-rate bank loans, and privileged contracts for local construction projects implemented by the central government (Mattlin, 2011: 48-49).

However, this strategic utilization of local elites and the dependency of the KMT on local factions for political legitimacy do not mean that the KMT government was captured by those local factions. Elaborate forms of formal/informal mechanisms (or “sticks”) were devised by the KMT to prevent local factions from challenging the KMT regime. First, the process of party nominations for the local elections gave the KMT considerable influence over the selection of candidates. According to the “divide and rule” tactics, the KMT ensured every country and city in Taiwan had at least two contending political factions subservient to the KMT’s command (Lee, 2001: 17). Second, locally elected officials had very limited budget-approving power and a minimal level of regulatory capacity. Incumbent officials were forced to be frequently replaced by other local elites through local elections since they were only allowed two terms, while the KMT politicians at the center were guaranteed almost permanent rule by the suspension of the constitution. Lastly, any attempts to form horizontal alliances among local factions at different regions were punished by the KMT (Mattlin, 2011: 49). Although the central authority’s reliance on local factions was a decentralizing force, the power of local factions in Taiwan was constrained by the KMT’s control of national politics during the period of authoritarian rule (Bosco, 1994: 135).

In these ways, the KMT regime utilized both carrots and sticks to enforce its capacity and legitimacy at the local level of Taiwanese society. As long as the KMT remained one of the “richest” political parties in history and had enough resources to buy the cooperation of local elites, its strategic dependency on local

power was not a serious threat to the domination of the party-state in Taiwan (Rigger, 2000: 137). However, when the KMT started to encounter political competition led by the unfolding of democratization, the asymmetric power relationship between the center and periphery began to shift because the carrots were gradually depleted and the sticks were blunted as the KMT's monopoly of power was challenged by the growing influence of the DPP.

Meritocracy with Identity Division

China invented competitive examination systems for the recruitment and promotion of public officials. Its tradition of the merit-based system is reflected in the establishment of the Examination *Yuan* as one of the five branches of government in Taiwan. The separate existence of the Examination *Yuan* is based on the belief that the fairness of recruitment of public servants could be guaranteed when the examination process is independent from the political influence of the executive branch. The Examination *Yuan* is responsible for administering all civil service examinations and other activities related to the employment, promotion, transfer, and tenure protection of government officials (Lo, 2006: 6, 8; Cao, Huang, Sun, 2014: 60). At the end of 2007, about 68.6 percent of all public employees in Taiwan were recruited through civil service exams (Jan, 2010: 503). The merit-based system has also been maintained as an official principle of the recruitment and promotion of police officers. All police officers are required to go through many examinations during the occupational training and promotion process. To become a police officer, one must graduate from either the Taiwan Police College or the Central Police University and then pass the national civil service examinations for law enforcement officers (Cao, Huang, and Sun, 2014: 16, 61–68).

However, in practice, the promotion and recruitment of public officials remained quite penetrable by patronage and political influence. When a single party, like the KMT in Taiwan, monopolizes political power, the political neutrality of bureaucracy and the protection of meritocracy from political interference are hard to be secured. The Taiwanese bureaucratic system was in fact founded on the political loyalty of bureaucrats. Loyalty of individual bureaucrats was emphasized from the beginning of the KMT rule because Chiang Kai-Shek initiated a large-scale purge against party-state officials who he considered disloyal, pro-

communist, and corruptive. Moreover, from an institutional perspective, the Taiwanese bureaucratic structure was easily susceptible to the political influence because the party leaders played a leading role in the policy-making process and led bureaucrats in the implementation of decided policies. Following the Leninist principle, the KMT developed parallel party cells in each unit of all government departments. Almost all senior civilian officials, the police, and military officers were also party members, and the heads of institutional agencies in the public sector simultaneously served as leaders of party cells (Huang and Tu, 2010: 519-520).

The recruitment system under KMT rule also reflected a bias that safeguarded the privilege and dominance of the KMT. Some special examinations (or the so-called “back door”) were reserved for military officers and other privileged people to allow loyal members of the KMT to occupy key positions in the bureaucracy (Su, 2010: 614, 619; Tan, 2000: 60). Moreover, due to Chiang Kai-Shek’s effort to secure the loyalty of public officials within the government for the regime’s survival, the native-born Taiwanese found themselves pushed aside in the appointment of government positions, despite their three or four to one demographic majority. The exclusion of native Taiwanese from the top levels of the police was distinct during the KMT’s rule: only 7 percent of the positions of police bureau chief rank or above was occupied by the native Taiwanese (Wade, 1990: 233, 237). The discrimination against the Taiwanese led to the tensions and identity division based on ethnicity in the Taiwanese bureaucratic system.

Because the mainlanders occupied top posts in government, identity distinction between the mainlanders and Taiwanese aligned with identity distinction between managerial-level officers and rank-and-file officers. Most line officers identified themselves as Taiwanese while most officers in a higher post, such as supervisors and administrators, identified themselves as mainlanders. A survey in 1975 indicates that 97 percent of students in the Police College who were destined to become line officers identified themselves as Taiwanese, whereas 48 percent of future staff officers attending the Central Police University identified themselves as mainlanders (Gingerich, Chu, and Chang, 2011: 53-54). The domination of top posts within the police by mainlanders secured the police’s political loyalty to the KMT during the martial law period. However, it became clear that it was also the seed of conflict and distrust between the chief executives of

the police and top political leaders when the KMT's political power was taken over by the DPP, which represents the identity and interest of native Taiwanese.

(3) Mexico

Dictatorship through Cooptation

Authoritarianism in Mexico had some exceptional features. Unlike other forms of authoritarianism in Latin America, Mexico has maintained a democratic constitutional system (at least on paper) since 1917. Moreover, it did not fall under military dictatorship (Reames, 2008: 99). While the *Yushin* Constitution in Korea and the Temporary Provisions in Taiwan granted strong and arbitrary power to the president and severely limited the power of other branches of government, the Mexican Constitution established numerous legal checks and balances, such as division of powers, bicameralism, and federalism. Unlike the presidents of Korea, Taiwan, and other Latin American countries, the Mexican presidents lacked the authority of executive decree. Veto power was the only measure that the president was given to exert influence on congressional decision making. Perhaps the most decisive restraints on the presidency was the principle of a six-year presidential term with “no reelection” that has been strictly maintained with no exception over the last eighty years since the Mexican Revolution of 1910–29 (Nacif, 2005: 5; Hamilton, 2011: 68).

However, Mexican presidents have had no difficulty in bringing all branches of government under their control. Official and formal constraints on the presidential power remained nominal since the primacy of the president was safeguarded by informal mechanisms of patron-clientelism and his control over the PRI—the hegemonic ruling party in Mexico—which persisted for nearly seven decades (Lindau, 2011: 181).

First, informal mechanisms of patron-clientelism, known as the *camarillas*, enabled the president to concentrate all powers under the president. Since the incumbent president controlled the process of choosing his own successor, the principle of a single term of six years with no reelection in practice was not helpful to constrain the presidency. The presidential nominee chosen by the outgoing president from

among his members of the *camarilla* automatically became the presidential successor since elections, which were regularly held at all levels of government, were essentially matters of ritual due to electoral fraud and manipulation. The president was not at risk during the transfer of power (Philip, 1998: 32; Levy and Bruhn, 2006: 134).

Second, the president always enjoyed the necessary super-majorities in the legislature to unilaterally amend the Constitution without any necessity to form coalitions with opposition parties. The legislature controlled by the PRI simply rubber-stamped presidential initiatives with minimal debate. From the mid-1930s through the mid-1990s, more than 95 percent of executive sponsored bills were approved by the legislature without almost any amendment (Middlebrook, 2004: 24). The main task of the PRI in the legislature was to shepherd presidential initiatives in the lawmaking process and minimize any interference from opposition parties (Nacif, 2005: 8). Due to the absolute majority of the PRI in the legislature, which was maintained for more than a half century, the Constitution could be conveniently revised whenever the rulers wanted to do so. Since the original draft of the Constitution in 1917, it has been amended more than 400 times (Magaloni, 2008: 183-184).

The role of the PRI is important to understand the mechanism and characteristics of Mexican politics under the authoritarian rule. Unlike the weakly institutionalized and unstable party system in Korea, the PRI served not only as an organizational arena for elite settlements, but also as a means to organize the population into corporatist sectors and mobilize support for the government. Like the KMT in Taiwan, the PRI established a political system in which power struggles and interest conflicts were resolved within the dominant party (Centeno, 1999: 46, 49). In the system of state corporatism, which was instituted in Mexico during the 1930s, special interest groups, including those representing peasant, labor, and business interests, do not compete openly with other organizations for support from the state. Instead, the party-state provides those groups with subsidies and legal protection against rivals and thus secures those groups' loyalty to the regime, especially during the presidential and legislative elections. While carrots were granted to the groups within the state corporatist system, harsh sticks were also used to punish these groups when they challenged the PRI's authoritarian rule. As long as the party-state has plenty of resources to buy off the loyalty of the

special interest groups, the political system of authoritarianism could maintain its stability (Levy and Bruhn, 2006: 73; Camp, 2014: 13).

However, the party-state relations in Mexico were fundamentally different from those in Taiwan, although the hegemonic party system (or one-party regime) was the shared form of authoritarian rule in the two countries. Since the KMT in Taiwan had adopted Leninist principles of building a party organization from the beginning of its foundation in the mainland, the party was the center of the leadership and used most of the state organs as its executive apparatus. Any party policies were guaranteed to be enforced in government operations since the party played a leading role in policy implementation (Tien, 1989: 89). However, in Mexico, the PRI was established to help the leadership of the government and its bureaucratic agencies to remain in power. The party serves as a channel for communication and cooptation of various social forces, such as labor, business, and peasants (Centeno, 1999: 234; Camp, 2014: 16). Unlike in Taiwan, the state bureaucracy of Mexico established and maintained its hegemony over the party, while the role of the party became gradually retrenched, especially as the neo-liberal economic policy of technocrats started to replace traditional corporatism in the late 1980s (Centeno, 1999: 141-144). Although the party-state system was the main political system in both countries, the power asymmetry between the party and the state in each country differed from one another—i.e., the party was superior in Taiwan while the state was superior in Mexico.

Lastly, the judicial branch was not an obstruction to the president because key aspects of the administration of justice were controlled by the president. The executive controlled the appointment of judges and justices. Between 1934 and 1994, most presidents appointed more than half of the justices during their terms, and almost 40 percent of all justices served less than five years in office (Lindau, 2011: 191). The president also named the justices of the Supreme Court, which never challenged the decisions of the executive during the authoritarian rule of the PRI (Selee and Peschard, 2010: 6-7). The lack of judicial autonomy prevented the impartial administration of justice in Mexico until the democratic transition in the late 1980s required judicial institutions and agencies to play a more active role. By controlling the prison

system, the president also enjoyed the power to pardon anyone sentenced and to remove most judicial penalties (Schatz, Concha, and Kerpel, 2007: 200).

Patron-Clientelism (Camarillas) in Bureaucracy

Mexico's bureaucratic system could be characterized as having "strong bureaucrats and weak bureaucracy." Individual bureaucrats in Mexico enjoyed strong political and administrative influence, while the bureaucratic system itself possessed less power than each of those individual bureaucrats enjoyed. The weakness of the bureaucratic system in Mexico stemmed from the lack of a meritocratic tradition of bureaucracy. Mexican bureaucracy has been dominated by clientelism.

In Mexico, politically ambitious and well-qualified persons preferred bureaucratic positions in the state administration. Because the majority of the PRI's presidential candidates had been selected from within the ranks of the administration, they had a strong incentive to become government officials. Moreover, elected offices, like the position of legislator, were simply considered as a temporary position in their careers prior to moving into bureaucratic positions in the state administration because Mexico's constitutional regulations prohibited¹⁵ consecutive election of legislators (Valdés, 2011: 63). Each legislator had to find a new job outside the legislature when their term terminated. The tendency toward the increased power of bureaucrats reached its peak under the presidency of Salinas. At that time, a small number of technically-qualified economists, or economic technocrats, dominated the government's key economic policy-making positions (Philip, 1998: 26). That period was the heyday of bureaucratic power.

However, the bureaucratic system itself has been weakly developed in Mexico. It has been essentially built on a patronage basis, known as the *camarillas*, rather than on a stable merit system. This is the crucial difference between Mexico on the one hand and Korea and Taiwan on the other hand in terms of bureaucratic tradition, since Korea and Taiwan have developed the merit-based system of bureaucracy, while Mexico was dominated by patron-clientelism. The term *camarillas* refers to a series of vertically and horizontally interlocking groups of people that exist for reciprocal purposes. In Mexico, *camarillas* do not involve simply one-time exchanges, but are based on long-term norms of reciprocity between patrons and

clients. Prospective politicians and bureaucrats in Mexico attach themselves to a patron who would provide positions in government and other various sectors, such as labor and peasant unions. The patron offers a job, a promotion, or increased influence, while the client, in return, provides loyalty, trust, and information to the patron. In the absence of a strong and stable civil service tradition of meritocracy, the successful management of these informal networks of *camarillas* becomes particularly important for aspiring politicians and government officials (Centeno, 1999: 146-147).

As a result, the president in Mexico was easily able to wield control over individual bureaucrats, including the law enforcement agencies. He possessed an extensive prerogative to appoint government officials and utilized the *camarillas* for his control over the bureaucracy. This led to high turnover rates of bureaucrats in Mexico. The president freely appointed cabinet officials without any need for ratification by any other branches of government. A wide assortment of middle-ranking government officers was also freely appointed by the president. As a result, the bureaucrats' personal closeness and loyalty to the president, rather than their performance, was crucial for ensuring promotion to a higher rank of the public administration (Valdés, 2011: 64-65). Clientelism was not a phenomenon that happened only at the central government level. In fact, it prevailed throughout the entire bureaucratic structure at all levels of government because the system of informal executive power at the national level had its counterparts at the regional and local levels in the form of the *cacique* (or strong leader). They acted as a local power broker through which ordinary people gained access to state resources (Schatz, 2006: 100). Promotion of bureaucrats at all levels, in practice, entirely depended on favorable assessments from above, which were intermediated by those local leaders. As a result, individual bureaucrats, even if they were sophisticated, strong, and efficient technocrats, were not free from the political influence of the president (Philip, 1998: 25, 33).

III. Authoritarian Policing

(1) Korea: "Arbitrary Enforcer"

Organizational Structure of Police

Korean police have been characterized by a highly centralized national police system. All police departments across the entire country are homogenous in terms of department policy, ruling authority structure, and policing practices. At the top of the hierarchical structure of Korean police, the national police headquarters of the commissioner-general in Seoul supervises provincial police headquarters located in major metropolitan cities, which are in charge of administering police departments in their districts. At the bottom level, there are police offices (*Gigudae*) and mini-police stations¹⁶ (or police boxes, *Pachulso*), which contact with local residents. This hierarchical police system has a well-defined chain of single authority and clear division of work, with centralized power and resources at the top of the organization in order to control the entire system in perfect order. As of 2014, there are 16 provincial police headquarters, 250 police stations, 428 police offices, and 1,517 mini-police stations (Hwang, McGarrell, and Benson, 2005: 587; Moon, 2006: 708-709).

Korea has a long history of bureaucratic meritocracy, and rank-and-file officers in the police enjoy stable job protection: police officers are recruited from official and competitive examinations and promoted through a complex evaluation system. However, during the authoritarian period, the high-ranking police officers were quite vulnerable to political influence. Without a fixed period of tenure, the commissioner-general has frequently been changed at the will of the president. The average tenure of the commissioner-general has been less than a year. High-ranking police officers became more concerned with the interests of the ruling bloc than with the protection of the citizens, and police were deeply involved in political matters. Moreover, the highly centralized police structure, with a concentration of police power among a few high-ranking officials, made it possible for the authoritarian ruler to utilize the police as a political tool. In this context, the political neutrality of the police significantly diminished (Moon and Morash, 2009: 111).

The political independence of Korean police was further disturbed by interference of other government agencies—such as the military and the National Security Bureau—in the jurisdiction and fulfilment of duties of the police. The fragile political status of the police was criticized as follows: “the Ministry of

Interior controls personnel administration, the Prosecutor's Office directs the investigation, the National Security Bureau manages intelligence duties, and the Ministry of Defense commanded operation of the police" (*Kyunghyang Shinmun*, January 11, 1993: 3).

Function and Practice (I): State Violence and Protection from Police

If Korean law provided legal ground for the concentration of power in the presidency during the authoritarian rule of Park and Chun, law enforcement agencies served as a tool of ruling power for oppressing political opponents and maintaining social control through surveillance and coercion. Essentially, Korea maintained the "service-to-the-government"-oriented police organization rather than developing a "service-to-the-citizen"-oriented organization during this period (Hoffman, 1982: 3). Due to the lack of legitimacy to govern people that should come from democratic procedures for consensus building, authoritarian regimes were heavily dependent on the physical force of the police and utilized it as a political means to suppress anti-government activities and political opponents. A remarkable portion of police personnel and resources¹⁷ was allocated to monitor and suppress political opponents and democratic movements, which further deepened antagonistic relationships between the police and citizens (Moon, McCluskey, and Lee, 2005: 442-443). Police were not viewed as a neutral authority that citizens in trouble could turn to for aid and assistance. Because authoritarian rule had casted Korean police in the role of suppressor and intimidator, Korean people continue to view their police with suspicion and distrust (Archambeault and Fenwick, 1985: 8, 10).

Discretion provided to the police under the legal statutes of the authoritarian period bolstered the oppressive and arbitrary enforcement of law. The Social Security Act (SSA), for example, established the legal basis of arbitrary law enforcement in Korea. It was enacted under President Park's regime in 1975, originally in order to protect community life from individuals with mental illness by placing them in custody. However, the law was used to imprison a number of political opponents after they had served their sentences, on the grounds that they were at risk of recommitting crimes. Security custody was imposed by the Ministry of Justice, not by the judiciary, and could be repeatedly renewed. Under such a legal system, the prosecution,

who commanded the police, exercised virtually limitless authority to deal with political offenders, without any intervention from the judiciary (Yoon, 1990: 81-82; Cho, 2004: 73).

The National Security Act (NSA) was one of the most powerful legal tools that sustained oppressive and arbitrary enforcement of the law in Korea. Its original intention was to protect the country from the North Korean threat and the anti-state activities of pro-communists. In practice, however, it was improperly used by the authoritarian regime for suppressing political opponents and democratic movements (Yang, 2000: 37; Cho, 2004: 72). Since the NSA defined criminal acts so broadly and vaguely, the authoritarian rulers were able to conveniently utilize it for the oppression of their political rivals and opposition forces (Yoon, 1990: 81). For example, anti-state activity defined by the NSA covered not only physical “actions” but also “intentions” to cause national disturbances or to assist North Korea. In fact, most anti-government actions and expressions could be construed as aiding the enemy (North Korea), and student groups who opposed the authoritarian government became a major target of the NSA. The suspects who were charged with violation of the NSA were commonly exposed to human rights abuse. While Korean criminal law permits a 30-day detention for suspects in normal criminal cases, the NSA permits a further 20-day extension for interrogation by security agencies (Moran, 1998: 5, 13, 15). Under Chun’s presidency, about 2,000 people were arrested for violating the NSA (*Dong-A Ilbo*, December 3, 1988: 5).

Function and Practice (II): Societal Violence and Protection by Police

During the authoritarian period, the police performed various and extended functions, covering not only crime prevention and investigation, but also counter-communist operations and management of homeland reserve forces. To cope with the increasing threat of invasion from North Korea, the Korean government reinforced the manpower and authority of police forces. In 1970, the Combat Police Organization Law established the combat police forces within the police, which specialized in duties of counter infiltration and engagement in riot duties. To secure a stable influx of competent manpower, the agents of the combat police force were exempted from military service after fulfilling a required period of active service. The combat police were expanded from 20,000 to 120,000 under Chun’s presidency (Moran, 1998, 6). The

police were responsible for the management of homeland reserve forces, whose manpower reached more than 2.5 million during the 1970s. They also administered the education and mobilization of homeland reserve forces and took charge of equipment management necessary for these forces. The revised law of Government Organization in 1974 elevated the status of the police from the Bureau of Public Security in the Ministry of Interior to the Head Office of Public Security in the same ministry (*Daehan Economy Daily*, 1989: 236-238; Lee and Kim, 2001: 13-14).

Korean police were often criticized for focusing on the duties of political affairs—such as oppression of opposition forces—while they had neglected essential police work, such as the prevention and investigation of crime. As of 1988, among 125,000 police personnel, only 67,000 (about 53 percent) were professional police officers, while combat police forces and conscripted policemen constituted about 40 percent. This high ratio of combat police forces and conscripted policemen signifies that Korean police attached great importance to the duties of political affairs. However, the number of residents per one police officer reached 635 persons, a much higher number compared to other countries, such as the United States (357 persons), the United Kingdom (395 persons), and West Germany (313 persons) (*Dong-A Ilbo*, October 21, 1988: 15). Despite its excessive focus on political affairs under the authoritarian rule, the Korean police demonstrated a high level of competence in dealing with criminal offenses. As Table 3-1 shows, the arrest rate for criminal incidents was maintained between 87 percent and 91 percent during the *Yushin* period of the 1970s.

[Table 3-1] Arrest Rate of Criminal Incidents (1964–1979)

Year	1964	1965	1966	1967	1968	1969	1970	1971
Arrest Rate (%)	74.9	74.9	75.2	72.8	79.7	98.8	88.3	83.7
Year	1972	1973	1974	1975	1976	1977	1978	1979
Arrest Rate (%)	88.3	90.7	89.4	88.2	88.4	88.3	87.7	87.9

Source: the Head Office of Public Security (1985), p. 475, 1071.

Crime rates were also maintained at a lower level under Park’s and Chun’s military regimes compared to the period of democratization. The total crime rate—the number of crimes reported to the police per 100,000

people in the population—was between 948 and 1,481 during Park’s *Yushin* period, and between 1,561 and 2,276 under Chun’s presidency; it reached 3,803 in 1998 and 4,170 in 2001 (Lee, 2006: 223). Authoritarian governments in Korea exercised more punitive sanctions to deter crimes (Yoon and Joo, 2005: 50). In a geopolitical situation of confrontation with North Korea, the military governments of Park and Chun initiated intensive countermeasures against crime, especially the organized bandits, for the purpose of building a more tightly controlled “garrison state.” For example, right after the success of the military coup, Park’s government arrested 13,000 members of organized criminal groups from 1961 to 1963. Organized hoodlums had little room to maneuver under the intensified social control exerted by the coercive state apparatus (Lee, 2006: 61, 65). Chun’s new military regime, which succeeded Park’s dictatorship through another coup right after his assassination in 1979, also initiated ruthless anti-criminal policies. Not only members of organized criminal groups but also many innocent citizens were arrested and imprisoned in education camps, the so-called *Samchung-gyoyukdae*.¹⁸ From August to October 1980, Chun’s government arrested 46,000 persons accused of crimes under the martial law, and approximately 30,000 of these were sent to military units for reformatory education (Archambeault and Fenwick, 1985: 9).

(2) Taiwan: Limited “Arbitrary Enforcer”

Organizational Structure of Police

Taiwan has maintained a centralized police system with a vertical command structure under the unified umbrella of the National Police Agency (NPA), which is responsible for the administration of all police forces in Taiwan. The Criminal Investigation Bureau (CIB) in Taipei and the local police departments across the island are the main units of the NPA for crime investigation. Each city or county has a police headquarters and several precincts, substations, or posts, and the majority of police officers work at the local level (Gingerich and Chu, 2006: 121). Substations, which undertake direct contact with local residents as the lowest-level police unit, are subordinate to the city-level police precinct office, which reports to the

county-level police department (Martin, 2013b: 620). The day-to-day crime investigations are mainly conducted by the CIB and the local police departments of the NPA.

The KMT regime also devised several other agencies, such as the Garrison Command, the Ministry of Justice Investigation Bureau (MJIB), and the National Security Bureau (NSB), to arrest, imprison, and execute any individual that they considered a threat to national security and public order (Chao and Myers, 1998: 51-52). The MJIB covered crimes that were serious or had political and international ramifications, such as sedition, treason, unauthorized disclosure of national secrets, corruption and bribery during elections, drug trafficking, organized crime, major economic crime and money laundering, and other matters related to national security and interest. The NSB was established in 1955, and later became a legal institution in charge of the coordination of national security intelligence and special service missions (Chin, 2003: 162-163). It was under the direct command of the president, enabling him to exercise direct personal oversight over the military and police organizations of Taiwan (Martin, Chang, and Yeh, 2006: 234).

The Taiwan Garrison Command in the Department of Defense was created to enforce martial law and investigate political sabotage. The NPA, in effect, functioned as a subordinate agency under the Garrison Command, which employed almost ultimate control over all administrative and judicial affairs in Taiwan (Gingerich, Chu, and Chang, 2011: 51). It was authorized to control people's travel abroad, monitor their entry into Taiwan, approve meetings, parades, and rallies, and review and censor various forms of communications, such as newspapers, magazines, books, and movies (Tan, 1999: 278). Under instructions from the Garrison Command, a large number of criminals and political dissidents were arrested and convicted without trial or public scrutiny (Chin, 2003: 161-162). The civilian court system was often pushed out by the military court, which was subordinate to the executive branch of government, exercised wide jurisdiction over the entire population, and tried cases involving political offenses of civilians (Cooney, 2004: 418).

As the KMT adopted principles of a Leninist party from its organizational onset, the police in Taiwan were trained to see themselves as a revolutionary force guarding the ideal of its founding father, Sun Yat-Sen, and their primary loyalty was to the KMT, not the civilian government. Almost all police officers were

members of the KMT, and the police were instructed to vow their loyalty to the KMT. Their KMT loyalty, more than their professional ability, determined their promotion, and there was no way for a non-KMT member to rise to the top position in the organization. During the martial period, the police organization was controlled by military generals. The police were considered to be an extension of the military forces to which police organs were subordinated in practice. The top positions of the police, including the director-general of the NPA, were filled by military generals (Cao and Dai, 2006: 76; Cao, Huang, and Sun, 2014: 21-29).

Function and Practice (I): State Violence and Protection from Police

Throughout the KMT's authoritarian rule, the repression of political dissidents was an integral part of policing. The main function of the police was to secure the stability of the KMT regime rather than to serve the people. In the name of defending Taiwan from the communist threat in the mainland, the police focused on monitoring and repressing political opponents, while preventing crime against citizens was a secondary priority. For example, on December 10, 1979, an anti-government parade organized by *Formosa Magazine* was repressed by state agencies, including the police, the military, and intelligence groups. After the crackdown, eight supposed ringleaders of the *Kaohsiung* Incident, who were labeled "violent political dissidents" by the KMT regime, were sentenced to jail terms of between 12 years and life (*Taipei Times*, December 6, 1999: 1). Between 1949 and 1986, the victims of repression that experienced human rights abuses, who the KMT regime later granted reparations, reached 6,022. Among these victims, 699 were executed and 53 served a life sentence. The native Taiwanese were not the sole targets of the "White Terror" as Chinese mainlanders also constituted around 40 percent of the victims (Wu, 2005: 90, 100).

The legal system in Taiwan under the KMT's rule provided formal ground for the extensive and coercive power of the police. Article 100 of the Criminal Code, for example, gave scope for the arbitrary use of police power. It stressed the "intention" of the people to commit a crime rather than the "behavior" of criminal offenses itself as an element for constituting criminal violence. It stated that "any person who commits an overt act with intent to destroy the organization of the State, seizes State territory, by illegal

means changes the Constitution, or overthrows the Government shall be punished with imprisonment for not less than 7 years” (Kao, 2007: 201). The Garrison Command of the KMT regime depended on that article to arrest and imprison the regime’s critics (Chao and Myers, 1998: 224-225).

To fulfill the political duties of regime security more efficiently and to conduct their crucial role as the operational base of the state for order maintenance, the Taiwanese police were given wide discretion and authority with respect to search, seizure, detention, and arrest (Sun and Chu, 2006: 196). The administrative police officers formally intervened in social activities. They held discretionary authority to apply administrative penalties that did not require any further judicial review. The Police Offense Law (POL) under the martial law authorized police officers to issue summary detentions in holding cells for up to two weeks, to shut down businesses, and to apply a variety of other forceful sanctions (Martin, 2007: 673). The misdemeanors punishable under the police law covered 136 ambiguous offenses (e.g., loitering about in the streets, having no proper job, dressing indecently, singing or performing in an obscene or inhuman manner, etc.), rendering people vulnerable to arbitrary arrests and punishments. The POL continued to create a variety of new and ambiguous categories of offenses that were not punishable under the Criminal Code (Tao, 1971: 761). The police had effectively exploited the law for the sake of maintenance of social order favorable to the KMT regime until the sanctions of detention, forced labor, and reformatory education dispensed under the police law were nullified in 1990 (Chen, 2003: 391; Kao, 2007, 196).

The court under the KMT rule was not helpful in constraining the arbitrary and repressive enforcement of law for several reasons. First, prosecutors and police were not required to file for search warrants from the courts before carrying out searches because search warrants were issued not by the courts but by prosecutors (Low, 2000: 3). Second, because political offences against the internal and external security of the state were so broadly defined, strikes, petitions, demonstrations, public meetings, and spreading of rumors were placed under the jurisdiction of a military court, not a civilian court (Peng, 1972: 475-77). Third, the civilian courts were vulnerable to the political pressure because until 1980, the High Court and the District Courts lacked judicial independence. They were placed under the Ministry of Justice in the Executive *Yuan*. Autonomy of judges was also restricted. District court decisions were subject to review

and correction by the Chief Judge before announcement. Judges followed orders from the party-state. Lastly, the state's control of the legal professionals in Taiwan in effect restrained citizens' right to have the legal assistance of competent lawyers. The national bar exam admitted less than 1 percent of applicants who graduated from the law schools, while far larger numbers of people who had served as military judges, prosecutors in the martial court, or senior bureaucrats were admitted to the bar through a "back door"¹⁹ channel (Kao, 2007: 199-200; Yeh, 2009: 130).

Function and Practice (II): Societal Violence and Protection by Police

The total crime rate (measured by the number of crimes reported to the police per 100,000 people in the population) remained stable between 200 and 300 from 1967 to 1984 (Deng, Vaughn, and Huang, 1994: 274). Considering the fact that it reached 627 in 1992 and further increased to 885 in 1996 (Cao, Huang, and Sun, 2014: 35), crime control by the police under the KMT's rule was quite strong. The tight crime control and the maintenance of the crime rate at a low level were possible because law enforcement agencies were equipped with strong legal and physical means against criminals.

The Provisions for the Eradication of Hoodlums provided the police with a shortcut to arrest a suspect or search and seize his property. The provisions were used by the police to exert control over any person who might be involved in the criminal activities of a hoodlum (*liumang*) (Tao, 1971: 761).²⁰ The police were empowered to force a person, whom they had previously designated a hoodlum, to attend questioning without the need for any judicial sanction. These provisions also allowed the police to use secret witnesses who were not subject to cross-examination by the suspected hoodlum in judicial proceedings. Hoodlums who had been sentenced to compulsory reform work in the past could be subsequently reassigned to reform work without a conviction under the Criminal Code. Prosecutors even enjoyed the power to arrest or detain civilians without court warrants (Cooney, 1999: 263). These legal measures were not the only tools that the law enforcement agencies utilized to terminate the nation's mafia organizations. Many local hoodlums were caught and sent directly to Green Island for special mental and physical training when the police believed those hoodlums could not be reformed at a regular prison (*Taipei Times*, November 11, 2001: 2).

The extended role of the police at the local level illustrates how the Taiwanese state had endeavored to increase the infrastructural power of the state by penetrating into local society through its government-related agencies. The Taiwanese police were empowered with a wide range of functions that extend far beyond the law enforcement aspect of policing and were encouraged to be actively involved in neighborhood activities (Sun and Chu, 2006: 195). The police in the local communities were assigned not only the duty of security maintenance but also many other administrative functions of government that are rarely undertaken by police officers in other countries, such as house registration, fire control and prevention, and registration and inspection of aliens' residences. The household registration section (*huzhengbu*) of the police was in charge of the maintenance of records on local communities by compiling a wide range of statistical data on the local population, and police officers in this section provided administrative services, such as issuance of personal identification cards, handling applications for marriage licenses, divorces, and birth and death certifications, among others (Moser, 1982: 44; Sun and Chu, 2006: 192). The police at the local level, in other words, were involved in divergent functions of the state rather than being specialized in public security and law enforcement. Through the extended role of the police, the KMT government was able to not only intensify its infrastructural power at the local level but also efficiently maintain public order.

(3) Mexico: "Palace Guard"

Organizational Structure of Police

Policing in Mexico has developed in chaos and disorder. Most of all, the differences between the police and bandits were frequently blurred because political leaders recruited bandits for their political and military goals. In 1861, President Benito Juárez founded a federal police force known as the *Rurales* (Mexico's Rural Police Force). To maintain the governing power of the state amidst a civil war, he embraced bandits to fill a portion of the ranks of the police (Sabet, 2012: 5). Bandits and police officers were fluid and interchangeable (Vanderwood, 1992: 54, 63). Although the *Rurales* were founded to fight crime and secure

public order, they had a dual mission of repressing the political opponents of the president, which continued throughout Mexico's history (Sabet, 2012: 5). President Porfirio Díaz, who ruled Mexico for more than thirty-five years as a dictator before the outbreak of the Mexican Revolution, utilized the *Rurales* as a political tool for maintaining his dictatorship. The *Rurales* did not try to cover and police all of Mexico; they concentrated their operation only in central Mexico, the political and economic center of Mexico, where most of the new enterprises were emerging (Vanderwood, 1992: 119, 124). The police in Mexico during the authoritarian period were “the president's police” and functioned as a typical “palace guard,” i.e., a law enforcement agency with weak capability and weak accountability.

The administrative structure of policing in Mexico, which maintains about 463,000 police as of 2010,²¹ is characterized by organizational fragmentation, overlapping of functions, and a patchwork of complex networks of semi-autonomous police services. In Mexico, two functional categories of police—i.e., preventive police and judicial (or investigative) police—co-exist in the same territorial spaces. Preventive police are charged with protection or vigilance duties and are formally responsible to elected authorities, such as the president and governors, while judicial (renamed later as investigative) police are charged with prosecutorial rights and obligations and are connected to the judicial branch of government (or the Attorney General's office [PGR] and its equivalents in the states). The federal government and each of the 32 states have their own preventive and judicial police forces, while municipalities have been permitted to maintain only preventive police forces. In 2006, Mexico had 1,661 different police forces in the whole country. In 2009, the number increased to 2,022 (Kenny and Serrano, 2012: 33). The fragmentation in police organizations was unintendedly caused by how the government responded to citizen demands for reforming corrupt and repressive police. When citizens protested about abusive and oppressive police actions, the government created new police forces that would co-exist with the old police forces, rather than choosing to replace, dismiss, or reform old forces, due to the resistance from the vested interests of different political factions in the PRI, the government, and the police (Davis, 2009: 194). As much as the police reveal old problems of corruption and oppression, a larger number of new patchworks were attached to the existing tattered clothes of the police system.

Function and Practice (I): State Violence and Protection from Police

During the authoritarian period, the operation of police forces focused on social control. They conducted law enforcement in a selective and arbitrary way, while police functions of community service and crime prevention were marginalized (Zepeda, 2010: 40). The president utilized the police to protect his political goals and interests or to harass and punish his political opponents (LaRose and Maddan, 2009: 336). The president's periodic and ritualistic attacks on the corruption of politicians were aimed at eliminating his political opponents rather than attacking the existing political system in which corruption grew. The anti-corruption campaigns initiated by the newly elected president usually had additional political motives, including safeguarding his rule, garnering legitimacy by undercutting key political figures linked to his predecessor, and purging his political enemies. The selection of anti-corruption targets followed the president's political logic more than the independent and impartial logic of a judiciary (Levy and Bruhn, 2006: 137). The president exploited the pandemic corruption and the power of law enforcement agencies to secure loyalty to him and to punish those who potentially threatened the hegemonic system of the PRI (Morris, 2009: 2). Police loyalty to the regime, in turn, was rewarded with virtual impunity for the police in terms of corruption and human rights abuse (Suárez, 2010: 149).

The Mexican criminal justice system was purposely designed to allow the law enforcement agencies to apply the law with abundant discretion, ensuring punishment for the political opponents and hostile social forces against ruling groups while guaranteeing impunity for the allies of the dominant political forces. The criminal justice system in Mexico was designed to provide law enforcement agencies, such as public prosecutors and the police, with a monopoly over investigative and prosecutorial actions, while courts lacked jurisdiction over those investigative and prosecutorial processes. In practice, all detainees were regarded as "guilty until proven innocent," contrary to the principle of "innocent until proven guilty" that is commonly accepted in advanced democratic societies. Politicians in the ruling PRI bloc would never be punished because the regime used its monopoly over the investigatory and prosecutorial apparatus in order

to protect members of the ruling group, i.e. the PRI. The enormous legal discretion contributed to the arbitrary use of state power in the application and enforcement of the law (Magaloni, 2008: 190-191).

The decisions and approaches of the Supreme Court and the circuit courts paved the way for the arbitrary and inefficient law enforcement. Criminal investigation was primarily based on coercion and intimidation. The judicial police and the public prosecutors commonly physically abused detainees in order to extract confessions. The Supreme Court legitimized or even reinforced the practice of prolonged detention and torture of the accused, rather than constraining such practices. In many cases, it held that arbitrary and prolonged detention by the police was not sufficient to nullify the confession of the accused. The court also ruled that evidence of physical abuse of the accused during the arrest did not invalidate a confession, which would still be valid in the absence of proof to the contrary. Without a judiciary that would secure basic requirements of due legal process, the police had no necessity to increase the quality and ability of their criminal investigations. They became accustomed to resorting to easy methods of criminal investigation, i.e., extracting testimony and confessions through torture, intimidation, and prolonged detention, rather than developing advanced professional investigation techniques (Magaloni, 2012: 95).

Function and Practice (II): Societal Violence and Protection by Police

Under the authoritarian rule, the police in Mexico were not successful in their duties of ensuring the public safety of the citizens. Security and law enforcement institutions at local and state levels, which undertook primary responsibility for fighting crime,²² were especially incapable of successfully coping with criminal offenses. The inequality problem in Mexico was not restricted to the economic realm. Inequality was also evident in the realm of public security. The capacity of the state to maintain public order and to enforce the law was not equally distributed at the local level across the country. For example, by the start of the Calderón administration in 2006, only 12 of Mexico's 31 states had a police presence in every municipality, while more than 400 municipalities had no public security force at all (Poiré, 2012: 15).

As professional career, the Mexican police forces have a variety of deficiencies. Police officers received only the minimal level of training, which was generally a few months; salaries were among the lowest in

Mexican society; and part of their pay was used to buy a uniform, guns, and the other equipment they used. The lack of equipment and armament made police officers vulnerable to better armed criminals (López-Montiel, 2000: 86). The division between the preventive police and the judicial police also contributed to ineffective crime control and law enforcement. Because only the judicial police can detain someone for a crime that they did not witness committed, the preventive police, such as transit police officers, could not arrest someone wanted for another crime after a traffic stop (Thompson, 2000: 17). In addition to conflict and competition for control of the streets, inter-organizational tensions among different units of the police and their leadership took place due to the intricate organizational structure.

In spite of weakly professionalized and inefficient police forces, the Mexican government kept the level of crime related with drug trafficking organizations at a lower level, while Mexico under democratic transition later witnessed a skyrocketing increase of organized crime related with drug cartels. Maintenance of drug-related crime at a low level was the result of the PRI government's strategy toward drug cartels. Rather than relying on physical and coercive means of state organs to oppress those drug trafficking organizations, the PRI government chose to form an informal agreement with the major drug cartels. The government implicitly agreed to allow traffickers to continue their illicit enterprises as long as they paid bribes and no major eruption of violence took place (Rios, 2013: 141). However, the price of this somewhat peaceful coexistence between corruptive government and illicit drug cartels was the perpetuation of the overall decline of the police's capacity to enforce the law and maintain public security. When the collusive compromise was broken during the democratic transition, nobody, including the police, was able to cope with the unprecedented level of criminal offenses and violence related to the drug cartels.

IV. Conclusion

The creation and change of law enforcement agencies are deeply related with the process of formation of a nation state. Korea, Taiwan, and Mexico developed their political systems and police forces in divergent geopolitical and historical backgrounds. During the authoritarian period, Korea exhibited a typical case of

an “arbitrary enforcer.” National division and the existence of a strong external threat from North Korea and the crisis of national security provided good soil for the use of the police for securing political interests and maintaining the regime’s security. Although the strong capability of the police enabled them to maintain public security, they failed to enforce the law impartially. While Korean police existed as a typical example of an “arbitrary enforcer,” the police in Taiwan under the KMT rule did not perfectly correspond to the ideal type of “arbitrary enforcer.” The police of the KMT regime were somewhere between an “arbitrary enforcer” and a “palace guard” because the capacity of the KMT to rule over the entire country relied on the cooptation of local elites. The police force’s capacity to coerce compliance at the local level was rooted not in its own quantitative and qualitative strength but rather in the political strengths of the KMT, which was bought by local factions through informal measures. The role and capacity of the police in Mexico illustrate that the Mexican police were a loyal “palace guard” of the president. While the police in Korea and Taiwan perfectly or partially performed the role of an “arbitrary enforcer” under the authoritarian rule, their counterpart in Mexico functioned as a “palace guard” that protected the interests of the ruling group at the expense of public security outside the president’s palace.

Chapter 4

Reforming the “Arbitrary Enforcer” in Korea

The creation and development of coercive state institutions are both influenced by the historical and structural context of the state. The geopolitical environment of national division and the formation of a highly centralized state without dependency on local power provided the basis for the development of a police force designed to act as an “arbitrary enforcer” of authoritarianism in Korea. This arbitrary enforcement body was able to successfully maintain public order and thus satisfy the political demands of a president who utilized the police as a political tool, although it failed to enforce the law in an impartial manner. The democratic transition in Korea exposed the police to a new political environment. New political leaders, politicians who occupied their place in government due to democratic elections, started to implement police reform. However, these new democratically elected politicians were still embedded in the political and bureaucratic conditions of democratic change, which incentivized them to select and implement specific forms of police reform. This chapter will trace the various police reforms that were proposed and implemented by these new political leaders during the democratic transition in Korea. It will show how the president’s control over the police and the legislature plays a crucial role in dictating the timing and goals of police reform.

I. Democratization and Conditions for Police Reform

(1) The State: Institutional Transformation

While Taiwan and Mexico followed a gradual democratization trajectory, Korea experienced a more dramatic democratic transition in the late 1980s. Chun Doo-Hwan’s government was embroiled in regime crisis following a tide of street demonstrations calling for an end to the military dictatorship and the

implementation of a democratic constitution. The military dictatorship finally decided to heed public demands and so an agreement between the ruling and oppositional leaders was reached in order to revise the constitution and introduce a system of direct election for the presidency. Such political democratization and constitutional revision resulted in the institutional transformation of the state with regard to the relationships between different branches of the government and the power of the president.

Under the authoritarian political system, conflict between the executive, legislative, and judicial branches of government was not an issue since the president exerted tight control over every branch of government. However, democratization changed the institutional foundation of power concentration in the president. While other constitutional reforms in Korea before 1987 had been driven by a military coup or political upheaval for the perpetuation of power being held by ruling groups, the constitutional revision of 1987 proceeded with peaceful negotiation and consensus between the ruling party and opposition parties. The 1987 Constitution was designed to change the intra-governmental balance of power: the National Assembly assumed new authority, while the presidency became subject to new checks and constraints from other branches of government (Yoon, 2008: 24-26). The new constitution had a significant impact on the distribution of power among three main bodies of the government: the executive, the legislature, and the judiciary.

Executive

The president's arbitrary and extended power was restricted by the new constitution. The president's term of office was reduced to five years and reelection was prohibited. The five-year, single term restriction²³ aimed to safeguard the regular change of president and to prevent the reemergence of any authoritarian leader who might permanently extend his term, as former president Park did in the 1970s. Following the establishment of the new constitution, the president was to be elected by universal suffrage in an equal, direct, and secret ballot. During the authoritarian period, the president was indirectly elected by an electoral college (the National Conference for Unification) (Bedeski, 1994: 40; Yoon, 2008: 29, 31). The institutionally guaranteed superiority of the president to the legislature was severely weakened because the

president lost the right to dissolve the legislature and presidential power to decree emergency measures was narrowed. However, it was still possible for the president to bypass the National Assembly in a time of serious national turmoil and security crisis. According to the Constitution, the president can be impeached by a two-thirds vote of the legislature (Plunk, 1991: 113).

Legislature

Through the new constitution, the legislature was institutionally empowered with democratization. It was given new investigative powers in relation to the executive branch, as well as the right to pass votes calling for the removal of cabinet members, including the prime minister and the president. At least one-third of the National Assembly membership is required to propose a motion for the impeachment of executive officials and approval by a majority of the total members of the legislature is required for the confirmation of the motion. The authority to impeach the president was also provided to the legislature, although much stricter requirements must be satisfied: a motion requires a majority of members, approval by two-thirds, and final judgment by the newly established Constitutional Court (Bedeski, 1994: 47-48). While the total number of the National Assembly's session days per year were limited to 150 under Chun's presidency, the new constitution removed any limit on the total annual number of session days of the National Assembly. The legislature was also granted the authority to inspect all aspects of the executive body's operations during periods outside of the regular annual session (Park, 2000: 75-76).

Judiciary

The new constitution granted the judiciary almost full institutional independence. The court's autonomy concerning judicial appointments and the protection from political interference afforded to judges became institutionally guaranteed (Yoon, 2008: 125). The role and power of the judiciary were further intensified following the establishment of the Constitutional Court in 1988. With regard to its duties and authority, the new constitution stipulated five exclusive jurisdictions for the Constitutional Court: (1) determination of the constitutionality of law; (2) final decision on impeachment charges against the president brought by the

National Assembly; (3) judgments on the dissolution of political parties; (4) ruling on disputes over competency between and among governmental entities; and (5) adjudication of constitutional complaints filed by private parties (Kwon, 2011: 166). The Constitutional Court is composed of nine justices. The president, the National Assembly, and the Chief Justice of the Supreme Court each appoint three justices among the nine, while the president holds the privilege to appoint the chairperson of the Constitutional Court with the consent of the legislature. With the establishment of the Constitutional Court, Korean politics started to witness the active practice of judicial review (Lee, 2013: 180-181).

(2) Agency: Conflict and Control

President between the Legislature and Bureaucrats

Under the authoritarian political system, conflicts between the executive and legislative bodies rarely happened in Korea. This was not only because the Constitution granted the president an extraordinary legal power to control the legislature. The president was actually able to control the legislature without difficulty because his governing party always commanded a majority in the legislature and provided unconditional support (Yoon, 2008: 101). The legal and institutional changes to the state that were achieved through constitutional revision deprived the president of this extraordinary power through the legislature. However, the president was still able to enjoy a potent capacity to control the legislature just as his authoritarian predecessors did, as long as the president's party formed a majority in the legislature. Practical changes in the balance of power between the president and the legislature in the new democracy are thus the result of elections. If the legislature was dominated by the ruling party, the president continued to enjoy control as the chair of the ruling party, while the legislature remained a loyal supporter of the president.

Roh Tae-Woo's inauguration in 1988 marked Korea's first peaceful transfer of presidential power through a democratic election. With that historic event, Korea finally satisfied the basic requirement of democracy: free, fair, and competitive elections leading to peaceful government changes (Oh, 1999: 110). However, Roh Tae-Woo, the first democratically elected president after the constitutional revision, was a

candidate from the party that had previously ruled the country in an authoritarian manner. Roh had a particularly strong affiliation with the former authoritarian regime because he played a key role in Chun's military coup in 1979. Although he was elected as president with far less than a majority (36.6 percent), his presidential inauguration signified a simple transfer of presidential power from Chun to Roh within the same ruling group, rather than replacing the existing ruling group with a new one. Roh encountered no difficulty gaining control over the bureaucrats within the executive body (Yoon, 2008: 35). Instead, his primary political difficulty stemmed from the legislature.

Temporarily, Roh Tae-Woo's task as head of the executive branch of government was complicated by the National Assembly elections held on April 26, 1988, soon after his inauguration. For the first time in Korean history, the ruling party won a minority of seats (*yoso yadae*, a small ruling group, a larger opposition), although it just barely maintained its status as the largest party in the legislature. Roh Tae-Woo had to work with a legislature whose institutional power was strengthened by constitutional revision, while his presidential power was weakened by the new constitution framework. A deadlock-prone government emerged for the first time and the executive branch of the president had to cope with an uncooperative legislature. The opposition parties were fully ready to enjoy their intensified strength. While the legislative bodies had effectively been a rubber stamp in the past, the new legislature formed in 1988 started to actively fulfill their duties of checking and constraining the president by exercising the legislature's authority to inspect and audit the activities of the executive. Political tensions between the two bodies of government created interminable delays in enacting legislation and passing the national budget drafted and proposed by the executive (Oh, 1999: 110-111).

However, Roh Tae-Woo ended this deadlocked structure through an unprecedented and adroit political alignment. On January 22, 1990, it was announced that Kim Young-Sam's Reunification Democratic Party and Kim Jong-Pil's New Democratic Republican Party would merge with Roh Tae-Woo's ruling Democratic Justice Party (the so-called three-party merger, or the grand conservative ruling coalition). As shown in Table 4-1, the gigantic new ruling party—the Democratic Liberal Party—now won control of the National Assembly by occupying 57.7 percent of seats, while the largest opposition party held only 22.9

percent of seats (Oh, 1999: 116). Through the three-party merger, President Roh, who had already secured tight control over the bureaucrats, restored his control over the legislature due to his being leader of the ruling majority party. The constitutional empowerment of the legislature that was originally intended to check and constrain presidential power therefore effectively became neutralized under Roh's presidency.

[Table 4-1] Percentage of Congressional Seats (National Assembly) in Korea

	13th		14th	15th	16th	17th	18th	19th
	1988	1990	1992	1996	2000	2004	2008	2012
HRP(*)	43.5	57.7	50.4	45.5	48.2	40.4	49.7	50.6
DCP(#)	22.9	22.9	32.9	26.6	42.0	50.8	27.1	42.3
Total	100	100	100	100	100	100	100	100

Source: National Assembly (<http://www.assembly.go.kr/views/cms/assm/assembly/asshistory/asshistory0103.jsp>); Sixty Years of History of Korean National Parliament, p. 620.

(*): DJP→DLP→NKP→GNP→NFP

DJP = Democratic Justice Party (*Minju-Jungeui Dang*)

DLP = Democratic Liberal Party (*Minju-Jayoo Dang*)

NKP = New Korean Party (*Shin-Hanhuk Dang*)

GNP = Grand National Party (*Hannara Dang*)

NFP = New Frontier Party (*Saenuri Dang*)

(#): PDP→DP→NCNP→NMDP→OOP→UDP→DUP

PDP = Peace and Democratic Party (*Pyonghwa-Minju Dang*)

DP = Democratic Party (*Minju Dang*)

NCNP = National Congress for New Politics (*Saejungchi-Kukmin-Hoeui*)

NMDP = New Millennium Democratic Party (*Sacheonnyon-Minju Dang*)

OOP = Opened Our Party (*Yeollin-Uri Dang*)

UDP = United Democratic Party (*Tonghap-Minju Dang*)

DUP = Democratic United Party (*Minju-Tonghap Dang*)

##Deep Dark Shell: The Ruling Party; Light Dark Shell: The Transitional Period of Regime Turnover

Kim Young-Sam became the presidential candidate of the ruling party after the three-party merger, and then won the presidential election of 1992. His inauguration on February 25, 1993, was another historical event in Korean politics because he was the first civilian president since Park Chung-Hee's coup in 1962. However, his inauguration did not result in a regime change because he was a candidate of the ruling party, the Democratic Liberal Party. The ruling party retained its majority in the legislature by winning the National Assembly election in 1992. As Table 4-1 shows, it occupied 50.4 percent of seats, while the largest opposition party possessed 32.9 percent of seats in the legislature. President Kim seemed to enjoy the same monopolistic power over both the executive and the legislature that his predecessor Roh did.

However, a crucial difference between Roh and Kim existed with regards to the president's control over the bureaucrats. While Roh had already secured tight control over the bureaucrats in government before his inauguration, Kim had no foundation of influence in the executive when he was inaugurated as president, since he had entered the ruling bloc as the leader of a minor group through the three-party merger. He had been the leader of opposition forces for a long time under Park and Chun's dictatorships. The executive branch he took over was still filled with officials loyal to Roh's faction, which succeeded Park and Chun's political genealogy. As Kim won the presidency by joining Roh's ruling faction, his status in the executive was precarious, at least during his early term (Oh, 1999: 131).

The success of Kim Dae-Jung in the 1997 presidential election was another, this time more dramatic, historical event in the history of Korean politics. For the first time in modern history, a peaceful transfer of political power (regime change) took place (Yoon, 2010: 37-38). The peaceful regime change achieved through a democratic election was a watershed event in Korea's journey of democratic development. It signified that Korea had started to enter a phase of democratic consolidation by satisfying one of the crucial requirements of a settled democratic system—regime change through election (Im, 2010: 106). Other new third-wave democracies soon followed Korea: Taiwan and Mexico witnessed their first democratic regime changes in 2000.

However, President Kim found himself in much more precarious bureaucratic and political situations than his predecessors. Both his political influence in the legislature and his capacity to control the bureaucrats in the executive were significantly challenged because he was a president from an opposition party whose status in the legislature was decidedly weak. Although the first regime change was a glorious moment for Kim, in terms of his control over bureaucrats, it meant he had to deal with an executive branch filled with the bureaucrats who had maintained loyalty to his political opponents (i.e., politicians of the opposition party). Moreover, as Table 4-1 illustrates, his ruling party occupied only 26.6 percent of seats in the National Assembly, while the opposition party, which had ruled both the legislature and the executive during Kim Young-Sam's presidency, still occupied 45.5 percent of the seats. Kim Dae-Jung was

surrounded by uncooperative, or even hostile, political and bureaucratic forces not only in the legislature but also in the executive when he was inaugurated as president in 1998.

Anticipated Direction of Police Reform

As can clearly be seen, each of the presidents who were elected through democratic elections since 1987 encountered different political and bureaucratic situations. By applying the theoretical framework of politicians' police reform, which was developed in Chapter 2, different types of police reforms can be predicted, as summarized in Table 4-2. President Roh Tae-Woo, who had a strong capacity to control the police and a weak capacity to control the legislature during the first two years of his term, was expected to propose and implement a police reform aimed toward a "hard arbitrary enforcer"—that is, strong intensive capacity and weak accountability. However, such a reform would have encountered a stalemate in the legislature given that opposition parties occupied the legislature and opposed the police reform proposed by the president. After the three-party merger in 1990, Roh's police reform plan was anticipated to pursue a "fat arbitrary enforcer"—that is, strong extensive capacity and weak accountability—since he now held both a strong capacity to control the police and a strong capacity to control the legislature. His reform plan would have successfully passed in the legislature given that his ruling party held a majority.

On the other hand, police reform during Kim Young-Sam's presidency was predicted as being directed toward a "patrician mediator"—that is, weak capacity and strong horizontal accountability—since President Kim held only a weak capacity to control the police but a strong capacity to control the legislature. His police reform plan would have been passed by the legislature, which was dominated by the ruling party. Conversely, President Kim Dae-Jung's police reform was expected to move toward a "plebeian mediator"—that is, strong vertical accountability and weak police capacity—due to his weak capacity to control the police and also because his control over the legislature was weak. His reform plan would have passed in the legislature, despite it being occupied by the opposition party, given that the plan did not threaten the political interests of the opposition party, as explained in Chapter 2.

[Table 4-2] Anticipated Direction of Police Reforms in Korea

	Roh Tae-Woo		Kim Young-Sam (1993-1997)	Kim Dae-Jung (1998-2002)
	1988-1989	1990-1992		
Capacity to Control Police	Strong	Strong	Weak	Weak
Capacity to Control Legislature	Weak	Strong	Strong	Weak
Direction of Police Reform	Hard Arbitrary Enforcer	Fat Arbitrary Enforcer	Patrician Mediator	Plebeian Mediator
Passage of Reform	Stalemate	Pass	Pass	Pass

II. President's Police Reform

(1) Roh Tae-Woo (1988-1992)

The government of Roh Tae-Woo was an extension of the military authoritarian government on which his power base relied, although he was elected by direct popular ballot under the new constitutional system. He was in a position to enforce reform policy that would threaten and undermine the vested interests of his own political power base (Yoon, 2008: 66). His reform policies, including police reform, should therefore be understood in the context of his dilemmatic situation.

On January 29, just one month before the presidential inauguration of Roh Tae-Woo, about 30 police officers representing graduates and current students of the National Police University issued a statement asking for police reform to guarantee the independence of the police from political influence. Considering the highly centralized and hierarchical characteristics of the Korean police under the tight control of top government leaders, these police officers' collective call for the transformation of police from a "lady-in-waiting" of the regime to a democratic police force was a very exceptional move that shocked both the entire police and the incoming government (Kim, 1988: 11). In response to this demand, President-Elect Roh ordered his incoming Cabinet to increase the police budget and human resources to efficiently cope with increasing violent crime. Roh's response frustrated many police officers who desired the realization of the political and institutional independence of the police from the new government (*Dong-A Ilbo*,

February 5, 1988: 11). The independence of the police was also requested by leaders of the opposition parties.²⁴ However, by emphasizing the danger of increasing violent crime, Roh was able to divert the focus of police reform from safeguarding political neutrality to the intensification of police capacity throughout his entire presidential tenure.

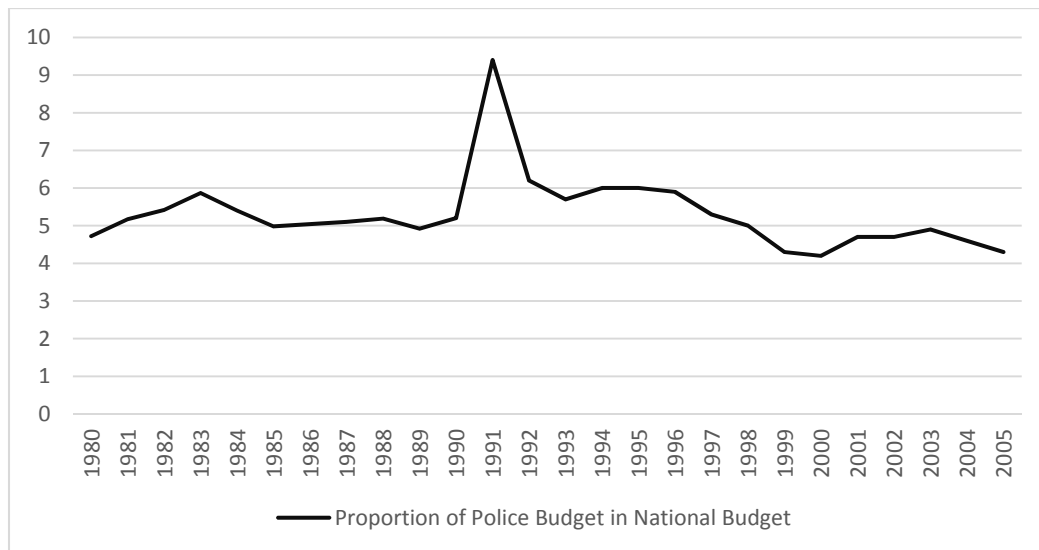
Police Capacity

When Roh Tae-Woo was inaugurated as president, he declared and initiated “a war against crime.” His anti-crime initiative had already been stressed when he announced during his declaration of June 29, 1987, “[...] In order that all citizens can lead a secure and happy life, crime against life and property, such as hooliganism, robbery and theft, must be stamped out” (Oh, 1999: 101). His main concern regarding the police was to increase its operational capability to combat crime and secure public security. In a political environment where he held strong control over both the police and the legislature, he had no incentive to implement police reform aimed at increasing the accountability of the police to other institutions outside the executive body, such as the legislature. He wanted to use the police force as an “arbitrary enforcer” and, after he restored control over the legislature through the three-party merger, nothing stood in the way of his intentions concerning the police. The war against crime, which provided political and moral justification for a strengthened police force with a strict and single structure of command under the president, was criticized by opposition forces as a political tactic to evade societal pressure for the systemic reform of repressive and arbitrary law enforcement agencies (*Hankyoreh Shinmun*, October 13, 1991: 3).

President Roh intensified the police force and extended the scope of police operations. While the police bureau dedicated to information gathering concerning anti-communism was physically reduced, the anti-communism function still remained within the police and the information gathering function of the police was actually intensified for the purpose of monitoring civil associations, particularly the organization of labor forces. Furthermore, police operations aimed at the prevention and investigation of crime, such as homicide, robbery, and violence, were greatly intensified so as to carry out his promised war against crime (Lee and Kim, 2009: 19). As Graph 3 illustrates, the proportion of the police budget in the total government

budget abruptly increased during Roh Tae-Woo's presidential term, especially after the three-party merger in 1990. The police budget constituted 5.1 percent of the total government budget in 1988 (the first year of his term). However, it reached the highest point, 9.4 percent in 1991, during the third year of his term (the next year of three-party merger). The trends in terms of the police budget reveal that President Roh's desire to increase the capacity of the police, which had been oppressed by the strong opposition parties in the legislature, manifested as the ruling party restored its absolute dominance in the legislature through the three-party merger.

[Graph 4-1] Proportion of Police Budget in Total Government Budget of Korea

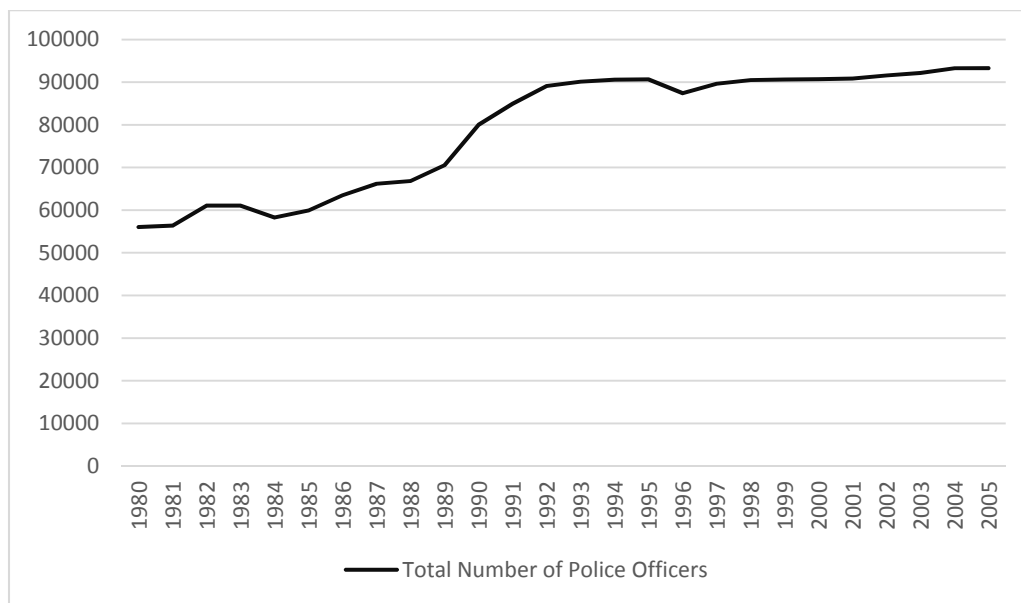


Source: Korean National Police Agency (1994), p. 337; Korean National Police Agency (2006), pp. 420-21.

President Roh's effort to increase police capacity is also verified by the abrupt increase in police manpower during his tenure. From the beginning of Roh's government, a plan was made that aimed to strengthen the police force by recruiting 10,000 new police officers every year for 3 years (*Dong-A Ilbo*, October 22, 1990: 3). Considering that only 31,600 police officers had been recruited in the 9 years from 1980 to 1988, the recruitment plan revealed the strong desire of Roh's government for an intensified police force (Choi, 1991: 3). As Graph 4-2 illustrates, the total number of police officers, which had been less than 67,000 before his

inauguration in 1988, reached 89,092 in 1992 after the continuous and sudden increase. For example, in 1992, the government arranged a large-scale increase in police manpower by employing about 5,000 police officers to support the newly installed (mini-) police stations and strengthen neighbor-watch activities. This trend regarding police manpower reveals that Roh had an obvious intention to increase police capability during his term (Korean National Police Agency, 2006: 194, 1774, & 1775).

[Graph 4-2] Total Number of Police Officers

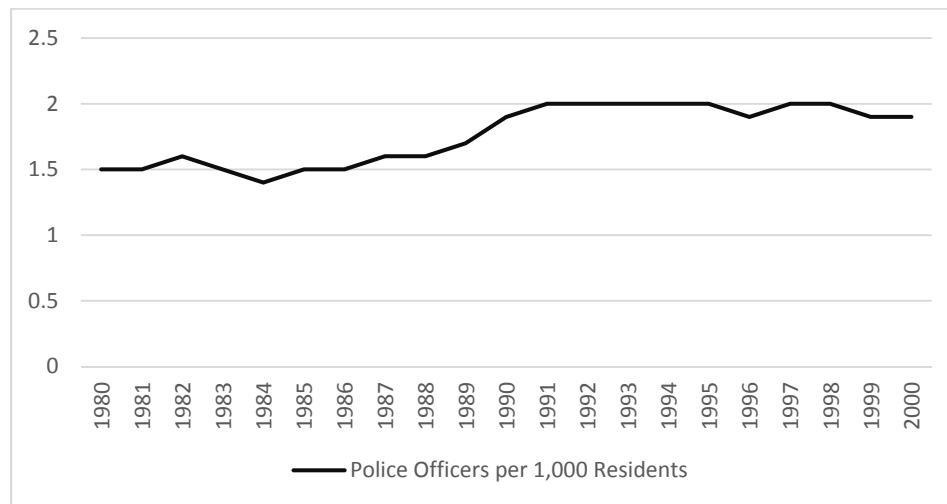


Source: Korean National Police Agency (2006), p. 1774-1775.

The increased total number of police officers is not the only indicator that signifies President Roh's intention to intensify police capacity by increasing the manpower of the police. As Graph 4-3 indicates, the number of police officers per 1,000 residents also abruptly increased following the launch of Roh's government in 1988. While the number of police officers per 1,000 residents was only 1.6 in the first year of his term, it reached 2.0 in 1991 with a dramatic increase of 62.5 percent in only three years. The governments of Kim Young-Sam and Kim Dae-Jung showed only a maintenance of the status quo or a decrease in terms of the ratio of police officers to heads of the population (Ki, 2003: 306-307). Roh's government strongly pushed forward its plan to intensify police capability. In 1991, the government proudly announced that its goal

regarding amplifying police equipment, such as guns and patrol cars, was fulfilled with a 189 percent achievement rate, while organizational readjustments for the creation of special police force for the combat against violent crimes was implemented with a 227 percent achievement rate (*Hankyoreh Shinmun*, January 13, 1999: 3).

[Graph 4-3] Number of Police Officers per 1,000 residents



Source: Ki (2003), p. 306-7.

The institutional reform of the police by Roh's government was embodied in the enactment of the Police Act in 1991. According to the Act, the National Police Agency (NPA) was to be rebuilt as an institution with semi-autonomy from the direct control of the Ministry of Interior in order to satisfy the demand for securing the political neutrality of the police. However, the NPA still belonged to the Ministry of Interior, whose minister had the power to endorse the commissioner-general's recommendations to the president regarding the appointment and promotion of police officers above the rank of chief superintendent, although he had officially ceased to hold the power to interfere with general police operations. The formal autonomy of the police from the government was not enough to successfully constrain the president from utilizing the police as his own political tool because he continued to hold the power to appoint the commissioner-general with no necessity for acquiring approval from the legislature or having an appointment hearing for a

nominator (Pyo, 2003: 440; Moon, 2004: 132-133). The promotion of the police from being an auxiliary institution of the Ministry of Interior to an autonomous body within the same ministry was criticized as nothing but a name change or a “plastic surgery” on the face of justice through which it was unable to secure the independence of the police from political influences (Ji, 1991: 5).

Police Accountability

Since the start of the new government, opposition parties had insisted on the creation of a ministry level police committee that should be given full authority to direct the National Police Agency with complete independence from the Ministry of Interior, which took charge of managing electoral affairs at that time. The agreed reform bill proposed by the three major opposition parties stipulated the granting of power to nominate all four members of the committee to the legislature, while the authority to designate its chairman should be held by the president. It also suggested the foundation of local and provincial police committees in order to secure more accountable policing at a local level (Lee, 1989: 10). As the opposition parties constituted a majority (56.5 percent) in the legislature, their reform bill, which aimed to increase police accountability to the legislature, was advantageous to them in that it allowed for restraining political use of the police by the president, while it was unpopular with the president and his ruling party whose status in the legislature was precarious. However, the reform bill submitted by the opposition parties became a “dead letter” as two opposition parties were merged with the ruling party to form a new gigantic ruling party, which now occupied 57.7 percent of seats in the legislature. Although the proposed reform bill now became advantageous to the ruling party and disadvantageous to the opposition parties due to the changed distribution of power in the legislature, the president did not choose to increase police accountability to the legislature. He wanted to maintain the police’s function as an “arbitrary enforcer” under his tight control.

The passage of the Police Act through the legislature after the three-party merger led to the formal creation of the National Police Board (or *Gyongchal Yuwonhoe*) in 1991, which was given the right to advise and make decisions on some issues like budget, equipment, and personnel administration. The National Police Board founded by Roh’s government, however, had a significant limitation when it came

to effectively securing the political neutrality of the police. It was, in fact, an advisory committee with only nominal authority that was placed under the auspices of the Minister of Interior, to whom the entire police organization also belonged, as they had done in the past. It had no practical power to supervise the police or affect the promotion of high-ranking offices, while the minister still held the authority to ask the Board to reexamine its decision whenever he thought it was inadequate (Korean National Police Agency, 2006: 526; Moon and Morash, 2009: 111). Furthermore, according to the Police Act, all seven members of the Board were nominated by the Minister of Interior and then appointed by the president (Pyo, 2003: 441). That meant the president had control over the Board through a minister of his cabinet. As a result, in practice the board was unable to significantly increase the accountability of the police, and instead rather existed as a nominal body for the purpose of symbolically demonstrating the political autonomy of the police.

During Roh's presidency, in this way, the police were still under the tight control of the president without a meaningful change in either horizontal or vertical police accountability. The president was afforded even more reinforced political tools through the foundation of the National Police Agency and the National Police Board under the Ministry of Interior and the intensification of police capacity in terms of human and budgetary resources (*Hankyoreh Shinmun*, December 15, 1991: 12). All of the police reforms of Roh's government, which went against the desires of the opposition parties and many police officers regarding the establishment of police institutions independent from political influence, were able to be implemented only after the restoration of the ruling party's majority in the legislature through the three-party merger in 1990. On May 10, 1991, the Police Act was passed in the National Assembly by ruling party legislators in only 40 seconds, while legislators from the opposition parties, who opposed passage of the bill, were physically excluded from the voting process (*Chosun Ilbo*, May 11, 1991: 3). Thus, not only the independence of the police but also the democratic procedure followed in the legislature were exposed as being in a precarious condition. Exactly the same pattern was repeated in 1996 when President Kim Young-Sam and his ruling party passed a revision of the National Security Law in the legislature.

(2) Kim Young-Sam (1993-1997)

Kim Young-Sam once described himself as a “hunter who entered a tiger’s den to hunt the tiger” when he was criticized for betraying the democratic opposition forces and colluding with the offspring of Park and Chun’s authoritarianism by participating in the three-party merger (*Hankyoreh Shinmun*, December 20, 1992: 3). For a long time, Kim had been an opposition leader who had to endure political and physical oppression from Chun and Park’s governments. As a result, the former opposition leader who belatedly joined the ruling group along with his faction²⁵ had no secure foundation for controlling the executive body, which had been placed under the tight control of the same ruling group for more than three decades. This was the case despite the fact that he was elected as the presidential candidate of the ruling party and, ultimately, became the president in 1993. The “hunter” who entered a tiger’s den was still in danger.

During his presidential campaign, Kim did not suggest any clear plan for overall police reform, including organizational restructuring. Among his 77 campaign pledges, the police-related ones were, first, strict law enforcement and public safety, and, second, the enactment of laws regarding the protection of women from sexual and social violence. These pledges expressed broad principles of law enforcement as well as his belief in the importance of public safety, rather than suggesting any detailed plans for how to reform the police, which had concentrated on the duties of the police related to political affairs (or high policing) that had been exaggerated during the authoritarian period (*Kyunghyang Shinmun*, January 11, 1993: 3).

However, when he was inaugurated in February 1993, Kim stated his clear intention for democratic reform “from above,” which entailed anti-corruption initiatives as crucial elements of the reform measures. In his inaugural address, Kim stated that he had three urgent tasks: (1) expose corruption, (2) improve the economy, and (3) restore official discipline. An anti-crime task occupied two out of these three pressing tasks. He claimed that “our enemy is the corruption in society which is destroying the country bit by bit. In exposing corruption there can be no sanctuary. Under no circumstances can there be any sanctuaries” (Saxer, 2002: 139). As a president who began his presidency with only weakly consolidated control over the administrative body of the state, the first strategy for securing greater control over government was the rectification campaign in the name of a “war against corruption.”

During the early stages, Kim's anti-corruption measures relied on informal means, such as a moral imperative and mass media pressure.²⁶ Regular institutional means were utilized only after informal means had exerted an effect in order to secure the long-term efficacy of anti-corruption. In a condition where he had limited control over the bureaucracy, Kim's war against corruption in government was intended to secure his control over the bureaucratic apparatus. Immediately following his inauguration, Kim disclosed the total assets of his whole family, and forced other high-ranking members of the government to follow suit with the disclosure of their assets by manipulating pressure from the mass media. During the war against corruption in government, many high-ranking officials, including 242 senior administrators, were forced to "voluntarily" leave their positions. Kim's anti-corruption initiative, in practice, led to an increase in his control over the government achieved through purging and taming potentially disloyal officials in the state as well as demonstrating his will to control government organs (Oh, 1999: 141). The police were also unable to escape Kim's purification campaign. In the eight months following Kim's inauguration, some 1,666 police officers received disciplinary action for taking bribes (*Hankyoreh Shinmun*, October 22, 1993: 18). In March 1993, 20 police superintendents were inspected for corruption and eleven of those were either arrested or forced to leave the police. In May 1993, a serving senior superintendent was investigated regarding involvement in illegal businesses (*Dong-A Ilbo*, March 20, 1993: 1; September 22, 1993: 3). In July 1993, the commissioner-general, who had been criticized for owning too much property and who was suspected of speculating in real estate, resigned from his post (*Kyunghyang Shinmun*, May 13, 1993: 3; *Chosun Ilbo*, September 21, 1993: 5).

Kim's reforms soon encountered criticism from opposition parties. They argued that his anti-corruption measures were solely focused on the removal of corrupt high-ranking government officials in an ad hoc manner for the sake of intensifying his own power basis, rather than on implementing any institutional reforms with a long-term perspective (*Dong-A Ilbo*, May 21, 1993: 5). As a response to this criticism, Kim later institutionalized anti-corruption provisions by drafting the Ethics Law for Public Officials, which was passed in the National Assembly on May 20, 1993. High-ranking public officials were now obliged to annually report any change in their assets, possessions, and finance, while police officers and Internal

Revenue Service Officials should register their financial status regardless of their rank (Ivković and Kang, 2012: 86).

Police Capacity

President Kim's efforts to secure his control over the police also involved the implementation of several reforms that led to changes in police organization. First, in pursuing a smaller government, he reduced not only the total number of high-ranking police officers at the central command office, but also the overall scale of police organizations at a national level. In 1994, four departments, which had been responsible for the functions of accounting, traffic management, violent crime, and security policing, were abolished, involving a reduction of 306 human resources at the headquarters of the NPA, while the integration of provincial police offices also led to the curtailment of 1,052 police officers at the provincial level. Efforts to reduce the size of the commanding offices of the NPA continued. In late April and early May, 1996, 10 percent (124 police officers) of the total police officers stationed at the headquarters of the NPA were transferred to lower level police stations. The Seoul Provincial Police Office also transferred 13 percent (305 police officers) of its manpower to (mini-) police stations (*Chosun Ilbo*, May 9, 1996: 2). Moreover, the entire organizational scale of the police was diminished after the Office of Coast Guard was separated from the command of the National Police Agency into the supervision of the Ministry of Maritime and Fishery on August 8, 1996 (Korean National Police Agency, 2006: 502; Lee and Kim, 2009: 20). The restructuring of police organization and the reduction in numbers of police officers, which proceeded alongside the rectification campaign (or purging) of high-ranking public officials, contributed to intensifying Kim's control over the police.

Next, President Kim tried to tighten governmental control over the police in terms of the police budget. In 1994, general government officials from the executive branch started to take over the rights and responsibilities of the police budget, a move which had been secured by the superintendent of police (Korean National Police Agency, 2013: 400). Through this change, the president was able to gain tighter control over the police budget. All of these measures, which took place in the second year of his tenure,

signify how Kim endeavored to secure his control over a police force that had been staffed with officers appointed by and loyal to prior governments.

The average rate of police expenditure as part of total government expenditure during Kim Young-Sam's presidency was lower than that of Roh's government, as Table 4-3 indicates. During his whole tenure, Kim Young-Sam did not show any clear intention to increase the rate of police expenditure, unlike Roh Tae-Woo who had increased it to its highest level. As Graph 4-1 illustrates, the proportion of police expenditure in the total government expenditure maintained a status-quo at the level of 6 percent, and declined to 5.3 percent in 1997, the last year of his term.²⁷ These trends in police expenditure reveal that the president had no solid interest in increasing the operational capacity of the police.

[Table 4-3] Average Rate of Police Expenditure in Total Governmental Expenditure

	Roh Tae-Woo (88-92)	Kim Young-Sam (93-97)	Kim Dae-Jung (98-02)
Average (%)	6.18	5.78	4.58

Source: Korean National Police Agency (1994), p. 337; Korean National Police Agency (2006), pp. 420-21.

Police capacity as measured by human resources, which had been abruptly intensified by Roh Tae-Woo, maintained a status quo during Kim's administration. As Graph 4-2 and Graph 4-3 indicate, both the total number of police officers and the number of police officers per 1,000 residents remained almost at the same level, with no significant changes during this period. A slight decline in 1996 reflects the outflow of about 4,500 maritime police officers from the National Police Agency due to the separation of the Coast Guard into an independent organization (Korean National Police Agency, 2013: 1686). However, the constant increase of human resources, which had been maintained since 1984, finally stopped with the beginning of Kim's administration. The trends in terms of the human resources of the police therefore also illustrate that Kim Young-Sam had no distinct intention to intensify police capacity.

During this period, the police witnessed meaningful changes in terms of the division of police functions within police organizations that had been maintained since the authoritarianism of Park and Chun. As Table 4-4 shows, among the four main functions of the police—prevention, repression, service, and support²⁸—

the governments of Park, Chun, and Roh distinctively emphasized the repressive function of the police, such as the duty of riot policing. More than half of the total number of police organizations conducted such a repressive role. However, with the emergence of Kim's government, the function of repression was significantly reduced to somewhere around 18.5 percent, while the support function, such as duties of recruitment, promotion, education, personal administration, accounting, and various means of technical support, which had been less than 15 percent during prior governments, dramatically increased to 48.1 percent (Chung, 2004: 209). Kim's government, for example, implemented the "Deposit of the Riot Police into Public Security," which ordered 165 companies of riot police forces (about 26,000 officers) to switch to public security activities (Korean National Police Agency, 2006: 498).

[Table 4-4] Number of Police Organizations Depending on Police Functions (Unit: Number, %)

	Park Chung-Hee (1961-1979)	Chun Doo-Hwan (1980-1987)	Roh Tae-Woo (1988-1992)	Kim Yong-Sam (1993-1997)	Kim Dae-Jung (1998-2002)
Prevention	15 (25.4)	9 (20.9)	5 (17.8)	3 (11.1)	2 (6.6)
Repression	32 (54.2)	25 (58.1)	16 (57.7)	5 (18.5)	3 (10.0)
Service	3 (5.0)	2 (4.6)	3 (10.7)	6 (22.2)	9 (30.0)
Support	9 (15.2)	7 (16.2)	4 (14.2)	13 (48.1)	16 (53.3)
Total	59 (100.0)	43 (100.0)	28 (100.0)	27 (100.0)	30 (100.0)

Source: Chung (2004), p. 209.

Police Accountability

During Kim Young-Sam's presidency, there was no meaningful effort to make changes designed to secure police accountability and impartial law enforcement. Kim's police reform was focused on taming the police through means of the purification campaign and the organizational restructuring without any visible effort to increase police accountability. Opposition parties constantly requested the institutional reform of the police in order to secure the political neutrality of the police. As a measure to increase police accountability, on August 14, 1996, the two main opposition parties suggested a reform proposal that included the creation of an independent Police Committee; transformation of the centralized single police system into a dualistic system of central police and local-provincial police; introduction of a hearing process for the appointment of commissioner-general of the NPA by the legislature; and prohibition of the commissioner-general

assuming any public positions for four years after retirement (*Hankyoreh Shinmun*, August 14, 1996: 5). However, in a political environment where the ruling party occupied a majority in the legislature, none of these suggestions by the opposition parties were accepted by Kim's government.

Unlike Roh Tae-Woo, who had started his presidency with already established control over the police, Kim Young-Sam had no such a strong foundation with the police. He could have increased his control over the police by increasing their accountability to the legislature in which the ruling party held a majority. However, he did not use the police accountability to the legislature (or horizontal accountability) to increase his control over the police because his control over the legislature was not completely solid. His faction (*Minjugye*), which had been merged with other factions through the three-party merger in 1990, still had political tensions with other factions, especially with Roh's faction (*Minjeonggye*), due to Kim's decision to punish former presidents Chun and Roh for the military coup of 1979. Police accountability to the legislature was not a good option for him as a means of securing his control over the police. Instead, he chose the purification campaign and the organizational restructuring of the police as his strategy for securing control over them.

(3) Kim Dae-Jung (1998-2002)

Kim Dae-Jung, the first president following a genuine regime change, started his presidency in 1998 facing a strong political challenge from the opposition party in the legislature and difficulty in controlling the bureaucrats in the executive body. His ruling party occupied only 26.6 percent of seats in the legislature, while the largest opposition party held 45.6 percent of seats. Since President Kim had been the leader of an opposition party for more than three decades before being inaugurated as president, he had a very weak foundation in the executive body of government, especially the coercive state organs. He and his new government needed to guarantee firm control over those coercive organs of the state, which had previously been utilized to oppress opposition forces and were still staffed with many officials who had served the authoritarian governments (*Hankyoreh Shinmun*, February 8, 1999: 3). Compared to his predecessor, Kim

Dae-Jung had a much stronger incentive to use police reform as a tool with which to ensure his control over the police because he was situated in a more precarious condition both politically and bureaucratically.

Police Accountability

The most ambitious and contentious police reform during Kim's tenure was the decentralization of the police achieved through forming a local police system (or *Jachi Gyongchal*) under the local and provincial governments. When he was an opposition party leader, Kim argued the necessity of transforming the centralized police system into a dualistic system in which the central police and local police coexist under different levels of government. Kim Dae-Jung and his party presented the introduction of the local police system as a campaign pledge during the presidential election of 1997. In his first press conference as president-elect, Kim proposed his plan to create local police under the administration of local governments, which would be given the power to appoint police officers below the rank of police captain, as well as to plan and implement the local police budget. According to this plan, about 90 percent of all police officers would belong to the local police and would take charge of crime prevention, traffic control, and the investigation of crime in their areas. On the other hand, the central police would be responsible for search and crime investigation over a wide area and so would mainly concentrate their duties on organized crime and newly intensifying international criminal activities. Additionally, they would be given the power to appoint police officials above the rank of superintendent and to recommend the chief of the provincial police agency to the Police Committee. Kim's reform plan for the creation of the local police was a compromised form of both a centralized unitary police system and a decentralized local police structure rather than a pure form of local police with full autonomy from central government (*Chosun Ilbo*, December 21, 1997: 6).

On February 12, 1998, the Committee for Assumption of Government officially announced the 100 principle tasks of the new government, which included the rational reorganization of the Police Committee, the introduction of local police, and the integration of mini-police stations into larger units (*Dong-A Ilbo*, February 13, 1998: 21). After being elected president, Kim ordered the formation of the Planning

Committee for Autonomous Provincial and Local Police, which later became the Committee for Police Reform, in order to prepare a plan for the implementation of autonomous police at the provincial and local levels. In April 1999, the committee reported its plan to the president²⁹ and, in August 1999, the final police reform plan, which included the introduction of a local police system, was constructed through an agreement between the ruling party and the executive. However, the plan was not only postponed, but also eventually failed to be implemented during Kim's government. The geopolitical condition of national division, large-scale criminal activities across the provinces, and the settlement of authority for criminal investigation that had been monopolized by the Office of Prosecutors were presented as reasons for postponing the introduction of autonomous police forces at the sub-national level (Korean National Police Agency, 2006: 522).

After the cancellation³⁰ of the establishment of a local police force—one of the most reliable measures for the intensification of police accountability to local societies—President Kim tried to find other possible measures for intensifying police accountability in order to satisfy his aim of securing control over the police through the accountability mechanism. Between the two different types of police accountability—vertical accountability to citizens and horizontal accountability to legislature—he had no interest in, and even opposed, the intensification of the horizontal accountability of the police or any measures to guarantee the responsibility of the police to Congress because the ruling party occupied only a minority in the legislature, whose majority was occupied by the opposition parties.

In 1998, the government and ruling party decided to introduce the congressional audition of high-ranking government officials before their appointment. The Prime Minister, the Chief Justice of the Supreme Court, and the Chairman of the Board of Audit and Inspection became the subject of mandatory hearings at the legislature. However, the commissioner-general of the NPA was excluded from being subject to the legislature's audition. The opposition parties had continuously asked for the compulsory audition of the commissioner-general of the NPA as well as the principals of other coercive organs (the so-called "Big 4") in order to verify their ability before appointment (*Hankyoreh Shinmun*, December 1, 1998: 5).³¹ President Kim himself had also pledged to introduce the congressional audition of nominees for all the

“Big 4” principal positions when he was a presidential candidate (*Dong-A Ilbo*, March 12, 1999: 5). However, as often happens, actually being in office changed his mind on this issue. In an environment where the ruling party held only 26.6 percent of seats in the legislature, intensifying the accountability of the police to the legislature was not a good option for President Kim and his ruling party. Furthermore, considering that the police had served former presidents whose party still occupied 45.5 percent of seats in the legislature, police accountability to the legislature could actually have even been a dangerous choice for President Kim. A legislative hearing regarding the appointment of the commissioner-general of the NPA was never held under Kim’s presidency.³² The first such hearing took place in 2003 after the inauguration of the new president, Roh Moo-Hyun,³³ who succeeded Kim’s government (Korean National Police Agency, 2006: 263).

Instead of the horizontal accountability of the police to the legislature (or police responsibility to Congress), President Kim tried to increase the vertical accountability of the police (or police responsibility to citizens). The so-called “Operation Grand Reform 100 Days (December 1, 1999 to March 9, 2000),” which was driven forward by the newly appointed commissioner-general, Lee Moo-Young, was intended to generate some institutional measures to ensure the responsibility of the police to citizens.

First, centers where citizens could report police impropriety were set up and run at all police stations to help eradicate corruption and unfair treatment by police officers. Citizens were encouraged to report to the center when they became victims of the unfair enforcement of law by any police officers (Korean National Police Agency, 2006: 318). The police’s auditing and inspection system adopted a more elaborate and transparent form in the same year. Kim’s government introduced the Office of Hearing and Inspection (OHI), or *Chungmun Gamsagwan*, in the police to receive and investigate citizen’s complaints about police misconduct and corruption, such as human right violations perpetrated by police officers during the process of crime inspection. The agents of the OHI were stationed not only at the central and regional offices of the National Police Agency, but also dispatched to every mini-police station across the whole country. They were independent from the chief of police of the (mini-) station in order to prevent any possible individual and organizational pressure to conceal police malpractice that happened at the police station where they

were stationed. After receiving complaints about the police from local residents, OHI agents conducted inspections of the police officers involved with the relevant issue and could then issue orders for the correction of errors and abuses when any illegal activities were identified (Kim, 2007: 19-21).

Second, the reform initiative emphasized the service roles of the police (or citizen-oriented policing) based on cooperation and collaboration between the police and citizens. The reform implemented programs that were designed to improve public-police relationships and prevent crime through police partnerships with local communities. For example, a citizen police academy and a volunteer community patrol program were introduced to provide citizens with the opportunity to participate in the public work of the police (Moon and Morash, 2009: 102, 107-114). Additionally, in order to promote the accessibility of the police to citizens, the fences around the mini-police stations³⁴ were removed. The commitment to cease the use of tear gas, which had frequently been used for suppressing street demonstrations by the police under authoritarian governments, was intended to settle down peaceful street demonstrations and establish the non-oppressive image of the police (Korean National Police Agency, 2006: 512).

Police Capacity

Contrary to his work concerning police accountability, President Kim did not show any clear intention to increase the capability of the police force. The allowance of independent investigative authority to the police was an important theme of police capacity under his presidency. In particular, the police were eager to possess an independent power of investigation because the authority of investigation had been monopolized by the Office of Prosecutors since the period of Japanese colonial rule.³⁵ The police officers had been institutionally limited to conducting supplementary roles in criminal investigations, although in practice they dealt with more than 95 percent of all crimes (*Dong-A Ilbo*, May 7, 1999: 7). On January 18, 1999, the Commissioner-General, Kim Kwang-Shik, officially expressed his intention to push forward the granting of independent investigative authority to the police. He claimed the police should be given the power to investigate crimes and arrest criminals according to their own judgment without the direction of prosecutors (*Kyunghyang Shinmun*, January 19, 1999: 19).

However, the longing of the police for independent investigative power was frustrated when the government announced a plan of governmental restructuring on March 7, 1999, which made no mention of granting investigative authority to the police (*Kyunghyang Shinmun*, March 8, 1999: 21). The police tried to realize such an independent investigative power by claiming that it was an indispensable element of institutionalizing both the local police and the political neutrality of the police. On May 5, 1999, Commissioner-General Kim reaffirmed that granting the power of independent investigation to the police was inseparably related to the effective creation of the local police system and the political neutrality of police (*Hankyoreh Shinmun*, May 5, 1999: 3).³⁶ However, such claims encountered severe resistance from other government institutions, such as the Office of Prosecutors³⁷ and the Ministry of Justice, and so failed to be realized under Kim's presidency when the plan for establishing the local police was cancelled.

Kim's government not only frustrated the desire of the police to be granted investigative power but also weakened the overall extensive capacity of the police. At the central level, his government reduced the organizational scale of the National Police Agency at the central commanding office level by abolishing the Department of Domestic Criminal Investigation and merging the third and fourth departments of security policing into a single department (Lee and Kim, 2009: 21). At the local level, the government also reduced the total number of mini-police stations by merging 233 (6.8 percent) mini-police stations with neighboring ones (Korean National Police Agency, 2013: 1688). During the Operation Grand Reform 100 Days, Kim's government introduced a three-fold rotation system of mini-police stations at the entire country level, thereby replacing the existing two-fold rotation system. However, due to the delay in intensifying police manpower to support the rotation system, 41.5 percent of all mini-police stations lacked sufficient manpower to maintain the three-fold rotation system (Korean National Police Agency, 2006: 203).

As Graph 4-1 illustrates, the proportion of police expenditure in the total government spending abruptly decreased following Kim's inauguration. It is clear that 1998 and 1999 were almost the only years that witnessed a decrease in the absolute amount of the police budget since the 1980s³⁸ (Korean National Police Agency, 2006: 420). Of course, the negative effect of the Asian Financial Crisis in 1997 on the governmental budget should not be ignored. The total government expenditure shrank after the crisis.

However, the abrupt decline in the proportion of police spending in the total government expenditure clearly signifies that the Kim Dae-Jung government lacked any commitment to increasing the capability of the police. The overall curtailment of government expenditure due to the economic crisis does not necessarily cause a reduction in the proportion of the police budget in the total government budget without the judgment of top decision-makers that the police function is only secondary to other government functions. During Kim's term, no meaningful effort to increase the police budget was witnessed.

III. Politics of Police Reform

Since 1987, democratic leaders in Korea have proposed and implemented their own police reforms under divergent political and bureaucratic conditions. Some police reforms intensified police capacity while other reforms strengthened the institutional measures of police accountability. The tragedy of police reform in Korea is that the intensification of one institutional dimension of the police took place at the expense of the other institutional dimension. No president proposed and implemented police reforms that aimed to intensify both police capacity and police accountability. Table 4-5 summarizes the comparison between the anticipated police reforms and actual direction of police reforms during the democratic transition in Korea since 1987.

[Table 4-5] Police Reforms in Korea (1987–2002)

	Roh Tae-Woo (1988-1992)		Kim Young-Sam (1993-1997)	Kim Dae-Jung (1998-2002)
	1988-1989	1990-1992		
Anticipated Direction	Hard Arbitrary Enforcer	Fat Arbitrary Enforcer	Patrician Mediator	Plebeian Mediator
Actual Direction	Fat Arbitrary Enforcer	Hard and Fat Arbitrary Enforcer	Palace Guard	Plebeian Mediator
Passage of Reform Bill	Pass	Pass	Pass	Pass

First, the police reform during the first two years of Roh's term was anticipated to create a "hard arbitrary enforcer" since he held a strong capacity to control the police, but he encountered a legislature dominated by the opposition parties. A police force with a strong intensive capacity but weak accountability should have been helpful to him in coping with oppositional political forces at the central political level. His reform bill was therefore anticipated to be blocked in the legislature. However, his police reform was actually inclined toward creating a "fat arbitrary enforcer" since he emphasized the extensive capacity—or the size—of the police to cope with crime in local communities, which had increased since the democratic transition. The president's pursuit of police reform seeking the "hard arbitrary enforcer" will encounter severe resistance from politicians of opposition parties, because the police force with strong intensive capacity could be used as a powerful political means to oppress his political rivals, opposition parties, and critical social forces, or for the fulfillment of the duties of "high policing." However, since his effort to increase the extensive police capacity, which was aimed for the fulfillment of duties of "low policing," does not raise such a threat to the politicians of opposition parties, compared to the intensive police capacity, Roh's police reform plan passed even though opposition parties dominated the legislature.

President Roh did not encounter a challenge from the legislature following the three-party merger in 1990. It was anticipated that he would transform the police into a "fat arbitrary enforcer" through police reform since he could focus on the prevention of crime and maintenance of order in an environment where the oppositional political forces were not a significant enough challenge for the president to resort to coercive means of a police force with strong intensive capacity. In fact, President Roh reinforced the extensive capacity of the police right after the three-party merger by dramatically increasing police expenditure and the manpower of police forces. However, he also strengthened the intensive police capacity by elevating the institutional status of the police via the enactment of a new Police Act in 1991. The police reform leaned toward both "hard and fat arbitrary enforcer" and the legislature was not an obstacle for the implementation of Roh's police reform plan. The police remained an entity over which the president exerted strong and central control during Roh's presidency (Lee, 1990: 105).

Second, the police reform under the presidency of Kim Young-Sam was anticipated to proceed in the direction of a “patrician mediator” since he encountered difficulty in controlling the police while he secured strong capacity to control the legislature. Intensifying police accountability to the legislature, which was dominated by his ruling party, would have been helpful for him in securing his control over police officials. However, the actual direction of his police reform was more of a “palace guard.” This deviation from the anticipated direction was caused by two factors. First, the legislature was not a certain ally for him, even though it was occupied by his ruling party, because his political faction was a minority member of the ruling party. As explained above, his political faction had merged with Roh’s faction through the three-party merger, with Roh’s faction still being the most influential within the ruling party.

Additionally, President Kim utilized another strategic option—i.e., the purging—to tame the police officials and secure his control over the police. He reduced the capacity of the police since their loyalty to him was uncertain. However, he did not increase the accountability of the police in order to intensify his control over them. Rather, he initiated a large-scale purging of police officers. Meritocracy in Korea protects the job security of bureaucrats, including police officers. However, by mobilizing the mass media to uncover the malpractice of public officials, President Kim was able to purge public officials without violating the constitutional protection of the job security of bureaucrats. As a result, police capacity declined with no increase in police accountability.

Last, the direction of police reform under Kim Dae-Jung’s presidency was anticipated to follow the path to a “plebeian mediator” since he lacked both the capacity to control the police and the capacity to control the legislature. Decreasing the capacity of the police, whose loyalty to the president was not certain, should have been a reasonable choice for him. Intensifying the police’s accountability to citizens and local societies, not to a legislature dominated by the opposition party, should also have been a reasonable strategy for him to secure his control over the police. The actual direction of police reform under Kim’s presidency corresponded with these anticipations. He intensified vertical police accountability and decreased police capacity. Since the “plebeian mediator” does not function as a political tool of the president against his opponents, his reform plan passed in the legislature, even though it was dominated by the opposition parties.

IV. Conclusion

Political democratization changed not only the institutional structure of the state but also the relationships between the president, legislature, and bureaucrats. In Korea, presidential power over the other branches of government was weakened in terms of both the legal and institutional dimensions due to the constitutional revision in 1987. However, each newly elected president encountered very divergent political and bureaucratic conditions. Some presidents still enjoyed both strong capacity to control the legislature and strong capacity to control the bureaucrats, while other presidents held either one or none of these powers. Divergent police reforms emerged from the various political and bureaucratic environments in which the president was embedded. The tragic aspect of police reform in Korea was that the reforms initiated and implemented by each new democratic leader did not pursue the transition toward a police force with strong capacity and strong accountability—i.e., the “impartial enforcer”—although mounting public demands for the police reform were led by political democratization. However, the passage and implementation of police reform do not necessarily cause changes in police practice as initially intended, since police reform is only one among many factors that exert influence on the practice of policing. The following chapter will therefore address the changes and continuity of police practice in Korea since the democratic transition.

Chapter 5

Partial Transition to the “Impartial Enforcer” in Korea

The police practice is deeply related to the formation of citizens’ perception of government, democracy, and the rule of law since the police are the primary contact that citizens have with their government and justice system. People encounter the police on the street in their everyday lives, and they perceive the existence of the state through this contact and police practices. The treatment people receive from the police has an important effect not only on their perception of the fairness and effectiveness of the democratic government but also on the rule of law of the entire society. The president’s police reforms are important for deciding the direction of the transformation of the police in a new democracy. However, the implementation of police reforms do not necessarily lead to a change in police practice. Moreover, changes and continuity of police practice are influenced by not only the president’s police reform but also various domestic and international factors, such as geopolitics and strong local factions. This chapter will examine the effect of police reforms on police behavior and the transformation of policing in Korea by investigating the process and outcome of the implementation of police duties, such as maintenance of public security and impartial enforcement of law, since the democratic transition in the late 1980s.

I. Capable Law Enforcement

(1) Public Security

Korean police before the transition to a democracy had been criticized that they used too much of their human and material resources to manage political affairs while people’s safety was neglected due to the police’s lack of interest in criminal offenses. An inordinate emphasis on political affairs in terms of police duties still occurred during the democratic transition period. In 1991, among 80,000 professional police

officers, 22 percent performed political affairs duties, such as guarding, counter-communism, and intelligence, while only 17 percent investigated criminal offenses (*Kyunghyang Shinmun*, August 1, 1991: 13). Most commissioner-generals spent their careers in the intelligence section of the police before they were appointed, and in the 1991 annual personnel appointments, among the 68 officers who were promoted to senior superintendent, 18 officers (26.5 percent) came from the intelligence section, while only 14 officers (20.5 percent) had a police detective background (*Hankyoreh Shinmun*, July 8, 1992: 19). In a survey conducted the same year, 41.2 percent of respondents answered that the police were failing to satisfy citizens' needs, while only 34.9 percent of respondents agreed that the police successfully fulfilled their duties of serving citizens (*Dong-A Ilbo*, July 31, 1991: 2).

Anxiety about the weakening effectiveness of the police in addressing the violent expression of political demands by society also increased inside the police and the government. Since democratization provided a political sphere where various social demands could be expressed more freely and in a collective way, the number of demonstrations on the street also increased. The problem was that people were no longer afraid of the coercive agencies of the state and even expressed hostility toward the police violently in a way that had not been seen during the authoritarian period. It was estimated that 19 police officers were killed and 10,000 were wounded in student demonstrations since the start of Chun's government in 1980. When a police officer was killed in a student demonstration in 1993, the inability of the police to successfully respond to violent student demonstrations was criticized as "a student who dies in demonstration becomes a hero, while the killing of a police officer in demonstration is treated as a dog's death" (*Chosun Ilbo*, June 14, 1993: 31; June 15, 1993: 2).

A comparison of the crime rates in Korea, Taiwan, and Mexico illustrates that Korea had a much higher crime rate during the democratic transitional period. As Table 5-1 indicates, the crime rate in Korea was 5 times higher than Taiwan and 2.8 times higher than Mexico in 1991. The crime rate in Korea in 1998 also shows similar results: 4.2 times higher than Taiwan and 2.5 times higher than Mexico.

[Table 5-1] Comparison of Crime Rates (Unit: reported crime per 100,000 residents)

	Korea	Taiwan	Mexico	The U.S.
1991	2,843	564	996	5,897
1998	3,803	885	1,495	4,615

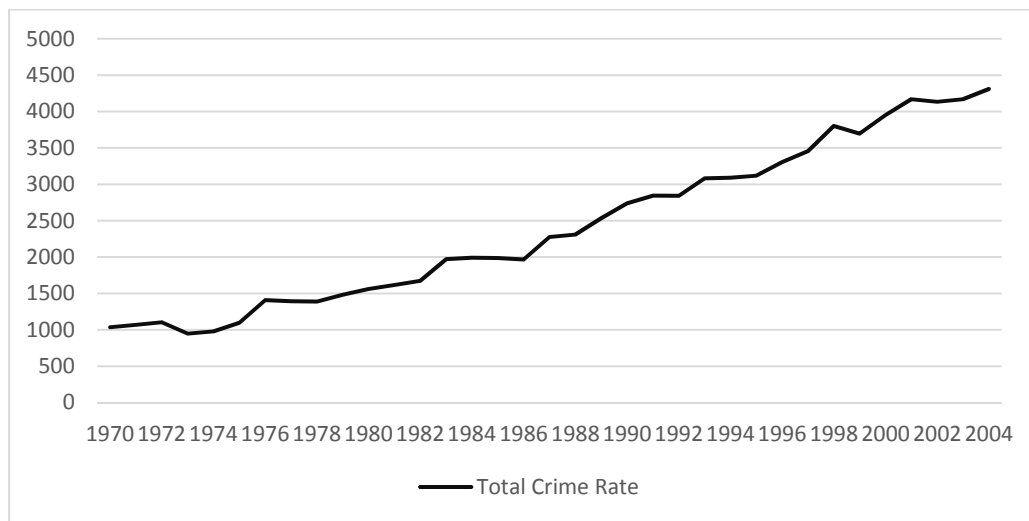
Source: Lee, Dong-won (2006), p. 223; Cao, Huang, and Sun (2014), p. 35; Zepeda (2007), p. 135; Disaster Center (<http://www.disastercenter.com/crime/uscrime.htm>)

However, the higher crime rate in Korea does not necessarily mean police effectiveness in Korea was weaker than in Taiwan and Mexico during this period. The crime rate has limitations as an indicator of police effectiveness because the rate presents only the crimes reported to legal authorities. The rate fails to show how many unreported crimes take place outside police oversight. The high crime rate could be interpreted as a sign of the police's either strong or weak capacity to manage crime.³⁹ The higher crime rate might be a sign of increased police presence because the rate could indicate police officers were successful in detecting more crimes (Yoon and Joo, 2005: 31-32). If police officers step up their anti-crime operations and arrests increase, then reported crimes should increase (Piccato, 2007: 68). In fact, regarding the crime rate, Korea has joined the group of advanced democratic countries. As Table 5-1 illustrates, in 1991, the U.S. crime rate was 2.8 times higher than the Korean rate and 1.2 times higher than the Korean rate in 1998.

The other characteristic of the changes in the Korean crime rate during the democratic transition period is its gradual increase, with no abrupt or significant rise or fall, as Graph 5-1 illustrates. While Taiwan and Mexico experienced an abrupt increase in crime rates during their democratic transitional periods, Korea did not experience a sudden escalation in the crime rate during the period of democratization. Compared to an abrupt upsurge in the crime rate or excessive fluctuations, a gradual and stabilized increased crime rate exerts a less detrimental effect on citizens' sense of insecurity. The psychological effect of increased crime rates in Korea was not quite significant. In a survey conducted by Asian Barometer in 2003, 24.7 percent of respondents answered that preventing crime and maintaining order had become better than before, while 36.5 percent of respondents answered that they had been worse than before, and 38.7 percent of respondents answered they are much the same.

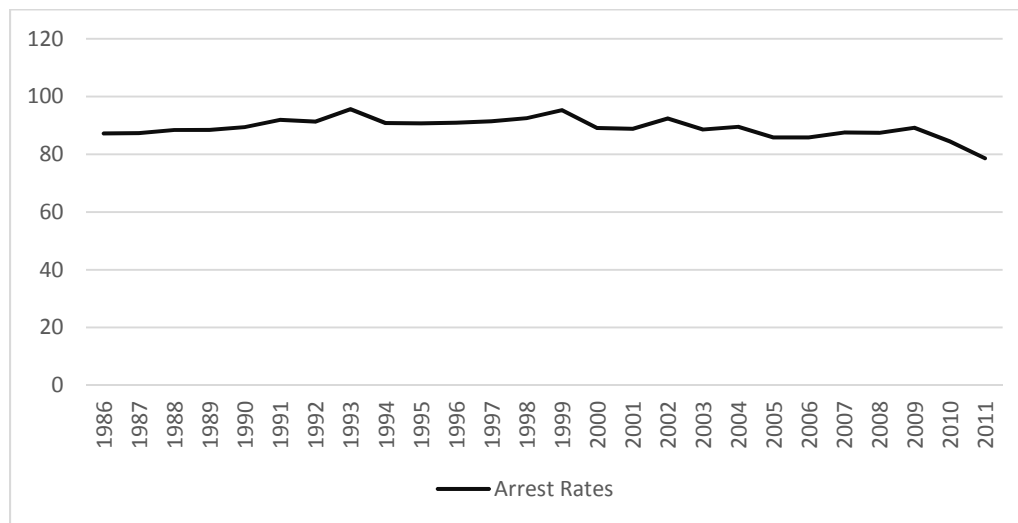
Other indicators also illustrate that the Korean police have shown stable maintenance of a strong presence without any serious crises. Graph 5-2 illustrates the arrest rate since the late 1980s. The arrest rate, which was 87.2 percent in 1986, increased during the democratic transition and reached the highest level, 95.6 percent, in 1993. Since then, the rate remained between 80 percent and 96 percent until it dropped to 78.6 percent in 2011. The high arrest rates without significant ups and downs illustrate the high level of police presence during the democratic transitional period, compared to Taiwan and Mexico. In Taiwan, police competence has shown remarkable fluctuations since the democratic transition. The crime clearance rate, which was 89.2 percent in 1984, abruptly dropped to 52.3 percent in 1986, and has shown repeated rises and falls between 51 percent and 84 percent (The Republic of China, 2013). Police competence in Mexico has been extremely low. In 2010, less than two-thirds of reported crimes were investigated by the police. At the state level, the investigation rate for reported crime reached only 18.5 percent (Tuckman, 2012: 109; Middlebrook, 2004: 27).

[Graph 5-1] Total Crime Rates in Korea, 1970–2004 (percentage per 100,000 residents)



Source: Lee, Dong-won (2006), p. 223.

[Graph 5-2] Arrest Rates of Criminals in Korea

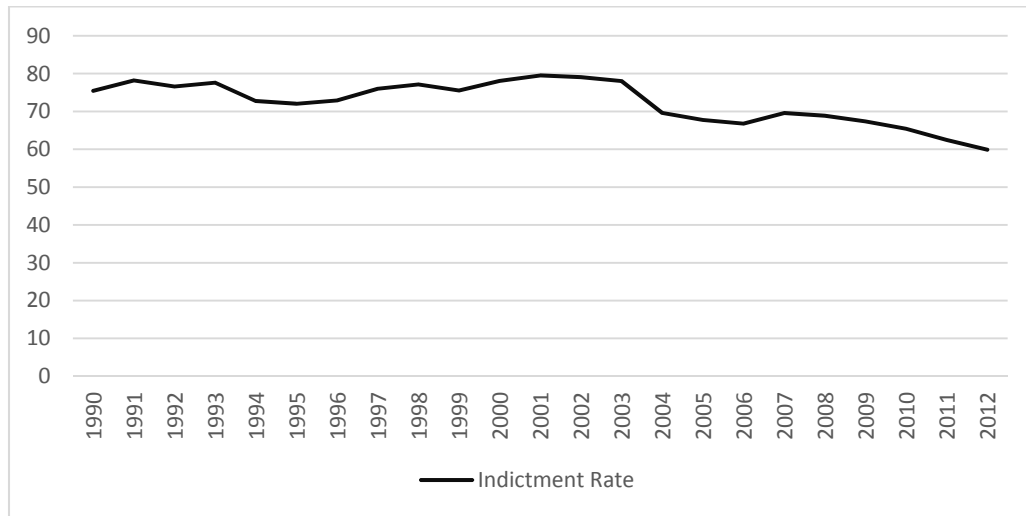


Source: Korean Statistical Information Service.

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The indictment rates shown in Graph 5-3 illustrate less positive trends of the change in police capability during the democratic transitional period in Korea. The indictment rate means the proportion of criminals who are indicted either with confinement or non-confinement out of the total number of arrested people. A lower indictment rate means more cases are dropped by prosecutors because of a lack of sufficient evidence to prove that a crime occurred. Korea had high indictment rates in the 1990s and early 2000s: The rates remained stable between 72 percent and 80 percent. Kim Young-Sam's presidency marked a decline in the indictment rate: The 72.04 percent rate in 1995 was the lowest level before an abrupt decline in 2004. The indictment rate gradually decrease toward the lowest level in 2012, which indicates the efficiency of Korean police has been weakened since the end of Kim Dae-Jung's presidency in 2003. However, the stable high indictment rates in Korea under presidents Roh Tae-Woo, Kim Young-Sam, and Kim Dae-Jung illustrate the police's effectiveness during the democratic transitional period. In Taiwan, the indictment rate, which had been maintained above 70 percent during the early 1980s, dropped to 53.4 percent in 1988, and further dropped to 36.9 percent in 2002 (The Republic of China: 2013).

[Graph 5-3] Indictment Rates in Korea



Source: Korean Statistical Information Service.

http://kosis.kr/statisticsList/statisticsList_01List.jsp?vwcd=MT_OTITLE&parmTabId=M_01_02#SubCont

(2) Continuity of Police Effectiveness

Korean presidents elected after 1987 encountered stronger societal pressure for police reforms than any other countries undergoing democratic transitions, such as Taiwan and Mexico. Similar to citizens in many other authoritarian countries, Koreans perceived the police not as a public protector of the people but as a “frontline representative” of the oppressive government (Hwang, McGarrell, and Benson, 2005: 587). However, Korea’s democratization process was distinguished from those in Taiwan and Mexico by bottom-up democratization with direct violent confrontations between the police forces and resistant citizens, while the democratic transitions in Taiwan and Mexico were characterized by democratization from above based on elite consensus without any significant violent confrontations between the police and citizens.

In Korea, people not only had developed hostility toward the authoritarian regime and its police but also won chances to express their hostility during the democratization period.⁴⁰ Koreans’ hostility toward police oppression and their calls for democracy exploded when a university student, Park Jong-Cheol, was arrested by police officers and died by torture in 1987. The disclosure of his death and the involved police officers’

efforts to conceal the fact triggered a series of large-scale demonstrations, which eventually ended Chun's regime and led to a revision of constitution that established a democratic system in Korea. People's hostility toward the police continued and caused physical tensions between the police and citizens in the democratizing political setting in the late 1980s and 1990s even after the end of the authoritarian regime.⁴¹ For example, in 1996, a policeman died during a student demonstration, and in 1997, two citizens were killed by members of a student organization after being mistaken for police spies (Moran, 1998: 18).

Paradoxically, aspects of democratization—citizens' continued strong antipathy to the police and frequent physical tensions between demonstrators and the police after the end of authoritarianism—provided the new government and its police forces with a justification for maintaining strong police forces. For example, under Kim Yong-Sam's presidency, there was an effort to revise or even abolish the National Security Act (NSA), which had been used against political opponents and citizens to oppress their calls for the right to free association. Conservatives in the ruling party still opposed all revisions to or the abolition of the NSA as long as the country remained divided between North and South. From their perspective, the NSA was an indispensable tool for combatting subversive elements within society, such as labor strikes and student demonstrations. This view, which had been driven into a corner with the first civilian president, Kim Young-Sam, suddenly overwhelmed the calls for the abolition of NSA when a police officer died on June 13, 1993, during a police operation against a student demonstration. Several days later, Kim's government officially announced that it would not seek to abolish the NSA (Saxer, 2002: 172-174).

As the case of the NSA illustrates, the geopolitical condition of the national division between North and South, or the existence of strong external threats, contributed to the strong police forces maintained during the democratic transitional period. The continued military threat from the North has firmly positioned the national security issue as a top policy priority of the government and justified the centralization and extension of coercive apparatus of the state even in the changed political environment of democratization (Woo, 2011: 14, 28). Of course, the geopolitical situation of national division exerted a detrimental effect on efforts to increase police accountability. The NSA, which guarantees the arbitrary use of police power, has been one of the strongest legal tools that has prevented the intensification of police accountability. Other

efforts to increase police accountability, such as the foundation of local police accountable to local societies, have been also frustrated due to opponents' belief that the police under a single command are necessary in national division while high police accountability prevents consistent and swift operations in the face of strong national enemies.

However, regarding the maintenance of police effectiveness, the national division sustained the police. The Korean police evolved as quasi-military forces under the Cold War structure and maintain a militarized characteristic even after the democratic transition. For example, combat police forces were established within the police in 1970 to reinforce the police forces responsible for counter-infiltration from the North and riot duties. The combat police forces are not professional police because they serve in the police instead of fulfilling the mandatory military service in military camps. In 1988, among 125,000 total police personnel, 67,000 (about 60 percent) were professional police officers, while the remaining 58,000 (about 40 percent) were combat police forces and conscripted police officers (*Dong-A Ilbo*, October 21, 1988: 15). The unfolding of democratization has led to almost no change in the percentage of combat police forces among the entire police force. In 2004, among the 147,805 total police officers, 93,265 (63 percent) were professional police officers, while 50,609 (37 percent) were combat police officers and conscripted police officers (Song, 2006: 462).

The other important factor that contributed to the maintenance of the strong presence of the police force during the democratic transitional period was the lack of strong local power. Korea maintained centralized forms of political systems for a long time under the Yi dynasty before Japan colonized the country in 1910 (Henderson, 1968). The Japanese colonial rule strengthened the central government by establishing more elaborate forms of state institutions at the local level, which provided more direct and tight control over local societies. For example, the introduction of the mini-police station (*pachulso*) system not only enabled the Japanese to effectively monitor and suppress Koreans across the entire country but also strengthened the administrative capacity of the central government (Moon and Morash, 2009: 108). The strong central government and weak local power continued after Korea was liberated from Japan's rule in 1945. Although the authoritarian leaders in Taiwan required the cooptation of local powers to make up for the weak

legitimacy as an émigré regime during the authoritarian rule of the Kuomintang (KMT), their counterparts in Korea did not require any such kinds of cooperation with local power for the efficient and legitimate rule of the country. The lack of local power and centralized political and administrative systems that had lasted for a long time contributed to maintaining the Korean police's strong presence without any significant leakage during the democratic transition period.

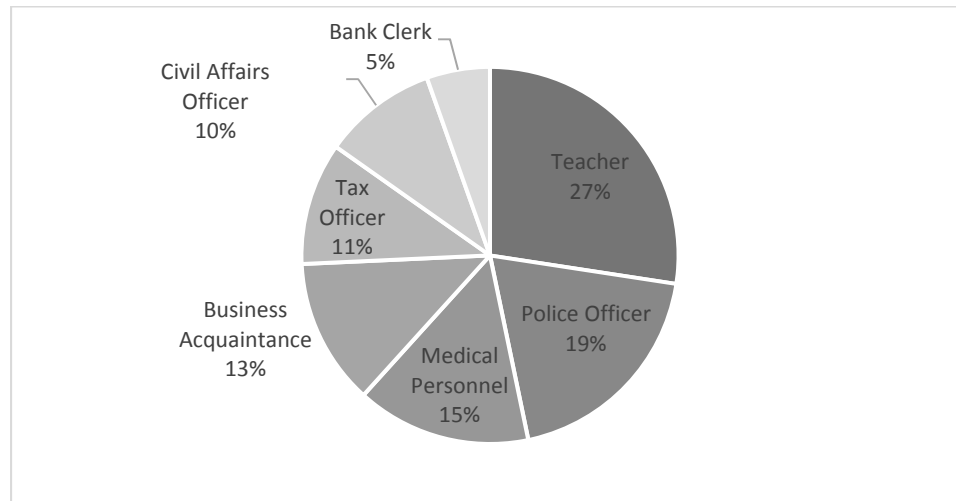
II. Accountable Law Enforcement

(1) Corruption

Corruption had been a relatively hidden aspect of Korean police forces before democratization, since the oppressive and politicized mode of activities of the police and its harmful effects, especially human rights violations, mainly attracted people's attention during the authoritarian period. However, the increased openness in democracy and the expanded role of the mass media revealed police corruption, which had been hidden under the image of the police as a strictly disciplined organization under the tight control of its authoritarian master. Moreover, the unfolding of democratization exposed police officers to more opportunities for corruption because democratization opened up more access points in which citizens could use bribery to influence government decisions. Now, citizens tried to buy the police more freely to realize their interests in everyday life based on the belief that the police in a democracy were easy to deal with, compared to their previous authoritarian counterparts (Morris: 2009: 57, 77).

The results of a 1993 survey illustrate the status of police corruption in citizens' daily lives, as shown in Graph 5-4. In that survey, 44.4 percent of respondents answered they had provided bribes in the prior year. Among the recipients of the bribes, teachers constituted the highest ratio (22.7 percent), while police officers occupied the next place (16 percent; *Dong-A Ilbo*, April 27, 1993: 31).

[Graph 5-4] Recipients of Bribes (Year: 1993)



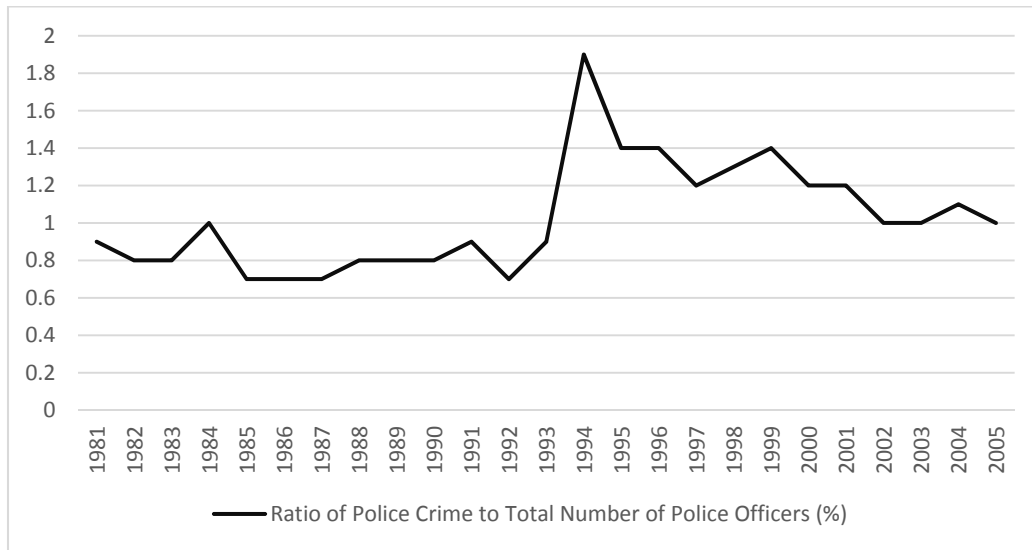
Source: *Dong-A Ilbo* (April 27, 1993), p. 31.

Police corruption has taken various forms in Korea during the democratic transition period. In 1998, two police officers were prosecuted for sending invitations to wedding or birthday parties to owners of pleasure resorts in the officers' jurisdiction and collecting money from the owners. In the same year, a police officer was arrested for gambling with wanted criminals (*Kyunghyang Shinmun*, November 19, 1998: 5). In 1999, 36 former and current police officers were punished for receiving bribes from a pub owner after a fire in the pub had taken the lives of 52 people. In 2000, the Prosecutors' Office detected corruption by police officers who had periodically collected bribes from pimps. The pimps even organized a mutual aid association to collectively provide bribes to police officers, who in turn ignored the pimps' illegal business. Thirty-six police officers were charged with corruption (*Hankook Ilbo*, September 27, 2000: 6). From January 1999 to July 2001, 1,100 police officers received disciplinary punishments. Among these officers, 266 were charged with taking bribes. The National Police Agency (NPA)'s response to popular discontent with police corruption was not active. From January 1, 2001, to July 31, 2001, the Seoul Metropolitan Police Station received 3,204 reports of police corruption from citizens. Among these cases, only 33 cases led to punishment for the police officers involved (*Yonhap News*, September 19, 2001).

To cut off the collusive connection between police officers and local businessmen, in 1999 the NPA introduced a new assignment policy for police officials above the rank of police superintendent. These high-ranking officials were prohibited from being deployed to posts in locations with which the officials had regional connections. According to the new policy, for example, police superintendents from Jolla Province were stationed in Kyongsang Province, while those from Kyongsang Province were deployed in Jolla Province. However, the new personnel administration policy had many unintended harmful effects, especially in terms of the efficient operation of police organizations. Police officials dispatched to an area about which they had insufficient information encountered difficulty adapting to unfamiliar local conditions and promptly coping with demands for local security. It took only 2 years for the new policy to be abolished. In 2001, the policy was abandoned when the NPA announced the rule would be applied only to newly appointed police superintendents (*Dong-A Ilbo*, July 30, 2001: 26).

Graph 5-5 illustrates that the ratio of police crime to the total number of police officers abruptly increased after the democratic transition. The ratio had been between 0.7 percent and 1.0 percent before it skyrocketed to 1.9 percent in 1994. Since then, the ratio has gradually declined but remained higher than the ratio under presidents Chun Doo-Hwan and Roh Tae-Woo. However, the increase in the proportion of police crime rates to the total number of police officers must be cautiously interpreted. The increase might indicate not an actual increase in police crime but an increase in the self-purification mechanism. The abrupt increase in the ratio of police crime almost exactly coincided with the beginning of Kim Young-Sam's administration, which implemented a large-scale purification campaign accompanied by a purge of numerous public servants, including police officers. The year 1994 was the second year of his tenure. Accordingly, the abrupt increase in the police crime rate must be understood as the result of intensified discipline that revealed police crime that had been hidden in the past.

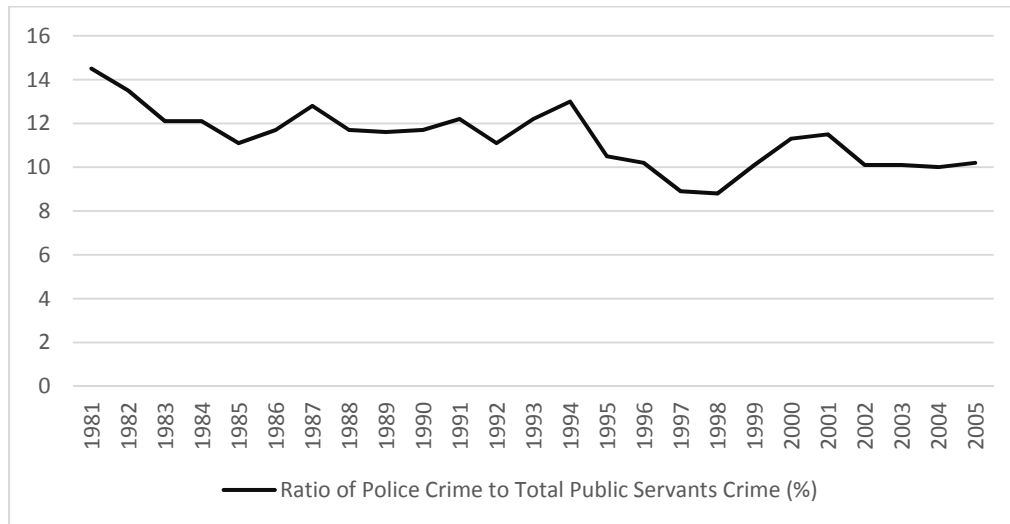
[Graph 5-5] Ratio of Police Crime to Total Number of Police Officers



Source: Korean National Police Agency (2006), p. 1774-1775; Yeon (2007), p. 110.

The ratio of police crimes to the total number of crimes committed by public servants shown in Graph 5-6 intensifies this interpretation. In contrast to the abrupt increase in the proportion of police crime to the total number of police officers, especially from 1993 to 1995, the ratio of police crimes to the total number of public officials has gradually decreased since the 1980s. The year 1994 marked a somewhat noticeable—but not significant—increase in the proportion of police crimes to the total number of crimes committed by public servants. It increased from 12.2 percent to 13 percent that year. However, then the ratio continued to abruptly decrease until it reached 8.8 percent—the lowest level since the early 1980s—in 1988. The ratio increased again during President Kim Dae-Jung’s administration, but was not high as much as those during the rule of presidents Chun Doo-Hwan and Roh Tae-Woo. Graph 5-5 and Graph 5-6 illustrate that the ratio of police crimes to the total number of police officers increased during the democratic transition, especially during Kim Young-Sam’s presidency, due to the intensified purification mechanism, while the increase in crimes committed by other government officials far exceeded the increases in police crime.

[Graph 5-6] Ratio of Police Crimes to Total Crimes Committed by Public Servants



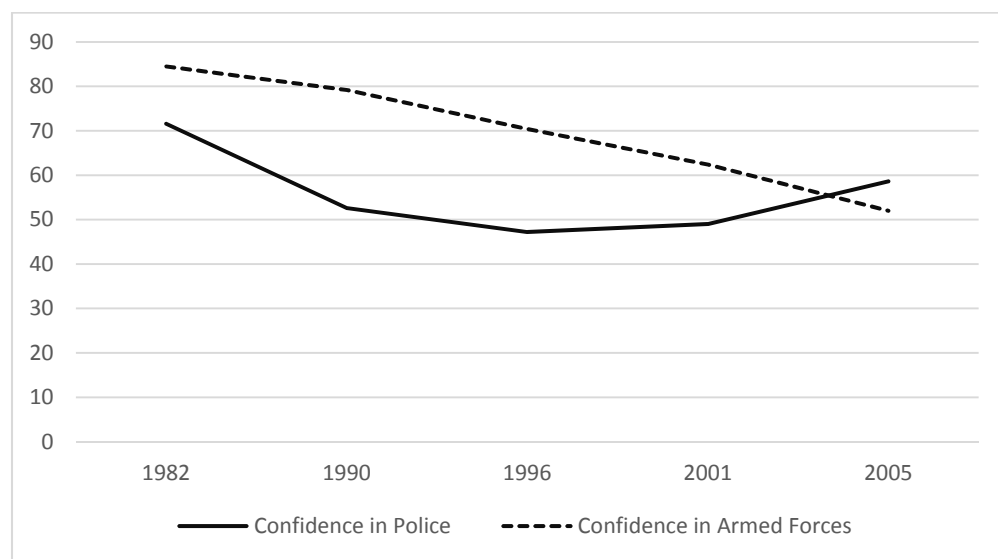
Source: Korean National Police Agency (2006), p. 1774-1775; Yeon (2007), p. 110.

Koreans' cynical attitude to impartial law enforcement is reflected in their belief that "if you are found guilty, the reason is not that you did something against the law, but that you have no power or no money (or *Innocent with Money, Guilty without Money*).” The difference between the non-conviction rates for public officials and regular citizens has increased people's distrust of law enforcement agencies. In 2000, 58.8 percent of arrested public officials were released without indictment by prosecutors, while the non-conviction rate of arrested regular citizens was only 45.1 percent. In Korea, arrested officials are less likely to be convicted than regular citizens (Byun and Ruiz, 2007: 231, 235-236). However, lenient punishment of crimes committed by public servants did not lead to a favorable attitude toward law enforcement agents. They also reveal a deep distrust of the fairness of law enforcement. Convicted high-ranking officials tend to believe they were simply selected as scapegoats of political warfare between contentious political forces, while punished lower-ranking officials complain that they were caught unfortunately by arbitrary and politicized law enforcement agencies for the sake of demonstrating their accomplishments (Han, 2000: 367).

Graph 5-7 shows the trajectories of the change in people's confidence in the police and armed forces. Confidence in the police, which reached a very high level (71.6 percent) in 1982 under Chun Doo-Hwan's regime, quickly dropped to 52.6 percent in 1990 under Roh Tae-Woo's presidency, and reached the lowest

level (47.2 percent) in 1996 under Kim Young-Sam. Then, people's confidence gradually increased again, and was 58.6 percent in 2005. Compared to Taiwan and Mexico, confidence in the police in Korea since the democratic transition has been stably maintained at high levels. In Taiwan, the rate, which had been 58 percent in 1994, dropped to 37.2 percent in 2006, while in Mexico, the rate has never been higher than 35 percent since 1995. Confidence in the military in Korea was higher than confidence in the police. However, although the trajectory of change in confidence in the police has shown a U-shaped curve, confidence in the military had continuously declined with democratization and was finally surpassed by the police for the first time in 2005. In Mexico, confidence in the police has never exceeded confidence in the military.

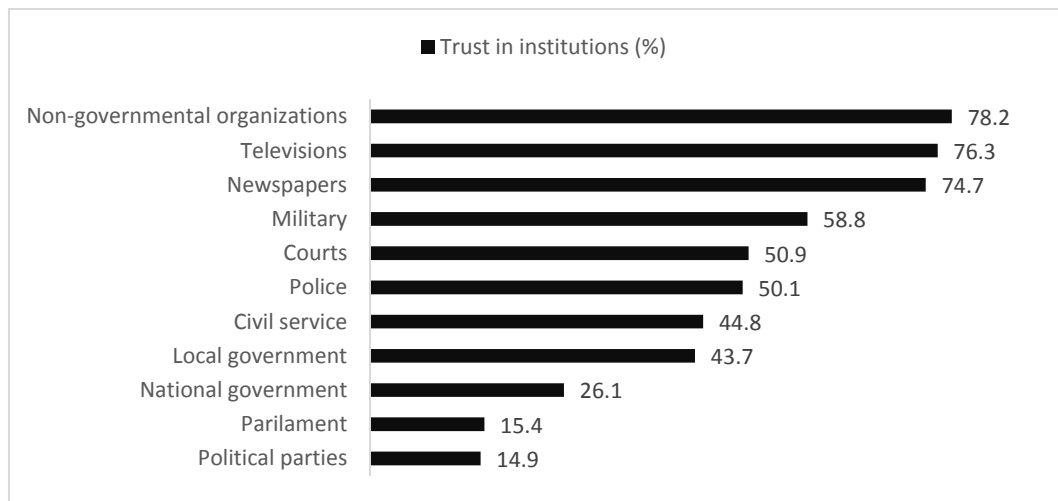
[Graph 5-7] Confidence in the Police and Armed Forces



Source: The Values Surveys (1982, 1990, 1996, 2001) and World Values Survey Wave 5 (2005)

Another survey conducted in 2003 compared people's trust in various institutions. Graph 5-8 shows that people's trust in the police was 50.1 percent, a slight increase compared to 49 percent in 2001. However, among 11 institutions the police took sixth place: First place was taken by nongovernmental organizations (NGOs), which had a 78.2 percent trust rate, while last place was held by political parties, which secured only a 14.9 percent trust rate. The military ranked higher, with a 58.8 percent trust rate.

[Graph 5-8] Trust in Institutions (2003)



Source: Asian Barometer (<http://www.asianbarometer.org/>)

However, distrust is not exclusive to citizens. Police officers also distrust the role of citizens in supporting police duties, which culminates in mutual distrust between the police and citizens in Korea. A survey of police officers' attitudes in 2008 showed that only 16 percent of respondents perceived that citizens trust police officers while 35 percent disagreed with citizens' trust in the police. Only 25 percent of the respondents believed that citizens generally cooperate with police officers, while 37 percent disagreed with that statement (Kang and Nalla, 2011: 183). The same survey also illustrated that only about 17 percent of police officers agreed that "citizens would often provide information about a crime if they knew something and were asked by police," while 38 percent disagreed. Police officers who believed that "citizens are willing to work with police and try to solve neighborhood problems" did not account for more 18 percent, while more than 39 percent disagreed with that statement (Nalla and Kang, 2012: 165).

(2) Human Rights Violations

The history of the Korean police under Park's and Chun's authoritarianism was tainted by severe human rights violations. The death of Park Jong-Cheol by torture in a secret police interrogation room and the organizational effort by the police officers involved in the torture to conceal the cause of his death led to a series of street demonstrations that eventually ended Chun's authoritarian rule and led to the constitutional revision that established a democratic political system. However, regardless of the type of regime in which they are imbedded, the police tend to believe that rigid adherence to the rule of law sometimes conflicts with their responsibility to protect communities. The police also believe that violations of law and human rights are sometimes required for effective law enforcement (Bayley, 2006: 134). In Korea, where arbitrary use of police power for the extensive purposes had been guaranteed by authoritarian regimes in the name of protecting the country from communist threats, the tendency to place importance on effective law enforcement while sacrificing human rights protection was stronger compared to other countries under authoritarian rule.

Political democratization caused meaningful changes in Korea's legal system, which had provided the legal basis for the arbitrary enforcement of law by the police during authoritarianism. The constitutionality of the NSA was first challenged in 1990 in the newly established Korean Constitutional Court. The Court passed the judgment that the NSA had unconstitutional elements but ultimately held that the NSA itself was not unconstitutional. With this decision, the Roh government partially amended the NSA in 1991. Whereas Article 7(1) of the NSA had criminalized any activities that benefited the enemy, including praising, encouraging, and aligning with North Korea, the 1991 revision clarified that the offender must have knowledge that might endanger the existence, security, or basic order of South Korea. However, law enforcement agencies continued to apply the NSA for regime security in the name of protecting national security (Cho, 2004: 72). In the first two years of Roh's government, 612 people were arrested for violating the NSA (*Hankyoreh Shinmun*, March 1, 1990: 1).

Political democratization did not automatically lead to instantaneous change in the attitudes of police officers that had formed for several decades under authoritarian rule. In a 1991 survey, 41.4 percent of the police officers responded that they were willing to inflict pain on a suspect to obtain a confession when

they had strong convictions regarding his or her guilt, 59.7 percent of respondents also answered that pain could be inflicted on hardened criminals, while only 4.2 percent of respondents answered that pain should not be inflicted in any situation (*Hankyoreh Shinmun*, July 15, 1992: 19).

The human rights violations committed by police officers are also illustrated by the police dependency on “urgent arrest” when they investigate crime. They prefer to carry out “urgent arrest” because it allows them to seize and investigate without a warrant issued by courts for 48 hours. Police officers attempt to arrest criminal suspects since the promotion system encourages arrests by giving more credit to a police officer who arrests suspects than those who do not. From January 2003 to June 2004, the police and prosecutors arrested 128,425 individuals without warrants. Among these suspects, 48,118 (37.4 percent) were released within 48 hours because the police and prosecutors did not request warrants from the courts. The abuse of “urgent arrest” is also shown by a survey of imprisoned criminals. Among 515 criminals who disclosed the circumstances of their arrests, 421 (81.8 percent) answered “urgent arrest” had been applied to them when they were arrested, while arrests with warrants accounted for only 33 (6.4 percent). Only 61 (11.8 percent) criminals were arrested while performing an illegal act. The police continued to prioritize the convenience of investigation over the protection of human rights after the democratic transition (Kang, 2006: 296-301).

The “Grand Reform” of the Kim Dae-Jung government intended to improve police professionalism, eliminate police corruption and human rights violations, and eventually form a fair and trustworthy image of the police by creating a cooperative and collaborative relationship between the police and the public. The reform to some extent contributed to improving the quality of the police service perceived by citizens (*Chosun Ilbo*, July 4, 2000: 18). However, the reform also had limitations in significantly reducing corruption and human rights violations committed by police officers. For example, the role of the Office of Hearing and Inspection (OHI) in addressing citizens’ complaints about police activities was restricted in terms of its effect on punishing police officers charged with corruption and human rights violations since the objectivity and neutrality of the OHI were hard to guarantee. Institutionally, the OHI was not an independent entity from the police and the director general of the OHI was supervised by the commissioner-

general of the NPA, who could issue any type of order, including concealment of police officer misconduct.⁴² Citizens showed distrust in the results of an investigation performed by the local OHI because every agent of the office was an active duty police officer, who had difficulty maintaining neutrality between the police and citizens. Furthermore, the OHI had no duty to open the results of its inspection to any person or entity outside the police (Ivković and Kang, 2012: 79).

Human rights violations committed by the police had a detrimental effect on the movement of the police to obtain an independent investigation authority, which had been monopolized by the Office of Prosecutors since the Japanese colonial period. Plans for granting authority to investigate certain types of crimes, such as traffic accidents and other minor offenses, to the police had been suggested under past governments since the late 1980s and early 1990s. However, these plans were repeatedly rebuffed, and one reason suggested for the objections to granting independent investigation authority to the police was the possibility of increased human rights violations committed by police officers. The Office of Prosecutors has claimed that granting such authority to the police and weakening prosecutors' control over the police in criminal investigations would increase human rights abuses committed by the police,⁴³ since police officers, who were eager to attain high performance records, are easily exposed to the temptation of disregarding legal processes for criminal investigations that are necessary to safeguard human rights (*Hankyoreh Shinmun*, May 4, 1999: 5). This negative response to granting independent investigation power to the police reflects not only the organizational interests of the Office of Prosecutors but also the long historical memory of the police who served as an oppressive means of the government for the political goals of ruling groups and ignored human rights during the colonial and authoritarian periods.

(3) Political Neutrality

Citizens' perception of the police, which had been formed under the authoritarian rule, was that the police possessed too much discretion to use their power arbitrarily, and the law enforcement activities of the police were not based on fair principles and strict rules (Roh and Choo, 2007: 11-12). This negative perception of

the impartial enforcement of law was reinforced by the direct and indirect involvement of the police in election fraud.

During the authoritarian period, the Korean political leadership engaged in massive election fraud in order to maintain control over society (Göbel, 2013: 225). The police, which are responsible for managing a fair and impartial election process by impartially enforcing election laws, were involved in election fraud to support the ruling party and oppress the opposition parties.⁴⁴ Direct and active means of election fraud were utilized by the police, including coercion to vote for the ruling party and obstruction of voting for the opposition parties on election days. The police's direct and active involvement in election fraud did not simply disappear with democratization. For example, on April 6, 1996, just a few days before the National Assembly election, the Taegu Provincial Police Office distributed ruling party pamphlets, which praised the government's accomplishments, to mini-police stations in Taegu. Police officers were ordered to encourage citizens to vote for the ruling party candidates by informing citizens about the current government's accomplishments when they worked outside (*Hankyoreh Shinmun*, April 11, 1996: 21).

However, the police and ruling party gradually preferred indirect and secret means because of the resistance of the opposition forces to the election results and a crisis of the legitimacy of the government could be led by the direct and active involvement of the police in election fraud. The Korean police indirectly engaged in election fraud in three ways during the democratic transition period.

First, the police indirectly and secretly supported the ruling party during elections by providing the ruling party candidates with information about the activities of opposition party candidates, including sources of election campaign funds and public opinion trends. Police officers' secret investigations of opposition party candidates produced useful and essential information that was exploited to intimidate strong opposition party candidates to withdraw their candidacy in the election. These types of secret support for the victory of ruling party candidates were one of the main duties of police officers in the intelligence section during the election campaigns. The political role of the police during elections led to symbiotic relations between police officers and politicians. Legislators tried to secure efficient and loyal police officers in local constituencies to win the election while police officers contrived to be quickly promoted

by supporting politicians who had political influence on police personnel affairs (*Hankyoreh Shinmun*, July 8, 1992: 19).

High-ranked police officers were also motivated to support certain candidates in elections. It was revealed that on December 11, 1992, just a few days before the presidential election, Park Il-Ryong, the current director of the Busan Police Office, convened a meeting with people of the ruling party and the government, including the former minister of justice and the current director of the Busan District Prosecutors Office, to discuss how to cooperate to elect Kim Young-Sam, the ruling party candidate. Busan was the hometown of Park and Kim. Because the meeting was open to the public, Park was temporarily released from his position but soon returned to a higher position in the police (the president of Police Academy) right after Kim Young-Sam was inaugurated as president. On September 23, 1993, Park was then promoted to commissioner-general of the Coast Guard Office, the second highest rank in the police, and on December 26, 1994, he eventually became the commissioner-general of the NPA, the highest position in the entire police (*Dong-A Ilbo*, March 15, 1993: 22; *Hankyoreh Shinmun*, March 11, 1993: 2; September 23, 1993: 19).

Second, to oppress opposition parties and support the ruling party, the police tolerated violence against opposition party workers by hoodlums the ruling party employed to disturb the election campaigns of the opposition parties. To support the ruling party's victory, the police never followed up on physical assaults on opposition party workers (Lee, 1990: 102). On the other hand, the ruling party workers received excessive protection by the police. A senior police officer confessed that the police were flooded with requests to guard ruling party members during election campaigns (*Hankyoreh Shinmun*, July 8, 1992: 19). The overprotection of candidates and supporters of the ruling party by the police and its negligence in protecting those of opposition parties are illustrated by the number of police officers mobilized to guard the presidential candidates of various parties. As shown in Table 5-2, more police officers were deployed to guard the ruling party's candidate during campaign stops compared to the police officers mobilized to protect opposition party candidates during the 1987 presidential election. While an average of 1,303 police officers were mobilized for every one campaign speech by Roh Tae-Woo, the ruling party candidate, an

average of only 389 and 427 police officers were sent to each campaign speech by Kim Young-Sam and Kim Dae-Jung, the candidates of the major opposition parties, respectively.

[Table 5-2] Police Forces Mobilized for Guarding Presidential Candidates of Different Parties (1987)

	Roh Tae-Woo	Kim Young-Sam	Kim Dae-Jung	Kim Jong-Phil	Others	Total
Candidate's Participation in Campaign Speeches (A)	78	152	129	68	25	452
Police Forces Mobilized for the Guard (B)	101,704	59,229	55,156	26,928	13,228	256,245
(B)/(A)	1,303.8	389.6	427.5	396.0	529.1	566.9

Source: Korean National Police Agency (1994), p. 887.

The last, not the least, important way the police indirectly intervened in the election process was the discriminatory enforcement of election law for different parties, i.e., stricter and more rigid for opposition parties and more generous and flexible for the ruling party. As a result, members of the ruling party were pleased to find that their party's illegal election activities were overlooked, while members of the opposition party were charged with and convicted of unlawful campaign activities and illegal spending (Kim, J., 2007: 59). In the 1992 presidential election, for example, the police did not investigate the illegal campaign activities of Kim Young-Sam, the ruling party candidate. Kim and his ruling party sent numerous campaign booklets to various groups of voters to introduce campaign pledges and ask for support, although the election law at the time prohibited sending any campaign materials to the public via postal mail. The police did not show any intention of investigating the case but immediately investigated Jung Joo-Young's opposition party, the People's Party (*Gukmindang*) after it was reported that similar types of campaign materials were sent to the public through the mail (*Hankyoreh Shinmun*, November 26, 1992: 15).

Table 5-3 and Table 5-4 show the accusation rates of election fraud of two rival parties, i.e., the HRP (Hegemonic Ruling Party) and the DCP (Dominant Challenger Party)⁴⁵, in National Assembly elections since 1988. In the 1988 National Assembly election, the candidates of the HRP, the *Minjeong Dang* at that time, constituted 21.4 percent of the total number of candidates running in the election, while the percentage of people affiliated with the HRP camp who were accused of election fraud constituted 12.2 percent of the

total number of people accused of election fraud. The last column (G) in Table 5-3 shows the percentage of accused HRP members compared to the percentage of HRP candidates among the total candidates. As shown in the table, accusations against the HRP were overrepresented in the 1996 and 2008 elections and underrepresented in other elections. The HRP was the ruling party in 1996 and 2008 when the accusations of election fraud were overrepresented. Accusations against the HRP of election fraud were underrepresented in 2000 and 2004 when the HRP was the opposition party. The 1988 and 2012 elections were the only elections in which the HRP enjoyed an advantage as the ruling party: Accusations against the HRP were underrepresented in these elections.

[Table 5-3] Accusation Rates of Election Fraud by the HRP in National Assembly Elections

Year	Total Number of Candidates (A)	Total Number of HRP Candidates (B)	(B)/(A)=(C)	Total Number of Accused People (D)	Total Number of Accused HRP Members (E)	(E)/(D)=(F)	(F)/(C)=(G)
1988	1,046	224	21.4	383	47	12.2	0.57
1992	1,052	237	22.5	633	142	22.4	0.99
1996	1,389	253	18.2	760	214	28.1	1.54
2000	1,040	225	21.6	1,362	248	18.2	0.84
2004	1,175	218	18.5	854	124	14.5	0.78
2008	1,119	197	21.8	356	128	35.9	1.64
2012	902	230	25.4	436	98	22.4	0.88

Source: 1988(13th)-2000(16th): Prosecutors' Office; 2004(17th)-2012(19th): Election Management Committee

Table 5-4 illustrates accusations of election fraud in the National Assembly election against the DCP during the same period. As shown in the table, accusations against the DCP have always been underrepresented in National Assembly elections regardless of the party's status as the ruling party or the opposition party. In 2000 and 2004, the DCP was the ruling party, but there was no significant differences in the number of accusations against the party of election fraud compared to other elections when the DCP was an opposition party.

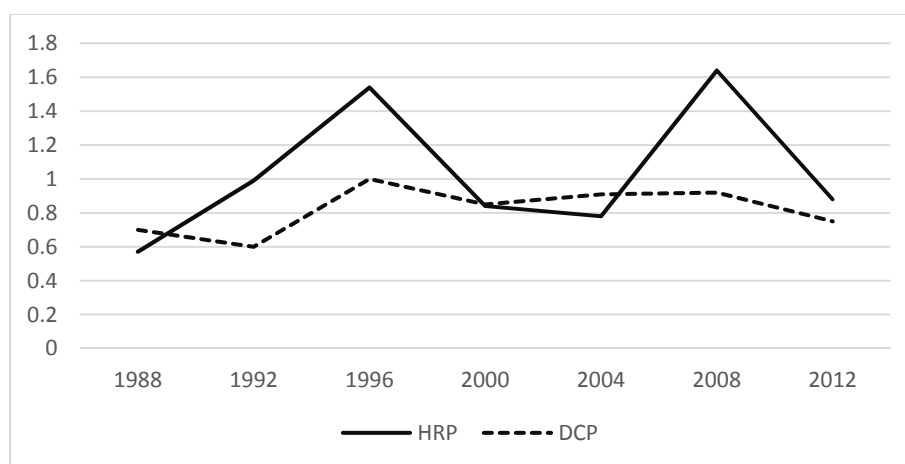
[Table 5-4] Accusation Rates of Election Fraud by the DCP in National Assembly Elections

Year	Total Number of Candidates (A)	Total Number of DCP Candidates (B)	(B)/(A)=(C)	Total Number of Accused People (D)	Total Number of Accused DCP Members (E)	(E)/(D)=(F)	(F)/(C)=(G)
1988	1,046	168	16.0	383	43	11.2	0.70
1992	1,052	225	21.3	633	82	12.9	0.60
1996	1,389	230	16.5	760	126	16.5	1.00
2000	1,040	225	21.6	1,362	252	18.5	0.85
2004	1,175	182	20.6	854	162	18.9	0.91
2008	1,119	197	17.6	356	58	16.2	0.92
2012	902	210	23.2	436	76	17.4	0.75

Source: 1988(13th)-2000(16th): Prosecutors' Office; 2004(17th)-2012(19th): Election Management Committee

Graph 5-9 shows the comparative trends of accusations of election fraud during the National Assembly elections against the two parties. The graph shows that favorable enforcement of law for the ruling party in National Assembly elections has not appeared since the democratic transition. In contrast, except for the 1988 election, law enforcement agencies have been much more lenient for the rival opposition parties.

[Graph 5-9] Comparison of Accusations of Election Fraud in National Assembly Elections



*The HRP was the governing party in 1988, 1992, 1996, 2008, and 2012, while the DCP was the governing party in 2000 and 2004.

However, this trend of lenient enforcement of the law for the rival opposition parties in National Assembly elections does not mean the election law has been impartially enforced during elections. Candidates of other

opposition parties, and especially candidates with no party affiliation, experienced harsh and unfair enforcement of election laws. As Graph 5-5 illustrates, accusations against non-party candidates of violating election laws have been significantly overrepresented in National Assembly elections. In the 1996 election, it was 1.41 times higher. In the 2000 election, it increased to 2.56 times, and in the 2008 election, it even reached to 3.49 times. The serious overrepresentation of accusations of election fraud against non-party candidates signifies that law enforcement agencies treated small parties and candidates with no party affiliations unfairly, while the agencies leniently applied the law to large parties, such as the HRP and the DCP, which occupied at least the status of the second largest party in the legislature.

[Table 5-5] Accusation Rates of Election Fraud by Candidates without Party Affiliation in National Assembly Elections

Year	Total Number of Candidates (A)	Total Number of Non-Party Candidates (B)	(B)/(A)=(C)	Total Number of Accused People (D)	Total Number of Accused Non-Party Members (E)	(E)/(D)=(F)	(F)/(C)=(G)
1996	1,389	394	28.3	760	305	40.1	1.41
2000	1,040	202	19.4	1,362	697	49.8	2.56
2004	1,175	224	19.0	854	421	49.2	2.58
2008	1,119	127	11.3	356	141	39.5	3.49
2012	902	258	28.6	436	248	56.7	1.98

Source: 1996(15th)-2000(16th): Prosecutors' Office; 2004(17th)-2012(19th): Election Management Committee

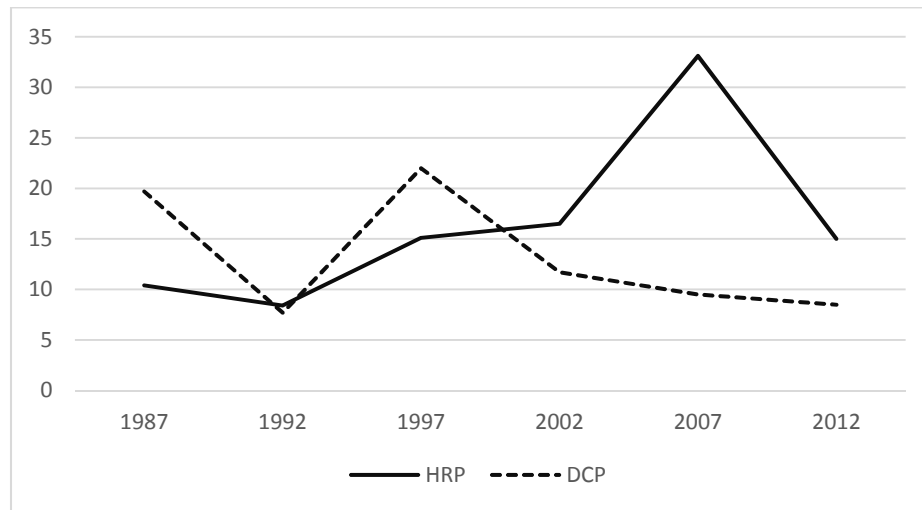
The breakdown of the political neutrality of law enforcement agencies in Korea is also illustrated by accusations of violations of election law in presidential elections. Table 5-6 shows the trend of accusations against party members of the HRP and the DCP in presidential elections since 1987. The HRP accounted for 10.4 percent of the total number of people who were accused of election fraud in the 1987 president election. In the next election, the rate declined slightly but continued to increase, and it reached the highest level, 33.1 percent, in the 2007 president election. The DCP, however, accounted for 19.7 percent of the total number of people who were accused of violating election laws in 1987. The rate declined to 7.7 percent in 1992, increased again to 22.0 percent in 1997, and then continued to decline.

[Table 5-6] Proportion of Accused Party Members in Presidential Elections

	1987	1992	1997	2002	2007	2012
HRP	16 (10.4)	158 (8.4)	35 (15.1)	58 (16.5)	66 (33.1)	30 (15.0)
DCP	33 (19.7)	145 (7.7)	51 (22.0)	41 (11.7)	19 (9.5)	17 (8.5)
Total	167 (100)	1,878 (100)	231 (100)	350 (100)	199 (100)	200 (100)

Source: 1988(13th)-1998(15th): Prosecutors' Office; 2003(16th)-2013(18th): Election Management Committee

[Graph 5-10] Rates of Election Fraud Accusations in Presidential Elections



*The HRP was the governing party in 1987, 1992, 1997, and 2012, while the DCP was the governing party in 2002 and 2007.

The comparison between the two parties regarding the proportion of accused party members in presidential elections shows whether the law enforcement agencies applied the election law impartially in presidential elections. As Graph 5-10 illustrates, among the six presidential elections since 1987, four elections—1987, 1997, 2002, and 2007—marked more lenient enforcement of law on the ruling party, or harsher punishment for the opposition party. In 1987 and 1997, the opposition party, the DCP, was punished more harshly, while in 2002 and 2007, in turn, the opposition party, the HRP, was punished more severely. In 1992, the proportion of accusations against the two parties was almost the same, although the DCP was punished slightly more leniently. The year 2012 marked almost the only year of impartial enforcement of law since 1987. In the 2012 presidential election, the ruling party, the HRP, was punished more severely than the

DCP. These trends indicate that electoral law enforcement during presidential elections since the democratic transition has failed to maintain fairness and impartiality.

Table 5-7 shows the loss of seats by the HRP, DCP, and other parties in the National Assembly since 1988. In the 13th National Assembly (1988–1992), the HRP lost three lawmakers due to criminal convictions. Because the HRP had occupied 125 seats in the legislature, the party lost 2.4 percent of its total seats. However, the DCP lost two (2.8 percent) of its 70 seats in the legislature. Table 5-8 illustrates the comparison between the HRP and the DCP regarding the proportion of loss of seats to the total number of seats that each party occupied in the legislature.

[Table 5-7] Loss of Seats in the National Assembly

	13th (1988.5.30~ 1992.5.29)	14th (1992.5.30~ 1996.5.29)	15th (1996.5.30~ 2000.5.29)	16th (2000.5.30~ 2004.5.29)	17th (2004.5.30~ 2008.5.29)	18th (2008.5.30~ 2012.5.29)
HRP	3/125	2/149	4/139	5/133	5/100	5/153
DCP	2/70	1/97	1/79	7/115	10/129	2/81
Others	2/104	1/53	4/81	0/28	3/7	3/65
Total	7/299	4/299	9/299	12/276	18/236	299

Source: Korean National Assembly (2008), pp. 1012-1118.

*Only regional seats are counted while national representative seats are excluded.

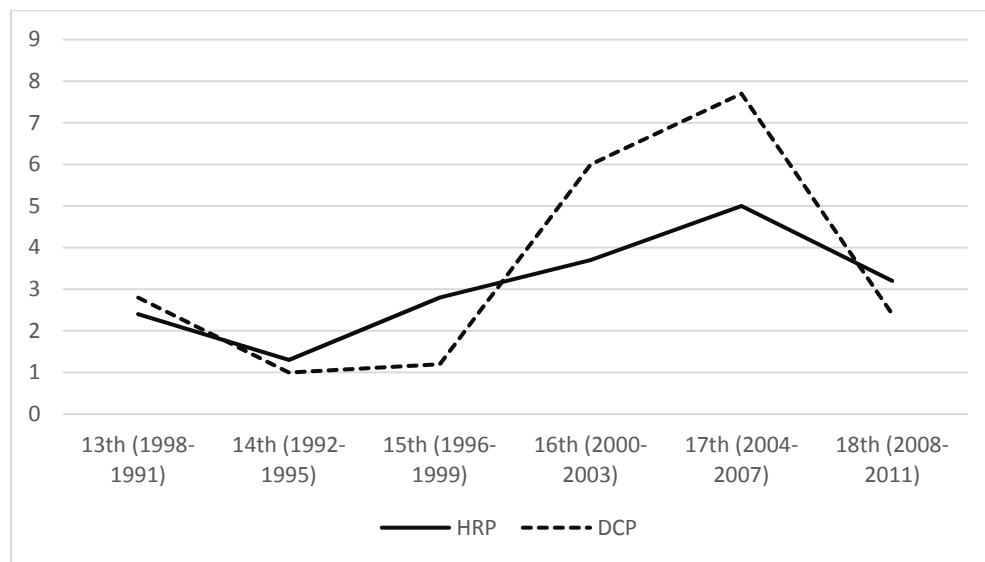
[Table 5-8] Proportion of Loss of Seats to Total Number of Seats (%)

	13th 1988-1991	14th 1992-1995	15th 1996-1999	16th 2000-2003	17th 2004-2007	18th 2008-2012
HRP	2.4	1.3	2.8	3.7	5.0	3.2
DCP	2.8	1.0	1.2	6.0	7.7	2.4

As Graph 5-11 illustrates, except in the 13th legislature, the ruling parties have always held a higher proportion of loss of seats to their total number of seats in the legislature. In the 13th legislature, the opposition DCP lost a slightly higher proportion of seats than the ruling DCP. In the 14th legislature, in turn, the ruling HRP lost a somewhat higher proportion than the opposition DCP. The 15th legislature was the transfer of the ruling party from the HRP to the DCP. In that period, the HRP's proportion of lost seats was much higher than that of the DCP. In the 16th and 17th legislatures, the ruling DCP lost a significantly higher

proportion of seats than the opposition HRP. In the 18th legislature, in turn, the ruling HRP lost a slightly larger proportion of seats than the opposition DCP. These trends indicate that since the 14th legislature, the judicial system in Korea has maintained a high level of political neutrality. At least, the law has not been more harshly applied to rival parties, although small parties and non-party members have experienced unfair enforcement of the election laws.

[Graph 5-11] Proportion of Loss of Seats to Total Number of Seats



*The HRP was the governing party from 1988 to 1997 and from 2008 to 2012, while the DCP was the governing party from 1998 to 2007.

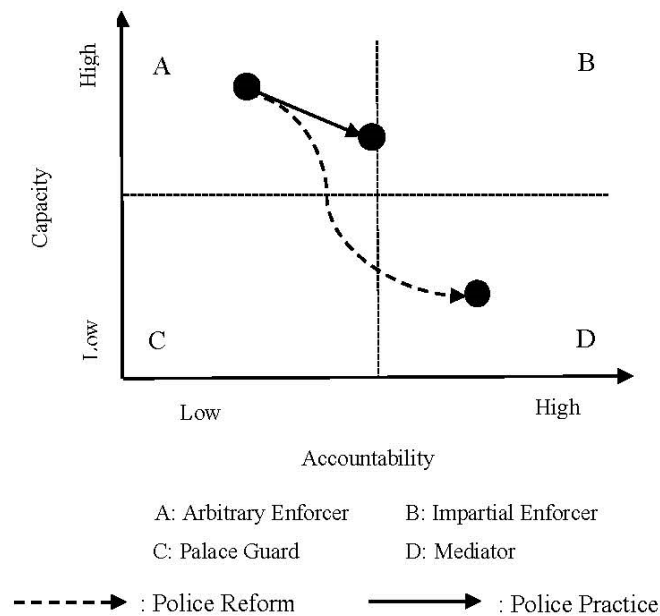
III. Trajectories of Change

Under authoritarian rule, Korean police existed as a typical “arbitrary enforcer.” National division and the crisis of national security due to the North Korean threat provided good soil for the development of police forces with a strong presence and low accountability. The authoritarian police successfully maintained public security but failed to enforce the law impartially. The police were also a strong political tool of authoritarian rulers.

As Chapter 4 illustrated, democratically elected presidents proposed and implemented their own police reforms. Roh Tae-Woo, the first democratically elected president, intended to create police forces with a strong extensive presence and weak accountability—a “fat arbitrary enforcer”—during the first two years of his term. After the three-party merger, his police reform headed toward “hard and fat arbitrary enforcer” with no hindrance from the legislature. Kim Young-Sam, the first civilian president since Park’s military coup in 1961, undertook a police reform that headed toward creating police forces with a weak presence and weak accountability—the “palace guard.” This police reform policy was led by his faction’s precarious position in the ruling party and his strategic utilization of purging to secure his control over the police. Kim Dae-Jung, the first president who accomplished a regime turnover, intensified the vertical accountability of the police and decreased the police presence. His police reform policy was inclined to a “plebeian mediator.” The successful implementation of police reforms proposed by presidents in Korea anticipated the transformation of the police from an “arbitrary enforcer” to a “mediator” through the “palace guarding” police.

However, the examination of police practices in this chapter illustrates a different result. The transformation of the police in Korea since the democratic transition of the late 1980s has been a partial or incomplete transition to an “impartial enforcer,” or continuity as an “arbitrary enforcer.” Although presidents Kim Young-Sam and Kim Dae-Jung implemented police reforms that aimed at creating either a “palace guard” or a “mediator,” the Korean police has never entered the boundaries of these types of police, since the police presence has remained at a higher level with no significant decrease while police accountability has remained low with no significant increase. Figure 5-1 shows the two different trajectories of the transformation of the police. One is a phase of changes in the police that the successful implementation of police reforms anticipated, while the other is the actual trajectory of changes in the police as observed in the police practices.

[Figure 5-1] Trajectory of Police Reforms and Changes in Police Practice in Korea



As Figure 5-1 illustrates, the actual changes in police practice have taken a trajectory different from the intended goals of the president's police reforms. In fact, democratization and police reforms did not lead to a significant change in the practices by Korean police in terms of police presence and police accountability, although many institutional measures were introduced in the police organizations. Korean police have maintained a strong presence and weak accountability since the democratic transition in 1987. The decline in police presence and the increase in police accountability in police practice have been slower and weaker than the anticipated trajectory of police change led by police reforms. Several factors caused these differences.

First, democratization from below had a paradoxical effect on the police presence. The eruption of violent demonstrations and continued physical tensions between the government and demonstrators (e.g., students and labor) justified the maintenance of strong police forces. Second, the geopolitical condition of national division has contributed to the maintenance of strong police forces by making the national security issue a top policy priority. The police remained a centralized state organ with intensive and extensive power in this geopolitical condition. Third, the lack of strong local power also prevented the quick decline in the

police presence. The intensified political competition at the central government level did not cause debilitation of the police or “police capture” at the local society level. However, the same geopolitical condition and lack of local power prevented an increase in police accountability in Korea during the democratic transition period. Oversight of police misconduct, such as human rights violations, was not guaranteed, when the police investigated suspects who were charged with violations of the national security law. The geopolitical situation of national division guaranteed a single command structure of the police invincible to external oversights. Moreover, the public’s demand for police forces accountable to local societies was hard to develop due to the lack of strong local power.

IV. Conclusion

Building impartial law enforcement agencies is the dream of every citizen in new democracies. However, contrary to the wishful thinking that political democratization would cause all good things, not all new democracies transform the police from the physical tool of an authoritarian oppressor into an “impartial law enforcer” that successfully maintains public security and enforces the law fairly. Democratic Korea inherited an “arbitrary enforcer” from the country’s authoritarian predecessor. However, democratic Korea failed to transform the “arbitrary enforcer” into an “impartial enforcer.” An examination of police practices since the democratic transition in the late 1980s illustrates that Korea’s struggle to build an “impartial enforcer” has led to only partial success. The police during this period have maintained a strong presence, but the level of accountability is still low. Korean police have taken a trajectory of incomplete transition to an “impartial enforcer” and still maintain many institutional characteristics as an “arbitrary enforcer.”

Chapter 6

Reforming the Limited “Arbitrary Enforcer” in Taiwan

In the late 1980s, Taiwan underwent a series of important political events of democratization. The first opposition party, the Democratic Progress Party (DPP), was established in 1986. Martial law, which had been in effect for nearly four decades, was lifted in 1987, and the press was liberalized. Constitutional revisions for building a democratic government system and the first free, fair, and competitive presidential elections in 1996 signaled Taiwan’s venture into third-wave democratization. The first regime turnover in 2000 demonstrated Taiwan’s successful entry into a phase of democratic consolidation. The successful democratic transition also intensified the pressure for a transformation of the police from “arbitrary enforcers” into “impartial enforcers.” Newly elected presidents proposed and implemented their own police reform plans not only as a means of satisfying public demand and realizing democratic values but also as an avenue for considering their political and bureaucratic goals. This chapter examines the president-initiated police reforms, which were formulated in the specific political and bureaucratic conditions of democratic transition. In these reforms, focus was directed toward institutional and organizational changes in the police force.

I. Democratization and Conditions for Police Reform

(1) The State: Institutional Transformation

Lee Teng-Hui succeeded Chiang Ching-Kuo as president in 1988 after the latter’s death. Although his political status as the first native Taiwanese president was temporarily precarious, he soon settled a crisis and initiated a series of important political reforms, including the abolition of the Temporary Provisions in 1991, the implementation of constitutional revisions, and the carrying out of national representative

elections, which had been suspended under martial law (Chao and Myers, 1998: 14). In 1994, the constitutional amendment introduced the direct election of a president—a development that enabled Lee Teng-Hui to become the first popularly elected president of Taiwan in 1996. In 2000, Taiwan witnessed the first peaceful democratic regime turnover when Chen Shui-Bian, the DPP-endorsed presidential candidate, was elected president (Ginsburg, 2003: 119).

Democratization in Taiwan was an evolution, not a revolution. It developed in an evolutionary manner, rather than proceeding through an abrupt break with its authoritarian past. The ruling party, the KMT, engaged in democratic transition in a top-down manner and tolerated opposition-driven democratization. The DPP, which challenged the KMT to improve democracy, also complied with the rules on political games that were agreed upon by the two parties. These political developments, underlain by a reformist and pragmatic process based on elite-level consensus, eventually converged and thereby created a democratic polity without any excessive violence between the state and society (Myers, 1998: 33; Chao and Myers, 1998: 295). The constitution has undergone a series of amendments, rather than total replacement with a new one (Mengin, 2007: 233).

Despite the progress made, however, the gradual and evolutionary unfolding of democratization in Taiwan also revealed institutional defects that had been latent under the KMT's four-decade hegemonic rule. The president of Taiwan had enjoyed almost omnipotent political power by controlling the hegemonic party, even as Taiwan's official political system did not grant strong power to the president. The country's political system suffered from a crucial institutional defect: It lacked an institutional measure for resolving impasses and disputes between the executive and legislative branches—a measure deemed unnecessary under conditions wherein the president stringently controlled the legislature. This lack, however, emerged as a crucial problem when the president encountered serious political challenge from the non-mainstream faction in his own party. The election of a non-KMT candidate as president exacerbated the institutional defect because it dramatized the impasses between the executive and legislative branches (Chase, 2008: 168–169). Additionally, securing the independence of the judiciary, which had served only to legally justify

the authoritarian rule of the past, was another pressing work for building a democratic political system in Taiwan.

As a result, institutional reforms were implemented not only to clarify the ambiguous relations between the executive and the legislature but also to empower branches of government outside the executive body (i.e., the legislature and the judiciary). These reforms were intended to moderate the official capacity of the president to hold power and to enable other branches to check the presidential power.

Executive

A series of constitutional reforms paved the way for the creation of institutional measures that clarify and activate check and balance among different branches of government. The constitutional revision in 1992 introduced procedures for the recall (*bamian*) and impeachment (*tanhe*) of a president. To guarantee balance of power between the president and the legislature (which had leaned toward impeachment because of the previous constitutional revision), the succeeding constitutional revision in 1997 was designed to provide the president with the power to dissolve the Legislative *Yuan*. However, the newly assigned presidential power to dissolve the legislature is passive because this authority takes effect only if the Legislative *Yuan* passes a vote of no confidence in the government (*buxinrenan*). Additionally, the president has the right to request the Legislative *Yuan* to reconsider the passage of bills that the president deems difficult to execute. Nevertheless, a simple majority vote of the Legislative *Yuan* is sufficient to confirm the original bills.

Legislature

Membership in the Legislative *Yuan* increased from 164 to 225 in 1998. The Legislative *Yuan* was empowered with the enhancement of its prerogatives, including the power to table a motion of no confidence in the chairman of the Executive *Yuan* (the premier) if one-third of the deputies agreed. To ensure its more extensive formal abilities to check presidential power, the Legislative *Yuan* was also granted the right to establish investigative committees and to conduct public hearings (Marsh, 2006: 80). The National Assembly, which had held the authority of appointing a president and passing constitutional

revisions, was marginalized as a non-standing body. Because its existence caused an inefficiency due to the overlapping of its function with that of the Legislative *Yuan*, it was abolished in 2005. The Legislative *Yuan* took over the authority to approve constitutional amendments, becoming the sole government body that could be considered the country's congress. The strengthened Legislative *Yuan* was expected to function as a major counterweight to the powers of the executive branch and the president (Lo, 2006: 10; Cabestan, 2007: 217–222; Chase, 2008: 187).

Judiciary

The judiciary grew in power with political and institutional independence. With the amendment of the Civil Organization Law in 1992, the Judicial *Yuan* restored its power to dissolve unconstitutional parties. During the authoritarian period, such power was held by the Executive *Yuan* and enabled the dominance of a presidency over the legislature (Tan, 1999: 278). Additionally, the 1997 constitutional amendment increased the independence of the judiciary by allowing the Judicial *Yuan* to independently prepare its budget and to directly submit its separate budgetary plan to the Legislative *Yuan*. Prior to the amendment, the Judicial *Yuan* had been able to submit its budget to the Legislative *Yuan* only through the Executive *Yuan*. The amendment allows the Executive *Yuan* to comment on the budget only at the period before it integrates the budgetary plan of the judiciary into the budgetary bill that will be submitted to the Legislative *Yuan* (Lo, 2011: 111–112). The Council of Grand Justices, which had legitimized the KMT's authoritarian rule by permitting the suspension of national elections through its constitutional interpretation in 1954, also restored its essential role as the independent constitutional court and started to exercise its power to decide and declare either the constitutionality or unconstitutionality of laws passed in the legislature (Cooney, 1999: 256–257).

(2) Agency: Conflict and Control

President Caught between the Legislature and Bureaucrats

Legal and institutional change in a government structure does not necessarily cause change in the president's power to control the legislature. If the president's ruling party continues to occupy a majority of the seats in the legislature, he can still secure his capacity to control the legislature as his authoritarian predecessors did, even if the new constitutional frame officially restrains the concentration of power under the presidency. The practical changes in checks and balances of power among different branches of government are strongly related to electoral results.

Because of the evolutionary manner of democratization in Taiwan, the KMT remained largely intact and maintained its political power during the democratic transition period (Mattlin, 2011: 235). Chiang Ching-Kuo's handpicked successor, Lee Teng-Hui, occupied the presidency three times consecutively for 12 years (1988–1999): In the first succession, he took over Chiang's remaining presidency in 1988 as incumbent vice president; in the second, he was re-elected through indirect elections at the National Assembly in 1992; and in the third, after a constitutional revision, he won the first direct presidential elections in 1996. The 12-year rule of Lee Teng-Hui prevented the abrupt decline of the KMT under the democratic transition.

Furthermore, the KMT had still dominated the legislature (the Legislative *Yuan*) as a majority after the democratic transition, until the DPP became the largest party for the first time in 2001. The DPP defeated the KMT in two consecutive elections (2001 and 2004) for the Legislative *Yuan* (Table 6-1), but it failed to occupy a majority in both elections. After being defeated in the elections, the KMT recovered majority occupation in the legislature, again by heavily defeating the DPP in the legislative elections of 2008. This victory, however, did not mean that the KMT encountered no significant diminution of its political power under the democratic transition. The hegemonic status of the KMT and authoritarian corporatism almost collapsed as the DPP threatened the monopoly of power of the KMT not only at the central politics level but also in local politics, in which the KMT had secured its hegemonic status by successfully exploiting local factions. Since the late 1980s, The DPP has started to occupy many important posts at local elections, including the mayoralty in Taipei and Kaohsiung. The KMT encountered the most serious political crisis

when a presidential candidate of the DPP, Chen Shui-Bian, defeated the presidential candidates of the KMT in two consecutive presidential elections in 2000 and 2004.

[Table 6-1] Percentage of Congressional Seats (Legislative *Yuan*) in Taiwan

	1986	1989	1992	1995	1998	2001	2004	2008
HRP(KMT)	79	72	59	52	55	30	35	72
DCP(DPP)	12	16	32	33	31	39	40	24
Total	100	100	100	100	100	100	100	100

Source: Shelly Rigger (2014: 108).

KMT=Kuomintang Party

DPP=Democratic Progress Party

##Deep Dark Shell: The Ruling Party; Light Dark Shell: The Transitional Period of Regime Turnover

When Lee Teng-Hui took over the presidency in 1988 after the sudden death of Chiang Ching-Kuo, his political position within the KMT was unstable because he was a native Taiwanese; almost all the major posts in the government and in the party were occupied by mainlanders. Nevertheless, he successfully defended his political power as president by skillfully ousting or conciliating his political opponents within the party. He dominated the KMT by the late 1990s given that his internal challengers had left the party to establish the New Party (NP). At the same time, he implemented a series of political reforms through compromises and consensus with the opposition party. When he was indirectly re-elected at the National Assembly in 1992, he seldom encountered conflict with the legislature. This near-absence of conflict occurred even as constitutional reforms had intensified the power of the legislature to check and control the power of the presidency and his executive body—an authority prompted by the tight control of the president's ruling party over the legislature. After a constitutional revision for direct elections, Lee Teng-Hui assumed office as the first directly elected president of Taiwan in 1996. His position was further strengthened when the KMT won an expanded legislative majority in 1998 (Fell, 2012: 50).

President Lee experienced no difficulty in controlling the bureaucrats within his government. He had grown as an economic technocrat under President Chiang Ching-Kuo before he became vice president and president. Although his nationality was initially an impediment to exercising control over the bureaucracy,

whose main posts had been filled by mainlanders, the gradual and evolutionary democratization and his 12-year tenure enabled him to strictly control the bureaucrats within the executive body. At the least, his government was not filled with officials who had been appointed and promoted by politicians from oppositional political forces. All the bureaucrats shared similar political orientations and vested interests in the existing political system. As a president from a ruling party that had reigned as a hegemonic party for nearly half a century, Lee possessed a strong capacity to control both the legislature and the bureaucrats. By contrast, the next president, who was a member of an opposition party, was confronted with a situation totally different from that experienced by his predecessor.

In March 2000, Chen Shui-Bian, the candidate of the oppositional DPP, was elected president. His election was the first peaceful regime turnover in the Chinese history of politics in Taiwan. From the beginning of this term, however, his political status and influence as president were more precarious and unstable than those of his predecessors. The KMT held a majority (55 percent) of the seats in the legislature, whereas the ruling DPP held only one-third (31 percent) of such seats. The institutional measures that had been introduced by the revised constitution to enable checking and control over the presidency now started to function after so long a time when the legislature and the executive were occupied by different parties. This divided government and tensions between the legislature and the executive placed the new president in a precarious and untenable political position (Copper, 2005: 149).

During his presidency, Chen encountered considerable political difficulty because of severe political gridlock in the legislature. In autumn 2000, right after his inauguration, he was under pressure from being recalled by the legislative branch because the KMT, which occupied the legislature, attempted to issue the ultimate sanction (i.e., impeachment) against him. President Chen endeavored to manage this unfavorable and hostile political environment by appointing members of the opposition parties to cabinet posts. For example, he chose Tang Fei, a member of the KMT, as his premier. More than half of his cabinet ministers were non-DPP members. Nonetheless, the opposition parties refused to cooperate with President Chen and his ruling party. The premier soon resigned, becoming the official who served the shortest period in office in the history of Taiwanese politics (Copper, 2005: 149–150).

President Chen was compelled to cope with continued tension with the opposition-controlled legislature during his entire tenure. The DPP administration was almost constantly confronted with difficulties that were associated with occupying a minority position in the legislature. The implementation and passage of government policies, laws, and budget bills were frequently blocked in the legislature given that the Pan-Blue parties (the KMT and the NP) tenaciously blocked the DPP's policy initiatives (Lo, 2014: 51). The most powerful institutional tool of the opposition parties for constraining the president and his executive body's exercise of authority was the Procedure Committee, which held the power to decide whether and when a given government bill will be presented before the rest of the members of the Legislative *Yuan*. Because this committee was controlled by the opposition parties, it repeatedly prevented the Legislative *Yuan* from considering major bills (Chase, 2008: 168–171).

The 2001 legislative elections did not advance a resolution to the deadlock. The ruling DPP failed to obtain a parliamentary majority, even though it grew into the largest party in the legislature with a slight superiority over the KMT. The DPP obtained 39 percent of the seats, whereas the KMT won 30 percent (Table 6-1) (Yu, 2009: 126, 132–133). The deadlock in the legislature continued. From 2002 to 2004, only 15 percent of the bills that the DPP government proposed to the Legislative *Yuan* were passed because of blockage from the opposition parties, which won the majority position in the legislature by forming an alliance with the Pan-Blue camp. The severity of the deadlock can be illustrated by the following events: The passage of the Disposition of Assets Improperly Obtained by Political Parties Law was boycotted 69 times, and the Special Statute for Increasing Investment in Public Construction was vetoed 21 times by the Pan-Blue camp (*Taipei Times*, December 6, 2004: 3).

The election of the legislature in 2004 further intensified the strength of the opposition parties, and President Chen's second term was characterized by even more serious stalemates in the legislature. He became politically isolated and lost power even within his ruling party because of his low popularity and his ruling party's decisive defeat in the 2005 local elections. In January 2008, President Chen resigned—in fact, he was ousted—from his chairmanship of the DPP after a devastating defeat in the legislative elections held that same year (Yu, 2009: 134). Given the deadlock, President Chen increasingly resorted to street

tactics and mass political mobilization outside the legislature to push key political issues on his administration's agenda that were not advancing through official and regular legislative processes (Mattlin, 2011: 150). However, the exploitation of street tactics further diminished his popularity and worsened tensions between the ruling party and the opposition parties.

President Chen's position in his own executive body was no less precarious than his status vis-à-vis the opposition party-dominating legislature because his capacity to control the bureaucrats was insecure. He was the first president from the opposition party; conversely, bureaucrats who had been recruited and promoted by the KMT during the past five decades of the KMT's rule occupied most of the posts in the executive body. President Chen had no stable foundation within the bureaucracy of the government and was compelled to deal with bureaucrats whose political and economic interests were vested in the continuation of KMT rule. The traditional system of strong meritocracy within the government prevented him from freely expelling disloyal officials from the executive. The president was surrounded by uncooperative, even hostile, political and bureaucratic forces not only in the legislature but also in the executive.

Anticipated Directions of the Police Reforms

As previously discussed, Presidents Lee and Chen encountered different kinds of political and bureaucratic conditions during each of their tenure. They formulated and proposed police reforms under the divergent conditions in which they were embedded. Table 6-2 presents the anticipated trajectories of police reform during the tenure of each president.

President Lee solidly controlled both the legislature and the police. His police reform plan was anticipated as being intended to increase the capacity of the police given that this regulatory body was safely under his control, with the president secure in the police's loyalty to him. The increase in extensive capacity for "low policing" would have been more strongly emphasized than intensive police capacity for "high policing" because the former is more useful in coping with rising criminal offenses, whereas the latter is less necessary in conditions wherein the ruling party enjoys a hegemonic position in the realm of central

politics. Additionally, this police reform was not anticipated to increase police accountability given that the president had no reason to employ institutional measures for such responsibility to intensify his control over the police. Because the legislature was tightly controlled by his ruling party, no blockage of his reform bill in the legislature was anticipated. Consequently, President Lee's police reform was predicted to move toward a development of the police force into a "fat arbitrary enforcer."

[Table 6-2] Anticipated Trajectory of Police Reforms in Taiwan

	Lee Teng-Hui (1988-1999)	Chen Shui-Bian (1 st) (2000-2003)	Chen Shui-Bian (2 nd) (2004-2007)
Capacity to Control the Police	Strong	Weak	Strong
Capacity to Control the Legislature	Strong	Weak	Weak
Direction of Police Reform	Fat Arbitrary Enforcer	Plebeian Mediator	Hard Arbitrary Enforcer
Passage of Reform	Pass	Pass	Stalemate

Conversely, President Chen possessed weak control over the legislature and also a diminished capacity to regulate the police force during his first term. Under these political and bureaucratic conditions, his police reform plan was anticipated as being directed toward decreasing police capacity and increasing police accountability. Because he was uncertain about the loyalty of the police, Chen saw no reason to intensify police capacity. Intensifying the capacity of a police force that was potentially disloyal would have led to considerable costs if police betrayal occurred. By contrast, police accountability was anticipated to increase. Given the president's fragile hold over the police, such an increase would have facilitated securing control over the force. In particular, vertical police accountability (i.e., accountability to citizens and local societies), not horizontal police accountability (i.e., accountability to the legislature), was anticipated to be emphasized in the president's police reform, because the legislature was occupied by the opposition parties. Because the intensification of vertical accountability is not regarded as harmful to the opposition, the passing of the president's police reform plan was expected. As a result, the police reform during President Chen's first term was expected to move toward the development of the police force as a "plebeian mediator."

Despite the outwardly promising outcomes of the reform in President Chen's first term, a different direction of such improvements was anticipated under his second term. His administration continued to suffer from weak control over the legislature. The strength of the opposition parties intensified with the 2004 legislative elections. Nevertheless, the president's control over the police was stronger during his second term because four years was a sufficient length of time to intensify control over the force. Under the conditions characterizing his second term, the president's police reform was now anticipated to move toward increasing capacity and decreasing accountability. He had an incentive to increase the capacity—especially the intensive capacity—of the police force, which was now under his tight control. Considering his precarious political condition, such an intensification of police capacity was critical to cope with his political rivals and the opposition parties, or fulfilling the duties of “high policing.” Given his secure control over the police force, President Chen saw no reason to increase police accountability. It was then anticipated that his police reform would move towards transforming the force into a “hard arbitrary enforcer.” However, the presence of an “arbitrary enforcer” with strong intensive capacity under tight control of the president would have created a significant threat to the opposition parties, especially the KMT. More than any other party, the KMT was well-versed in the power of using the police force as a political tool. Therefore, President Chen's police reform plan was anticipated to be blocked by the opposition party-dominated legislature.

II. Presidential Police Reforms

(1) Lee Teng-Hui (1987–1999)

Police Capacity

President Lee's inauguration engendered numerous legal and institutional changes in the police force in terms of duties, jurisdiction, and measures for law enforcement. First, martial law, which had guaranteed the arbitrary use of police power, was replaced by the “National Security Law during the Period of National

Mobilization for Suppression of the Communist Rebellion” on June 23, 1987. As previously stated, the democratic transition nonetheless did not translate to a perfect and abrupt disconnection with the authoritarian past; rather, transition proceeded in an evolutionary manner.

The newly stipulated National Security Law still affords the police widespread powers in the name of safeguarding national security and maintaining social stability. For example, Article 2 of the law restricts freedom of assembly and is associated with the mandate that no person is to “violate the Constitution or advocate Communism or the division of national territory in the exercise of the people’s freedoms of assembly and association” (Tan, 1999: 279). The law also provides coercive institutional agencies of the state, including the police, with remission of a sin conducted in the martial law period by preventing any legal re-assessment of past judgment in the martial courts. That is, the past sins of the police are forgiven under the law. Article 9 states that no verdict rendered by the martial courts in the past can be appealed to the courts (Wu, 2005: 90). However, the law became naturally obsolete as the period of “Mobilization for Suppression of the Communist Rebellion” ended in May 1991 (Yeh, 2009: 131).

During the KMT’s authoritarian rule, the Police Violation Code (PVC) authorized police officers to use their power in arbitrary ways. In 1991, the PVC was replaced by the Social Order Maintenance Law (SOML). This replacement is considered one of the most important constitutional indicators of Taiwan’s shift to democratic legal practice because unlike the PVC, the SOML substantially restricts the scope of pardonable police offenses in Taiwan (Martin, 2013a: 673). In 1992, Article 100 of the Criminal Code was also revised. During martial law, this article enabled the arbitrary use of police power by including not only the “behavior” but also the “intention” of people in crucial elements of crime constitution. The revised Article 100 of the Criminal Code states that no punishment will be inflicted if no “act” of violence and no threatening “behavior” occur. Proof of threat and the commission of violence should be present before charges and arrests can be made (Chao and Myers, 1998: 226).

In 1992, the Garrison Command was dissolved, and its 9,000 personnel were re-assigned to positions in other security agencies, such as the Coast Guard and the Government Information Office (Martin, Chang, and Yeh, 2006: 237). The declining role of the military in politics and the domain of public security exerted

a positive effect on the organizational status of the police. Under Lee's presidency, career police officers were appointed as directors-general of the NPA. Between 1949 and 1990, all the directors-general, except one, had formerly been military generals with little police experience, training, and knowledge of street-level policing (Cao, Huang, and Sun, 2014: 33).

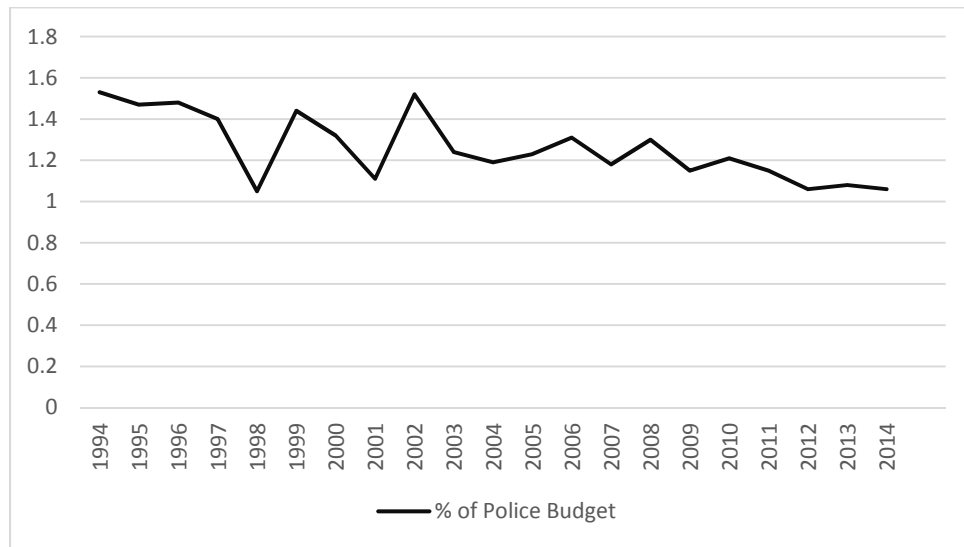
In the same year, amendments were applied to the Parade and Assembly Law, which now permits peaceful demonstrations. Certain restraints were still in place, however: individuals are prohibited from promoting communism or advocating Taiwan's separation from mainland China, and protest organizers are required to obtain a license from the police before they hold demonstrations (Tan, 1999: 279). Under Lee's presidency, the police lost access to numerous legal tools that had been granted by the authoritarian regime for the arbitrary enforcement of law. Nevertheless, they continued to have access to some institutional tools for regulating people's political activities, although their capacity to control people's minds was now restrained.

With regard to police duties and functions, some traditional roles, such as the monitoring of household registration, firefighting, and maritime security, were excluded from police duties. These roles were transferred to other government or private entities. For example, census registration and administration were removed from the police's realm of responsibility in 1992, when the Household Registration Law transferred routine census work from police jurisdiction to civil administration (O'Leary, 1992: 121; Martin, Chang, and Yeh, 2006: 237). At the local society level, however, police officers in *paichusuo* remained responsible for more than 100 different tasks (Cao, Huang, and Sun, 2014: 32, 84).

Police capacity with regard to total manpower and budget was maintained at a higher level under Lee's presidency. Right after his inauguration, Lee increased the total number of police officers by 14 percent in 1988 and again by 11 percent in 1989 (Deng, Vaughn, and Huang, 1994: 279). Under his presidency, the proportion of the police budget out of the total government budget was high (Graph 6-1). The only exception occurred in 1998, during which this proportion abruptly declined from 1.4 percent to 1.05 percent. The next year, however, saw this percentage immediately restored to 1.44 percent. Compared to Korea, whose proportion of the police budget out of the total government budget had never been lower than 4.2 percent

since the 1980s, Taiwan had a meager police budget. However, compared to President Chen in his two consecutive terms, President Lee consistently exhibited a will to maintain police capacity at a high level by allot more budget for the police during his tenure (Graph 6-1).

[Graph 6-1] Proportion of Police Budget out of Total Government Budget in Taiwan



Source: Directorate-General of Budget, Accounting and Statistics, Executive Yuan, R.O.C. (Taiwan).
<http://www.dgbas.gov.tw/ct.asp?xItem=35571&CtNode=6065&mp=1>

Police Accountability

In 1999, the last year of the KMT administration prior to the regime turnover in 2000, an important police reform was implemented by President Lee. He conceded part of his power to appoint police personnel and his authority to approve police budgets to the local governments that had been monopolized by the central government. The Local Autonomy Statute, which was passed by the Legislative Yuan in 1999, provides city mayors and county magistrates with veto power in the appointment of local police chiefs. City and county administrators could now choose police chiefs for their jurisdiction from a list of candidates recommended by the NPA. They are also responsible for evaluating the performance of the police chiefs and can request for a transfer of police administrators undergoing assessment. A large portion of police budgets were also planned by the local governments.

To a limited extent, these measures transferred control over the police enjoyed by the executive at the central level to the executive body at the local level. It increased the accountability of the police to local societies by providing personnel administrative and budgetary power to county or city assemblies and local legislature, which are perceived to more successfully represent local will. However, its effect on the capacity of the police was also crucially detrimental. The allowance of power in appointing police chiefs to the local officers and the enhancement of local control over the police made the police force vulnerable to influence from organized crime groups, which were connected with local politicians, thereby creating the ironic situation of the police being subjected to gangster control. Police operations and law enforcement against illegal businesses became frequently hampered by local politicians who had close ties with the underground world or businessmen engaged in illegal trade (*Taipei Times*, May 1, 2000: 3; Cao, Huang, and Sun, 2014: 34–36).

Lee's decision to decentralize the police force enhanced the influence of local authorities on the police while weakening the central government's power to control the force. Because the police had been tightly under Lee's control, his policy of decentralization was a self-imposed constraint on his own power—a strategy that is rarely adopted in the realm of politics. He and his party, the KMT, could have used the strong and centralized police forces with unitary organizational structures for their political purposes and for maintaining power over and suppressing the opposition parties. However, President Lee and the KMT decided to reduce the power of the central government over the police by decentralizing the police and increasing police accountability to local governments. The implementation of police decentralization by the KMT government was not an irrational political suicide but a strategic political decision for securing at least the minimum level of political control of the KMT over the police, based on the consideration of the current level of their power at the local level and the prospect for regime turnover at the central government level in the forthcoming 2000 presidential elections.

The KMT government's policy of police decentralization was devised as a political “insurance” that would protect itself from the worst case scenario: a regime turnover and the existence of a strong and unified police force under the control of a non-KMT government. The complete control of the police by the central

government (or the president) means that a regime turnover is inescapably accompanied by handing jurisdiction of a strong political tool (e.g., the police) to a political rival or the DPP president. The KMT's policy to increase police accountability to local authorities in 1999 was a strategic choice that was intended to reduce the cost of its defeat in the presidential elections of 2000. The KMT had already encountered a significant decline of its political influence both at the local and national levels. In the 1997 city mayor and county magistrate elections, the KMT obtained only 42.1 percent of votes and won in eight constituencies, while the DPP secured 43 percent of votes and won in twelve constituencies (Schafferer, 2003: 162). At the central level, the KMT obtained 55 percent of the legislative seats in the election of 1998. This was a slight increase compared to the results of legislative election in 1995, in which the KMT obtained only 52 percent of the seats. However, the result was disappointing compared to the results of earlier legislative elections, such as the 72 percent majority achieved in 1989 and the 59 percent majority achieved in 1992, as Table 6-1 illustrates.

The electoral results and declining political status of the KMT at both central and local levels intensified its anxiety about the worst case scenario: defeat in the presidential election of 2000 and a regime turnover. Placing the police force under the control of local governments was not a fully safe measure for the KMT to maintain control over the police because its political status was also declining at the local level. However, compared to decentralization, leaving the police under the tight and monopolistic control of the central government exposed the KMT to a higher level of danger, because a regime turnover, which had long been considered unrealistic, now existed as a tangible threat. It was like betting too much while gambling; the cost of handing over a strong and centralized police force to the opposition party that might win a forthcoming presidential election was an excessively painful prospect. Conversely, police decentralization could be a political insurance policy for the KMT. If the police were not placed under the complete control of the central government and if the local government were to exert influence on the police, it would be beneficial for the KMT to preserve at least partial influence on the police at the local level, even in the case of regime turnover. Moreover, although the KMT faced a declining political influence in the local election of 1997, it still retained a substantive power base in local governments,⁴⁶ which had been maintained thus

far by clientelistic networks between the KMT and local factions. However, the DPP had not yet fully secured the organizational power and financial means to maintain such networks at the local level (Göbel, 2004: 21; Göbel, 2013: 224, 230).

Eventually, the regime turnover that the KMT had been trying to escape was realized. The KMT lost in the presidential election of 2000. Moreover, it also handed over the status of the largest party to the DPP in the legislative election of 2001 for the first time since its retreat into the island. However, the police decentralization, which the KMT had implemented just one year before the regime turnover, prevented the worst case scenario. The KMT was able to maintain at least partial influence on the police at the local level. By decentralizing the police forces and increasing their accountability to local governments, the KMT was able to distribute the cost of electoral defeat in the presidential elections.

The KMT implemented another strategic move to reduce the influence of the president on the central police; the party acted on this strategy during the period between the election of Chen as president in March 2000 and the start of the new administration in May 2000. In April, the outgoing KMT Cabinet passed a proposal to change the status of the National Police Agency (NPA) from an institutional agency under the directorship of the Ministry of the Interior to the level of a ministry. This proposal was designed to free the central police from political pressure by the president and to prevent involving the police in electoral management. In Taiwan, the Ministry of Interior had been responsible for electoral management, and its minister's direction of the police was criticized by opposition forces as a threat to fair election management. The KMT, which strictly controlled the police force during its half-century reign, all of a sudden relaxed its influence and demanded the political independence (or de-politicization) of the police only a few days before it was slated to step down from power. Measures to increase police accountability to local governments and to depoliticize the police by changing its organizational status into a more independent one were strategic choices of the KMT to protect itself from political uncertainty (i.e., from intense competition and the high possibility of a regime turnover) under democratic transition.

The incoming DPP administration criticized the outgoing KMT Cabinet's proposal to change the status of the NPA to a ministry-level institution. It demanded that the outgoing Cabinet refrain from making

important policy decisions of such nature (*Taipei Times*, May 1, 2000: 3). The proposal of the KMT Cabinet was discarded by the DPP Cabinet, although the promotion of the NPA had been part of Chen's campaign pledge during the presidential elections. This proposal never materialized in any of the succeeding governments, including Ma Ying-Jeou's new KMT government (2008–present).

(2) Chen Shui-Bian (First Term: 2000–2004)

Chen Shui-Bian and the DPP leadership assumed office in 2000 with a deeper sense of political and bureaucratic insecurity. They were confronted not only with an opposition-dominated legislature (i.e., the KMT's 55 percent versus the DPP's 31 percent) but also the state apparatus of the central government, including law enforcement agencies, which had been staffed with individuals belonging to, loyal to, and controlled by the KMT for more than a half century. Military, intelligence, and security organizations had been led and staffed by mainland Chinese, whose policy orientation toward "One China" was at odds with the new administration's policy of Taiwanese independence. Furthermore, the DPP had been able to establish only uneasy relations with the government security and police organizations, which the DPP accused as being supportive tools of the oppressive regime (Copper, 2005: 163). Chen's presidency, which contended with a KMT majority in the Legislative *Yuan* and with the task of securing control over executive powers, was predicted by many commentators as weak and portended to encounter a difficult battle in the legislature (Peng, 2000: 8). The police reform of President Chen was designed and implemented in this precarious political and bureaucratic environment.

Police Capacity

Aware of his precarious position in the government as a president elected under the regime turnover, Chen very cautiously approached police reform. As president-elect, Chen declared in 2000 that the reform plan for the police force will be carried out gradually under a measurable pace after being carefully planned while also warning against hasty decisions that may cause even more problems; despite this pronouncement,

he also expressed the hope that the police reform will be achieved at the soonest possible time (Lin, 2000: 3). After Chen assumed office, his main concern was to build up the foundation of control over the police force. First, to secure political loyalty from top police leaders, he appointed Wang Chin-Wang as director-general of the NPA. Wang had been promoted to police chief of Taipei City and served under Chen when he was mayor of Taipei City (Lin, 2003: 3). Second, Chen's government endeavored to eliminate the remnants of the KMT's political influence in police organizations by abolishing political units, such as the *Liu Zhongxing* branch, from police departments. During the KMT's rule, high-ranking police officers, such as the director-general of the NPA, local chiefs, and members of the supervision divisions commonly joined such political units. Such membership not only exerted influence on decision making regarding performance evaluation, promotion, and the disciplining of police officers but was also an actively implemented measure for mobilizing the police force in ensuring the successful campaigns of KMT candidates during elections. The *Liu Zhongxing* branch was officially expelled from police agencies in 2001 (Cao, Huang, and Sun, 2014: 44–45).

Chen's effort to reinforce the personal loyalty of police officials to him through the transfer of personnel was accompanied by the implementation of new policies on public security and programs of police reform to respond to the mounting public pressure for more efficient law enforcement. In July 2000, two months after taking office, President Chen implemented his program against organized crime and corruption through combined efforts to enact new laws, revise existing ones, and restructure government organizations, including building new organizations and reshuffling personnel (Göbel, 2004: 21). In proposing a bill to the legislature for creating a new agency that combats corruption in October 2000, the DPP government aimed to establish a highly centralized anti-corruption administration. The institutional and organizational reform did not simply aim for the increased efficiency of police operations. In institutionally restructuring the police organization, Chen also intended to eradicate the remaining political influence of the KMT, which the party had accumulated for several decades.

In spite of these efforts, a clear observation is that the successful implementation of the new administration's program would nonetheless be difficult to realize because of resistance from the KMT-

dominated legislature and from the bureaucrats who had expanded their vested interests under KMT rule. In the first two years of Chen's tenure, the Legislative *Yuan* continued to be dominated by interests that represent the old order. The KMT's occupation of the majority in the legislature meant that institutional reforms designed to counter the conservative interests vested in the old order were difficult to come by (Göbel, 2004: 22). The government proposal was blocked several times by the KMT from even being discussed at the committee stage of the review process.⁴⁷ The KMT lawmakers opposed the establishment of a new anti-corruption agency because they were concerned that the new agency may become a government instrument for purging its political foes and punishing corrupt acts performed by the KMT politicians in the past (Jou, 2001b: 4). Through their experiences in the past decades as the controller of law enforcement agencies, the KMT politicians thoroughly understood the strength and usefulness of law enforcement agencies as political tools that a ruling group can wield against opposition forces.

Furthermore, the DPP government encountered organizational resistance from officials in law enforcement agencies. Chen Ding-Nan, the minister of justice of the DPP government, attempted to merge the anti-corruption department of the Ministry's Investigation Bureau (MJIB) and the Government Ethics Department into the new anti-corruption agency that the DPP government planned to create. The MJIB spent 80 percent of its human resources⁴⁸ on national security investigations, including "political investigations" on individual politicians for alleged threats to national security (Huang, 2000: 3); it had served as the backbone of the KMT regime's internal security apparatus and as a willing avenue for the KMT hegemony during the authoritarian era. Some claimed that the MJIB resisted the government proposal for the creation of a new anti-corruption agency by conspiring with oppositional KMT legislators (Jou, 2001b: 4). The MJIB successfully resisted Minister Chen's plan to merge it with the new anti-corruption agency, after which the minister was severely criticized for his inability to control the agencies under his ministry and for his failure to create a more transparent and accountable MJIB (Kennedy, 2001a: 8). The sudden replacement of Chen Ding-Nan a year later symbolically demonstrated the political clout and tenacity of the authoritarian institutions that had been established during the KMT rule, even under new

democratic conditions. Eventually, the DPP government's effort to create a unified anti-corruption agency with powers of search, seizure and arrest failed to pass the Legislative *Yuan* (Göbel, 2004: 21).

On April 20, 2000, still under the capacity of president-elect, Chen clarified that he supports a plan to create police administration that is independent from the Ministry of the Interior and to elevate it to a cabinet-level institution (Lin, 2000: 3). The promotion of the NPA was also part of the public safety and security platform that he outlined during the presidential elections (Jou, 2000: 3). However, the plan to intensify police independence through institutional promotion was not implemented by Chen's administration. To realize the promise articulated in the president's campaign, the Cabinet's Research, Development and Evaluation Commission proposed a plan to combine the NPA, the National Fire Agency, and the Coast Guard into a Ministry of Public Safety in January 2002 (Ko, 2002a: 3). This proposal was vetoed by the Government Reform Committee under the Presidential Office in March 2002 (Lee, 2002: 8). What President Chen needed, as the first president under a regime turnover, was not the strengthening of the police force via independence from his control but to secure control over the force. Such independence was a dangerous choice for him because the police, which had been under KMT's influence, could freely wield its coercive tools even against the DPP government. The strategic choice underlying his police reform was increasing police accountability to institutions under his influence, not independence, while reducing the capacity of the force, especially at the central police level.

Although Chen also promised an increase in police force budgets to update equipment and other resources, several indicators show that the capability of the police in this regard deteriorated during his first presidential term. Graph 6-1 illustrates the gradual decline in the proportion of the police budget out of the total government budget in Taiwan under democratization. Contrary to his promise, the police budget in 2001, which was drafted for the first time by the DPP government, considerably decreased in proportion from 1.32 percent in 2000 to 1.11 percent in 2001. Although it markedly increased to 1.52 percent the next year, the average rate of police budgets vis-à-vis government expenditure during Chen's first term was lower than that in Lee's administration. As Table 6-3 indicates, this rate declined from 1.34 percent to 1.29

percent during Chen's first term and further declined to 1.22 percent when he completed his second presidential term in 2008.

[Table 6-3] Average Proportion of Police Budget out of Total Government Budget

	Lee (1996-1999)	Chen 1 st (2000-2003)	Chen 2 nd (2004-2007)
Average (%)	1.34	1.29	1.22

Source: Directorate-General of Budget, Accounting and Statistics, Executive Yuan, R.O.C. (Taiwan).

<http://www.dgbas.gov.tw/ct.asp?xItem=35571&CtNode=6065&mp=1>

As shown in Graph 6-1, the early stages of Chen Shui-Bian's first term was characterized by an annual fluctuation in the proportion of the police budget out of the government budget: it severely declined during the first two years, abruptly increased in the third year, and then abruptly declined again in the next year. These noticeable fluctuations can be regarded as the result of conflicts between the ruling and opposition parties in the legislature, where nobody succeeded in occupying the majority. The president failed to secure a stable police budget until the start of his second term, during which this budget also showed a gradual decline (Graph 6-1). A more significant issue for consideration with regard to the government's effort to intensify police capacity is that during the entire democratization period, the proportion of Taiwan's police budget out of the total government budget was very low compared to Korea's budget. The police expenditure in Korea has always stayed between 3.4 and 5.2 percent of the total government expenditure since its democratic transition, whereas that in Taiwan has always been strictly limited to between 1.0 and 1.6 percent of the entire government budget. This difference equates to almost one-third of the proportion of Korea's budget.

Police Accountability

The DPP government's effort to increase police accountability during Chen's first term of presidency was limited. A compelling incentive for such increase was Chen's desire to guarantee control over the police. Because the new DPP administration was established along with the first historic regime turnover, it was

reluctantly accepted by the subordinate bureaucratic staff, including police officials, who could either directly or indirectly block the implementation of important government policies (Göbel, 2004: 24). Chen's administration initially revealed its interest in intensifying police accountability. On June 14, 2002, Premier Yu Shyi-Kun disclosed the DPP government's intention to reform the system for appointing police officials. President Lee's police reform in 1999 had already conceded part of the presidential office's power to appoint personnel to local government posts. Since the reform, city and county administrators had been given the power to choose police chiefs under their jurisdiction from a list of candidates recommended by the central government. Premier Yu's plan was to further intensify the power of local governments by conferring them full authority to appoint police officials under their jurisdiction (Ko, 2002b: 3). However, the draft amendments to the Law on Local Government Systems, which was approved by the Executive *Yuan* on September 18, 2002, still mandates nominations from the central government in appointing officials in charge of law enforcement before appointment is approved by local governments (Ko, 2002c: 3).

Chen had a clear justification for rejecting the policy of completely turning over the authority to appoint police officers to local governments. Numerous local government posts were already occupied by the KMT. Since 1998, for example, Taipei City had been headed by Mayor Ma Ying-Jeou, a leading KMT politician who was vocal about his presidential ambitions. In an environment where many local governments were controlled by the KMT, increasing vertical police accountability through decentralization and the concession of police appointment power to local governments carried significant danger—that of control over the police being wrested from the administration by the local governments under the KMT's influence.

In December 2001, after Chen spent two years of his term, the ruling party became the largest party (the DPP's 39 percent versus the KMT's 30 percent) but failed to take over the majority. Police accountability to the legislature (or horizontal accountability) now became a feasible policy that President Chen may use to intensify his control over the police. Clearly, however, such an increase was an unfavorable choice for the president, considering the serious political tension between the DPP and the KMT in the legislature. By forming an alliance with other parties, both the ruling party and the opposition could exercise manipulative

procedures to block each other's legislative bills. The Pan-Blue camp (the KMT and its allies) used its majority occupation in the Procedure Committee to block the bills proposed by the Executive *Yuan*, thereby keeping such bills out of the legislative agenda. The Pan-Green camp (the DPP and its allies) retaliated through the reconsideration process. Because of the political tension between the two camps and the head-count advantage of the KMT in the Procedure Committee, major legislative bills did not even have a chance to be voted on at the legislative floor. In 2002, for example, no bill was passed by the Legislative *Yuan* (Jan, 2002: 8). The increase in horizontal accountability was an impractical strategy for President Chen given that the legislature was in a serious gridlock.

(3) Chen Shui-Bian (Second Term: 2004–2007)

Chen's second term of presidency also began with serious political turmoil. On the eve of the presidential elections in March 2004, a shooting incident occurred while Chen was campaigning in his home county, Tainan. He was slightly wounded. The assassination attempt was, however, believed to benefit Chen because it triggered sympathy voting for him. In these elections, Chen won by a small margin (0.2 percent, or less than 30,000 votes). The KMT asserted that the activation of the so-called "national security mechanism" in the immediate wake of the shooting had restrained thousands of police and military personnel from voting, who had been traditionally supporters of the KMT because of their personal and familial link with the mainland (Lo, 2014: 52–53; Cao, Huang, and Sun, 2014: 43). Right after the announcement of Chen's re-election, the KMT and Pan-Blue camp supporters protested in front of the Presidential Office and demanded for an immediate recount. Although President Chen proposed a way to amend the Presidential and vice presidential elections and Recall Law for the purpose of conducting a full recount and eliminating suspicions of vote-rigging, tensions and distrust between the DPP government and the opposition parties⁴⁹ continued to escalate (*Taipei Times*, March 25, 2004: 8). Chen planned to confer 1,600 citations on the 205 police officers participating in the investigation into the shooting on the eve of

the elections. In the end, this plan was abandoned at the last minute following protests by opposition legislators (*The China Post*, April 8, 2007).

In the 2004 legislative elections, which were held only eight months after the presidential elections, the DPP failed to secure a majority in the legislature even as it succeeded in defending its status as the largest party. Conversely, the KMT increased its seats in the legislature. The DPP increased its seats from 39 percent in 2001 to 40 percent in 2004, whereas the KMT increased its seats from 30 percent in 2001 to 35 percent in 2004. The power of the KMT as an opposition power intensified, thereby driving a more efficient monitoring of the DPP and its government through the establishment of a coalition with other opposition parties. The KMT and its PFP (People First Party) ally held a minor legislative majority of 112 among 221 seats, whereas Chen's ruling DPP occupied 88 seats (*The China Post*, June 27, 2006). Chen's political status during his second term became more precarious than before, and the continued government paralysis due to boycotts in the legislature was easily anticipated.

Chen's second term was tainted with political instability and government incompetence because of corruption scandals involving his family and because of anti-presidential movements from opposition forces. On June 27, 2006, opposition law makers voted on the motion to recall Chen. The proposal failed to pass the legal threshold because the required support of a two-thirds majority to put the recall proposal to a national referendum was not satisfied. However, the decline of President Chen's political leadership was rapidly precipitated by the legislature's recall motion and continuing anti-presidential campaigns that called for him to resign (Ko, 2006: 3). The oppositional KMT and PFP acted on their intention to launch another proposal to recall Chen (Shih and Huang, 2006: 3). Outside the legislature, President Chen's supporters and anti-Chen protesters were engaged in confrontations, sometimes causing violent clashes. Even former DPP Chairman Shih Ming-Teh headed massive anti-Chen protests (*The China Post*, September 21, 2006). The functioning of the DPP government was severely obstructed by the deadlock in the legislature and turbulent political conflicts in the streets.⁵⁰

When First Lady Wu Shu-Jen was indicted on corruption and forgery charges on November 3, 2006, both President Chen and the DPP faced the most serious challenge in the party's 20-year history. The first

lady was accused of misusing the president's state affairs fund. The prosecutors stated that they possessed enough evidence to charge President Chen, although the president enjoys immunity from prosecution while in office. In addition to the Pan-Blue camp's second recall motion, dissenting voices from within the DPP was another problem; the dissent stemmed from concerns over the tarnished image of the DPP, with the protesters insisting that the party distance itself from the president to win in the presidential elections of 2008 (Wang, 2006: 3). The legislative elections on January 12, 2008 served as a *coup de grâce* to the already-perishing political life of Chen and his DPP administration. The KMT secured a landslide victory, garnering more than two-thirds (72 percent) of the legislative seats, whereas the DPP occupied only 24 percent of the seats. President Chen and the DPP government completely lost their ability to govern; along with this loss, the remaining chance for the police force to be reformed into an "impartial enforcer" of law disappeared.

III. Politics of Police Reform

Given that Presidents Lee and Chen served their terms under different political and bureaucratic conditions, an anticipated result was that each of their police reforms would tread divergent directions. President Lee, who enjoyed strong control over both the legislature and the police, was anticipated to transform the force into a "fat arbitrary enforcer." President Chen, whose first term was characterized by weak control over the police and the legislature, was anticipated to reform the police into a "plebeian mediator." President Chen, who would restore his capacity to control the police, was foreseen to develop the police force into a "hard arbitrary enforcer" during his second term.

The actual police reform proposed and implemented by President Lee took a trajectory that differs from the anticipated route. His police reform was aimed at transforming the police into an "impartial enforcer." The police were dispossessed of many legal and institutional tools that they had used for the oppressive and arbitrary enforcement of law during the martial law period. The extended roles that they had previously enjoyed were reduced given that household registration, firefighting, and maritime security were separated

from the police force's duties. As the military retreated from the duties of public security, however, the police enjoyed intensified authority in their own areas of law enforcement and maintenance of public order. The financial and human resources of the police were also maintained at high levels under his presidency.

The more dramatic unforeseen change occurred in the dimension of police accountability in the last year of Lee's presidency. Because he had already secured solid control over the police, he had no incentive to intensify police accountability for the purpose of expanding his control over the force. Under these conditions, increasing police accountability through the decentralization of the police would have simply reduced his influence on the police force. Nevertheless, he decisively decentralized the police and increased its accountability to local governments. Local governments were provided the authority to draw up the local police budget and to choose police chiefs from a list of NPA-endorsed candidates. Of course, his policy of police decentralization deviated from the idea of creating a local police force that is perfectly independent of the central police since the local police still remained under the centralized direction and command system. However, the decentralization of the police and the increase in police accountability to local governments were significant changes, considering the maintenance of highly centralized police forces during the past half century.

As previously mentioned, this unanticipated change (i.e., intensified police accountability to local societies) was the result of a strategic choice of the KMT to reduce the cost of possible defeat at the presidential elections in the next year. Given that the KMT maintained its dominance over the DPP at the local politics level, the KMT's policy of decentralization and increasing police accountability was an insurance measure designed to secure its influence on the police at the local level and to restrain power over the force of the central government in case the succeeding administration was occupied by the DPP. As a result, the police reform under Lee's presidency headed toward the development of the force into an "impartial enforcer."

Conversely, the police reform during President Chen's first term was characterized with internal disorder rather than a clear and distinct direction of reform. The DPP Cabinet's Research, Development and Evaluation Commission proposed a plan to create a Ministry of Safety to replace the existing NPA under

the directorship of the Minister of Interior. The implementation of the proposal would have increased the political independence of the police with intensified organizational strength. This plan was, however, rejected by President Chen. Rather than strengthening the existing police forces whose loyalty to him was uncertain, he attempted to establish a new agency that combats corruption. This plan nonetheless encountered resistance from the opposition parties. They objected to the proposal for fear of the possibility of political mobilization of the new agency for the suppression of the opposition parties. Compared to the DPP, the KMT had been more broadly and deeply exposed to corruption and had reason to perceive the creation of a strong anti-corruption agency as an intended threat of the DPP government to the opposition parties. The creation of the new agency was also resisted by officials of the MJIB; a particularly objectionable component was the plan to merge the MJIB into the new agency. Moreover, the police budgets under Chen's first term declined to a level lower than that enjoyed during the term of his predecessor.

With regard to police accountability, the prime minister of the DPP government proposed a more daring plan to increase police accountability to local governments. He attempted to confer full authority in terms of personnel administration in the local police force to local governments—an attempt that was eventually negated by President Chen's rejection of the proposal. The president had a clear reason for objecting to the intensification of police accountability to local governments, a move that differs from his predecessor's increasing of such accountability. The KMT had constructed a strong bulwark in local politics, thereby rendering the DPP's political status unstable. Although the increase in police accountability was a useful means for the president to expand his control over the police, in conditions where local politics was dominated by the oppositional forces, such an increase was a risky option that would have reinforced the influence of the opposition parties on the police at the local level. During his first term, President Chen objected to increasing police accountability and endeavored create other institutional agencies of law enforcement rather than intensifying the capacity of existing police forces. In adopting this strategy, he can be regarded as pursuing the establishment of a “palace guard.” However, the police reform during this

period was tainted with internal disorder and resistance from the opposition parties; realizing it as a concrete policy was therefore difficult.

President Chen's second term was replete with severe tensions between the ruling and opposition parties, as well as with a substantially low level of popularity because of the government's inefficiency in directing the country. The president lost his capacity to formulate and drive a new police reform plan. No meaningful police reform effort was exerted during this period. Table 6-4 summarizes the trajectories of the police reform during the democratic transition in Taiwan.

[Table 6-4] Police Reforms in Taiwan

	Lee Teng-Hui (1988-1999)	Chen Shui-Bian (1 st) (2000-2003)	Chen Shui-Bian (2 nd) (2004-2007)
Anticipated Direction	Fat Arbitrary Enforcer	Plebeian Mediator	Hard Arbitrary Enforcer
Actual Direction	Impartial Enforcer	Internal Disorder	No Reform Effort
Passage of Reform	Pass	Stalemate	Absence

IV. Conclusion

The creation of impartial law enforcement agencies through police reform is a normative goal to which every politician in a new democracy aspires. However, the proposal and implementation of a concrete police reform is also strongly determined by the political and bureaucratic interests of various actors, such as presidents, politicians from opposition parties, and government bureaucrats. A president's police reform plan is sometimes met with bureaucratic resistance and impeded by tensions between the president and the opposition party-dominated legislature; such obstacles are another determinant of the success of presidential police reforms. The trajectory of the police reform in Taiwan since its democratic transition in the late 1980s illustrates the dynamic interactions among various actors in the realm of politics and bureaucracy. The wave of democratic transition in Taiwan led to a series of reform efforts from the president to transform the police force, which had existed as a limited "arbitrary enforcer" under the authoritarian

rule of the KMT. The Taiwanese police system experienced a transition toward becoming an “impartial enforcer” under Lee’s presidency, especially at the end of his tenure. However, this transition soon suffered from internal disorder and a stalemate in the passing of the reform bill at the legislature under the presidency of Chen. The change in police practices and the effects of these reforms on the transformation of the Taiwanese police are examined in the following chapter.

Chapter 7

The Transition to the “Mediator” in Taiwan

Since the late 1980s, politicians in Taiwan have made efforts to transform the police by proposing and implementing police reforms. Some of these reforms have caused numerous changes in the institutional aspects of the police force, while other reform efforts have failed to materialize due to conflicts and disagreement among policy makers within the executive, resistance from bureaucrats, and the disapproval of the opposition party-dominated legislature. However, the successful implementation of police reform does not necessarily mean that the practice of the police also changes, neither does a failure of the implementation of police reform mean that there is no change in police practice. The continuity and change of police practice are influenced by various factors that are beyond the control of the presidents who attempt to transform the police through their reform initiatives. This chapter will trace the trajectory of changes in police practice in Taiwan during the democratic transition and examine the effect of police reforms on the transformation of the police force. It will show how and why the Taiwanese police have been transformed by moving in a direction that neither the presidents nor the citizens anticipated when the country entered the phase of democratic transition.

I. Capable Law Enforcement

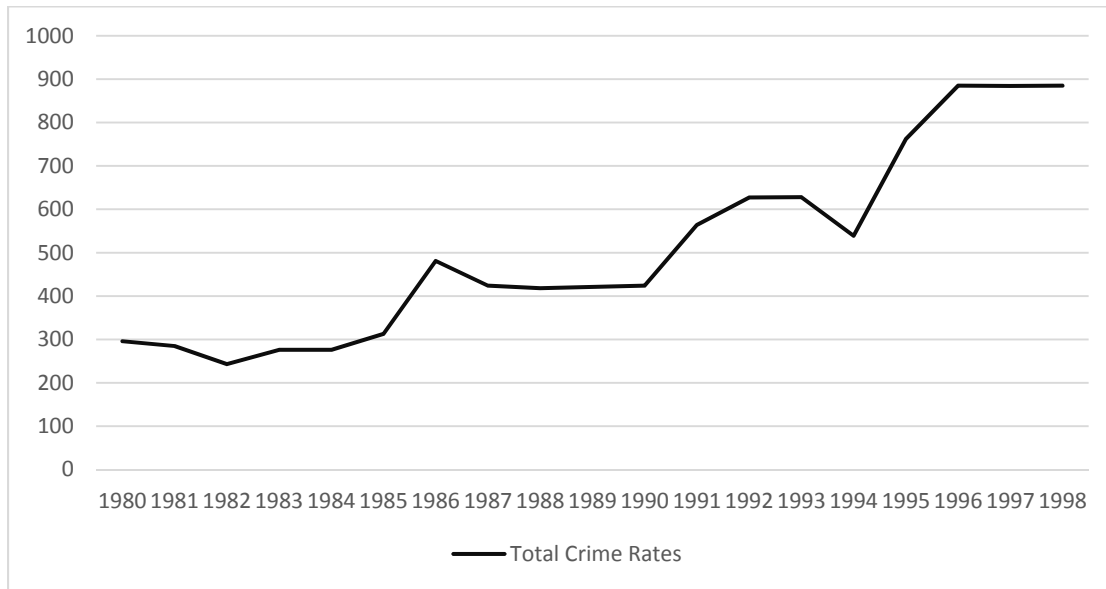
(1) Maintenance of Public Security

The political democratization in Taiwan brought the police back into the realm of public security. During the authoritarian period, the police had taken a secondary role in the maintenance of public security since the military—more specifically, the Garrison Command—occupied a dominant role in public security in the name of protecting the country from the communist threat. However, the lifting of martial law in 1987,

the abolition of the Garrison Command in 1992, and a series of constitutional and legal reforms caused the military to retreat from its duty to maintain domestic order. Various duties were removed from military jurisdiction, such as the responsibility for managing street protests, which became legally stipulated as the exclusive authority of police agencies. Finally, the police reverted to being the major institutional agency responsible for the enforcement of laws and the maintenance of order.

However, the promotion of the police from a subsidiary position to the main public security agency exposed them to intensified public criticism. Police officers now found themselves facing the pressure of public opinion in an unprecedented and direct manner, whereas they had been able to safely hide themselves in the shadow of the military during the martial law period. Because the civil police force stepped into the role of having ultimate responsibility for domestic order by replacing the military, the police under the democratic transition found themselves directly exposed to criticism regarding the status of public safety (Martin, Chang, and Yeh, 2006: 236–38). The state of public security was not favorable to the police. As Graph 7-1 illustrates, the crime rate in Taiwan has increased significantly since the late 1980s. The crime rate was 296 per 100,000 residents in 1980. This figure increased to 424 in 1990 and 885 in 1996. The police were increasingly unable to escape public criticism regarding worsening public security and pressure to improve their performance.

[Graph 7-1] Total Crime Rates in Taiwan, 1980–98 (percentage per 100,000 residents)



Source: Cao, Huang, and Sun (2014), p. 35.

Of course, the increase in the number of reported crimes can be a sign of either an increase in police capability or a decrease in police capacity, as discussed in Chapter 1. The increase in the number of reported crimes cannot be interpreted solely as a deterioration of public security led by the inability of the police to deter the occurrence of crime; it can be a sign of intensified police capacity, in that they are able to successfully detect and prosecute more crimes (Yoon and Joo, 2005: 31–32). However, if the reported rise in crime in Taiwan is a positive sign of the intensification of the capacity of the police to detect and prosecute crimes, the Taiwanese police are still quite incapable of fulfilling these duties, because the reported crime rate in Taiwan is distinctively low compared to that of other countries, such as Korea and the U.S. As Graph 7-1 indicates, the number of crimes reported per 100,000 residents in Taiwan in 1991 was 564. In the same year, it was 2,843 in Korea and 5,897 in the U.S.

The important thing is that Taiwanese citizens have experienced increasing crime since the democratic transition was initiated, and the police have become exposed to direct criticism regarding the worsening status of public security. Table 7-1 shows how the Taiwanese citizens felt about the changes in public safety and the maintenance of order during the period of democratic transition. In a survey conducted in 2001,

56.1 percent of respondents answered that the status of crime prevention and the maintenance of order in Taiwan was becoming somewhat worse or much worse, while only 20.6 percent of respondents answered that it was somewhat better or much better than before, and 18.0 percent answered that it was much the same. In 2006, 23.2 percent of respondents answered that, compared to the situation a few years ago, the safety in their cities, towns, and villages had worsened, while 12.1 percent of respondents answered that it had improved, and 63.4 percent of respondents answered that it was the same as before.

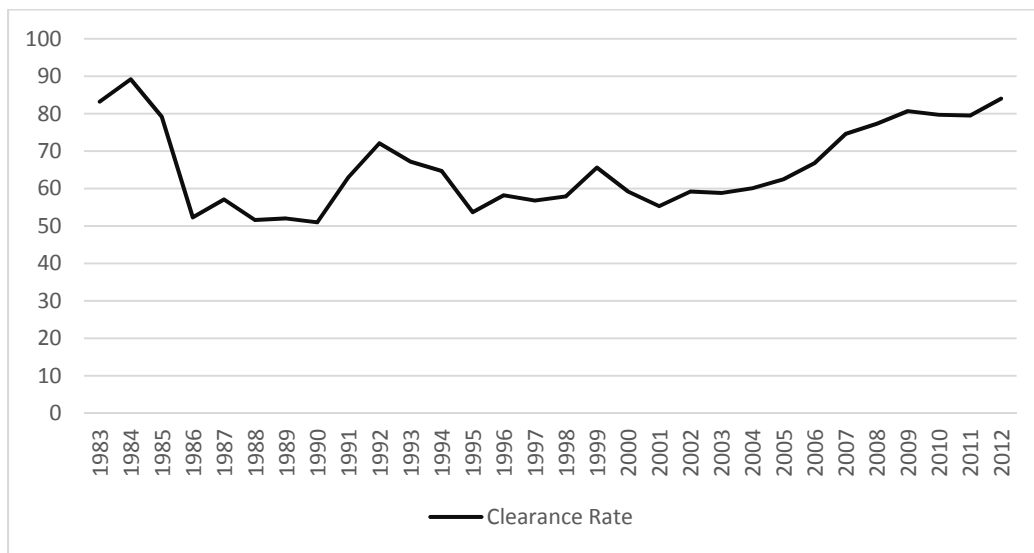
[Table 7-1] Preventing Crime and Maintaining Order (Safety Compared to the Situation a Few Years Ago)

	2001	2006
Positive Change	20.6	12.1
No Change	18.0	63.4
Negative Change	56.1	23.2

Source: Asian Barometer (<http://www.asianbarometer.org/>)

Other indicators also illustrate the declining capacity of the Taiwanese police during the democratic transitional period. For example, the crime clearance rate shown in Graph 7-2 indicates a negative change in Taiwan's police capacity. The high crime clearance rate, which had reached 89.2 percent in 1984, abruptly declined to close to 50 percent during the mid- and late 1980s. Only after 1990 did the rate begin to increase, reaching 72.1 percent in 1992. However, thereafter, it abruptly decreased again to 53.7 percent in 1995. A meaningful increase was shown only at the end of Chen Shui-Bian's second term when the figure reached 80 percent in 2009. While the arrest rate of criminals in Korea had always been maintained between 80 percent and 95 percent before 2010, the crime clearance rate in Taiwan has been extremely low during the democratization period.

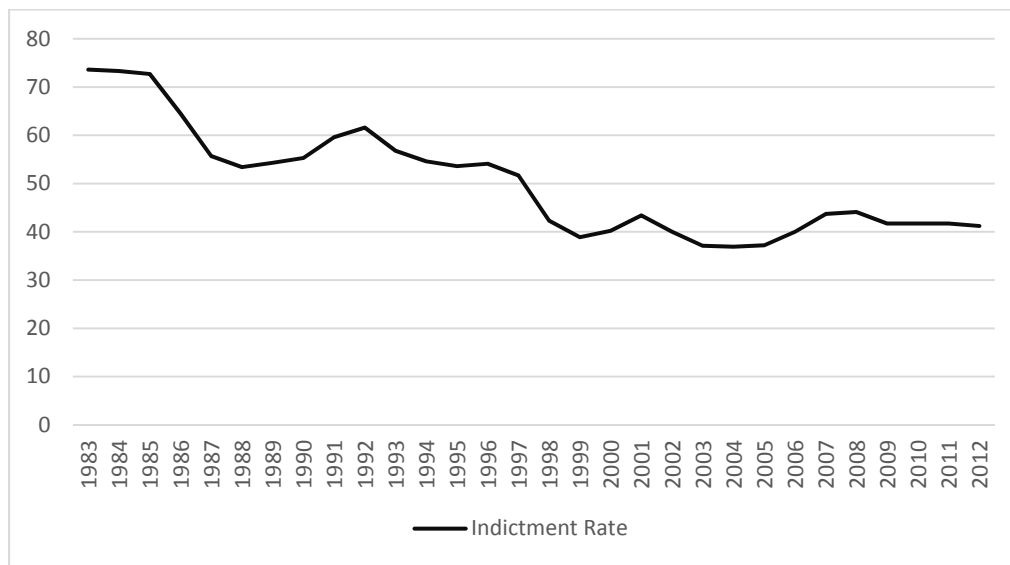
[Graph 7-2] Crime Clearance Rate in Taiwan



Source: Statistical Yearbook of the Republic of China 2012 (edited 2013)

The indictment rates—the proportion of criminals who are indicted out of the total number of arrested people—presented in Graph 7-3 provide clear evidence of the severely declining capability of the Taiwanese police. A lower indictment rate means more cases are dropped by prosecutors because of a lack of sufficient evidence to prove that a crime occurred. In Taiwan, the indictment rate, which had reached more than 72 percent during the early 1980s, abruptly declined to approximately 53 percent during the mid- and late 1980s. The rate then increased during the early 1990s, reaching 61.6 percent in 1992. However, the indictment rate has been gradually declining since 1992. The end of Chen Shui-Bian's first term and beginning of his second term marked the lowest points of the indictment rate (36.9 percent in 2004) in Taiwan, which implies that the capability of the police force was the weakest during that period. Compared with Korea, where the indictment rate was maintained between 60 and 80 percent before 2011, the indictment rate in Taiwan consistently hovered around 40 percent after 1998, illustrating a severe decline in police capability during the democratization period.

[Graph 7-3] Indictment Rates in Taiwan



Source: Statistical Yearbook of the Republic of China 2012 (edited 2013)

(2) The Decline of Police Capacity

The severe decline in police capability in Taiwan could be more distinctively observed from the standpoint of the inability and avoidance of law enforcement at the local level. Two factors exert influence on the weakening of police capability: (1) informal networks between the police and the local elites and (2) the decentralization of executive control over the police.

First, the informal networks between the police and the local elites reinforced the weakening of the police capability at the local level. The Taiwanese police are a centralized force with standardized features in terms of organization and operational principles, such as uniform training, operational guidelines, similar equipment, and a single promotion process. However, the police officers at the local level have maintained a strong informal connection with neighborhood residents through the *paichusuo*, or the substations system. Direct contact and networking with local residents are important aspects of police work in Taiwan because the police use house visits, which are conducted at least twice each year, as a crime control mechanism in criminal investigations and for the surveillance of ex-offenders. The contact between the police and citizens

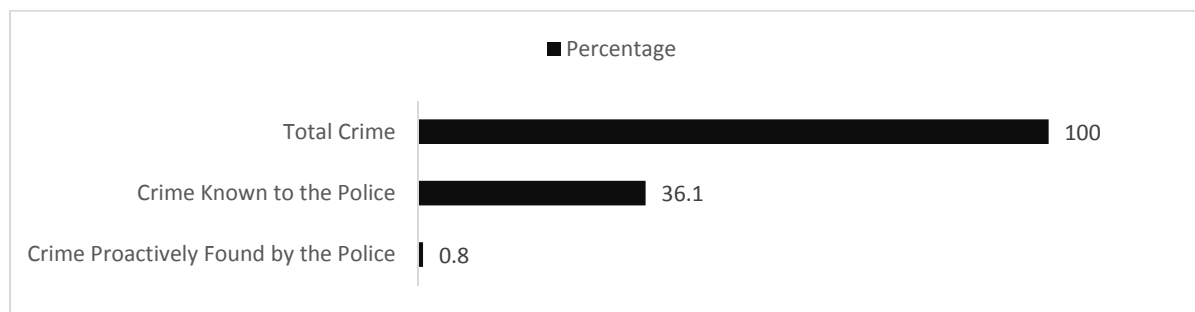
is not restricted to the formal area of crime prevention and control. The police officers working in the *paichusuo* are deeply involved in community activities not only in terms of their official duty but also as private members of the local community. They socialize regularly with community residents by frequently attending social events, such as wedding receptions, birthday parties, and funerals while they are off duty, and being a genuine member of the community is widely perceived as an obligation among police officers in *paichusuo* (Lee, Cheurprakobkit, and Denq, 1999: 60; Gingerich and Chu, 2006: 124; Cao, Huang, and Sun, 2014: 78–84).

In light of the close informal ties that exist between police officers and the local residents in their jurisdictions, local policing in Taiwan has become characterized by relatively low levels of overt coercion. The police tend to be hesitant to use their coercive measures to enforce the law against local residents. Instead, they encourage and assist citizens to settle disputes outside of the criminal justice system (Sun and Chu, 2006: 194). The role of the police, which is closer to that of “mediators” or “dispute settlement agents” than “law enforcers,” does not lead to anticipated positive outcomes, such as an increase in police accountability or a constraint of arbitrary police power by local citizens. Rather, it signifies the marginalization of law and formal legal authorities from scenes of criminal incidents in Taiwan (Winn, 2007: 367; Martin, 2007: 676). When street fighting occurs between youngsters, for example, they go directly to some of the local gangsters and ask them to come out to resolve the criminal matter. If, for example, a traffic infraction occurs, the residents ask a village chief to consider the situation and use a bit of influence to resolve the problem. The village chief can decide to ask the police to intervene when the situation is more serious. The police officers also prefer to utilize the so-called *difang renshi* (local elites), such as the village or borough chief, by asking them to come to the scene when they are mediating civil conflict (Martin, 2011: 43–44).

The alienation of the police with regard to addressing criminal incidents can be detected by crime victimization surveys. A crime victimization survey conducted in the year 2000 indicated that only 36.1 percent of the victimization incidents that had occurred in the previous year were known to the police, while 62.3 percent were unknown to the police. As Graph 7-4 indicates, among the victimization incidents known

to the police, only 0.8 percent were proactively discovered by the police themselves; most of the incidents were reported by either the respondent (58.2 percent) or another person in the respondent's household (36.4 percent) (Mon, 2003: 17–18). Police officers, especially lower-level officials, sometimes employ the strategy of “eating cases” (i.e., not recording reported criminal cases and, in effect, pretending that they did not happen) when superior officers provide them with improper instructions, such as setting a deadline for solving a criminal case or setting maximum crime rates, which are laid down to demonstrate visible police accomplishment in a short period and to prove their administrative capabilities during their tenure (*Taipei Times*, May 1, 2000: 3).

[Graph 7-4] Crimes Known to the Police (Year: 1999)



Source: Mon (2003), pp. 17–18.

In addition to this strategic response of lower-level police officers to the political pressure from above, the police in Taiwan remarkably endeavor to avoid becoming involved in any troublesome matters, including street crimes, when they conduct police patrols, and the mode of policing is based on mediation rather than on the coercive enforcement of the law (Martin, 2013a: 161, 167). For example, six police officers in Taichung were disciplined on January 8, 2007 for failing to protect the victim of a street beating. Although passersby called for police help as they saw the victim being beaten by five thugs with baseball bats and bicycle chains, the police officers who were called to the criminal scene did not attempt to stop the beating, which was photographed by some of the passersby (*The China Post*, January 9, 2007).

Moreover, democratization, or the selection of a central government through electoral competition, has increased the influence that the local powers who are linked with the criminal forces exert on local governmental affairs. Many politicians run for local office with the support of underground societies, and even individuals who have underground backgrounds are elected as local officials or political representatives. In 1994, the Taiwanese authority estimated that one-third of all representatives holding a seat in local parliaments were organized criminals (Göbel, 2013: 229). At the national level, according to the National Police Agency, one in twelve members from city/county councils, the Legislative *Yuan*, and the National Assembly had criminal records (Liu, 2000: 9). The progress of democratic transition caused no meaningful change in the entry of violent racketeers into Taiwan's local politics. In 2001, it was estimated that one-third of the elected town and township representatives still had backgrounds in organized crime (Lo, 2008: 253).

“Black Gold (*heijin*)”—the intricate and hidden network of collusion between politicians, businessmen, and criminal organizations for the pursuit of financial interests through corruptive means—emerged to construct its own forms of order at the local level (Martin, 2007: 675; Cao, Huang, and Sun, 2014: 93). “Black Gold” politics (or the criminal penetration of politics) is not a phenomenon that began only after the democratic transition in late 1980. Its origin dates back to the formation of the “outside regime” of the KMT in 1949. Without legitimate support from local society, the KMT incorporated local factions into its political machine through vote-buying and pork-barrel legislation, which served as the basic network for the KMT's local power during its authoritarian rule (Liu, 2000: 9).

However, democratization, accompanied by decentralization and the collapse of KMT's monopoly of power in the central government, changed the relationship between government and local factions. Although the KMT depended on local factions for securing political support at the local level, it continued to occupy a position that was superior to that of its local counterparts by using various formal/informal devices, such as party nomination, electoral regulation, and the allocation of financial resources, which were effective in reducing the collective power of local factions and inducing their compliance (Martlin, 2011: 49; Bosco, 1994: 135). However, democratization and decentralization transformed the existing

asymmetric power relations between the government and the local factions. As the KMT's monopoly of power transformed into a competition for power between different parties, the means of the central government to tame the local factions was remarkably reduced, while the chances of local factions infiltrating the fragmented political power to exert their influence increased to some extent.

The police were also influenced by the rise of "Black Gold" politics, as the local factions that were involved with organized crime transformed themselves from the subordinate role of helping the KMT preserve local support as electoral mobilizers to the dominant position of actively influencing the political decision-making process as actual political participants in the electoral political system (Liu, 2000: 9). The decentralization of executive control over the police through the concession of power to appoint police chiefs to the local officers reinforced the influence of "Black Gold" on the police while weakening the capability of the police to enforce the law. These politicians with "Black Gold" backgrounds provide organized criminals, who engaged in various illegal businesses, such as the sex and gambling industries, with immunity from police crackdown. Even gang leaders became conveners of the Police Administration Group (*jingzheng Xiaozu*) in the local legislatures and thereby obtained the formal authority to supervise the local police (Göbel, 2004: 18; 2013: 229). When formal legal devices and the informal backing of the KMT, which had provided the police with extensive and arbitrary power, dissipated with democratization, the local police, who were equipped with only weakly institutionalized legal-bureaucratic authority, became vulnerable to the local political forces (Martin, 2013a: 161–162).

The capacity of the police to mediate disputes and solve problems impartially, which is commonly required of the Taiwanese police considering its accentuated role as a mediator in Taiwanese society, cannot be sustained when police operations are exposed to the pressure from local politicians and business moguls to protect their private interests. Police operations against illegal businesses, such as gambling and prostitution, are frequently interfered with by members of the local city/county councils who are members of the underground world or who have close ties with the owners of illegal businesses. These individuals could boycott the police budget if the police failed to heed their requests to tolerate illegal businesses that are under police investigation (Sun and Chu, 2006: 194–195). As a result, the police are believed to

investigate only those crimes that are committed by ordinary people; once an incident involves a political figure, that incident becomes something that is beyond the capacity of the police to solve (Chin, 2003: 187).

II. Accountable Law Enforcement

(1) Corruption

The Taiwanese society has limited confidence in the police, who tend to be seen as the last resort when it comes to solving problems, including criminal offenses, or to be viewed as a waste of time. In particular, the police at the local level are perceived to be ineffective in regard to criminal investigation. The local police are criticized for being unable to collect evidence thoroughly and without the assistance of the Criminal Investigation Bureau (CIB) under the Ministry of the Interior or the Ministry of Justice Investigation Bureau (MJIB) under the Ministry of Justice (Chan and Chen: 2002: 8). The public believes that the inefficiency of the police originates from the rampant corruption within police organizations. It is believed that many police officers spend their time on “second careers” or illegal side businesses⁵¹ while doing little to ensure public safety (Kennedy, 2001b: 8).

The low confidence in the official justice system in Taiwan is not a new problem that simply emerged with democratization. Under the KMT’s authoritarian rule, the Taiwanese already preferred to solve their problems outside of official institutions rather than resort to the official justice system of the state, such as the court (Winn, 1994: 195). The police were summoned merely to put a temporary end to a quarrel by mediating a truce. Disputes were mainly solved outside of the justice system. For example, in 1975, only about 25 percent of all disputes and criminal accusations in the village of Beiyuan were transferred to the court for official action; the remainder were resolved informally (Moser, 1982: 45–46). The limited role of the police as a law enforcement agency and the low trust in the police are not exclusive to the democratization of Taiwan.⁵²

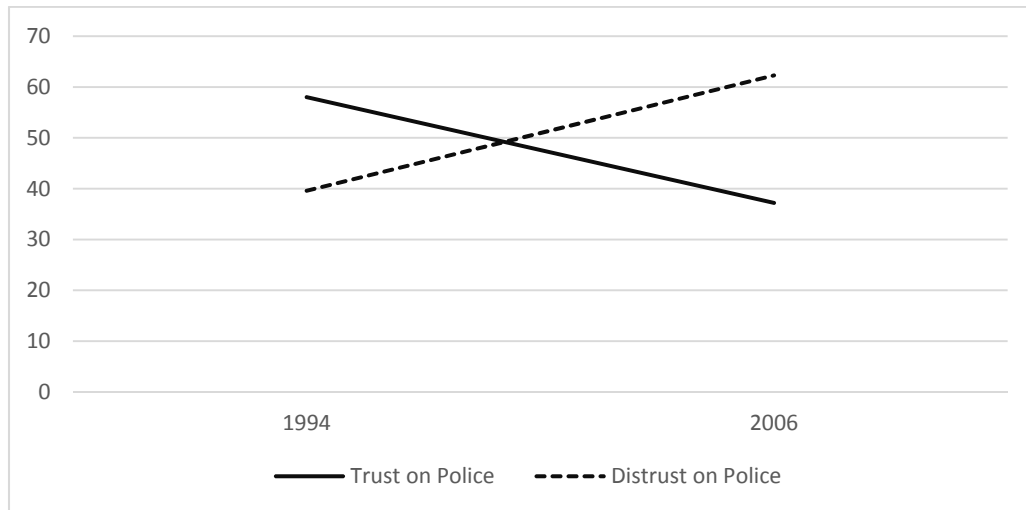
However, the tendency of the Taiwanese to avoid reporting crimes to the police and to dislike becoming involved with them cannot be simply considered a result of the cultural tendency of the Chinese to solve problems informally (outside of the official justice system) or a result of arbitrary and oppressive law enforcement under the authoritarian rule of the past. People's confidence in the police and their perception of police corruption have deteriorated with the democratic transition. Graph 7-5 shows how confidence in the police has undergone significant deterioration with the unfolding of democratization in Taiwan. In 1994, 58.0 percent of respondents answered that they trusted the police a great deal or quite a lot, while 39.6 percent of respondents answered that they trusted the police not very much or not at all. In 2006, the levels of trust and distrust were reversed: Only 37.2 percent of respondents expressed confidence in the police, while 62.3 percent revealed their distrust of the police.⁵³

Graph 7-6 illustrates the status of police corruption compared to other institutions of the state in Taiwan. In a survey conducted in 2006, the police were ranked as the third most corrupt among 15 institutions in Taiwan. Of the respondents, 75 percent considered the police to be either extremely corrupt (46 percent) or corrupt (29 percent). Only political parties and the parliament (legislature) were perceived as being more corrupt than the police (Yu, et al., 2008: 176). Citizens also had a low level of trust in the judiciary, which ranked as the fifth most corrupt institution in Taiwan among the fourteen.

Under the democratic transition, Taiwanese citizens do not show simply unilateral or one-sided distrust of the police. It is a mutual phenomenon since the police officers also distrust the citizens. The police have maintained close informal ties and frequent contact with community residents due to their wide-ranging functions in the local communities that extend far beyond the duty of security maintenance. During the authoritarian period, they were also assigned various other administrative functions of government, such as house registration, fire control and prevention, and the registration and inspection of aliens' residences, as discussed in Chapter 3. However, Taiwanese police officers have negative attitudes toward the role of citizen support and cooperation in preventing and suppressing crime (Sun and Chu, 2006: 202–204). A 1991 survey indicated that police officers did not believe that police–citizen cooperation through

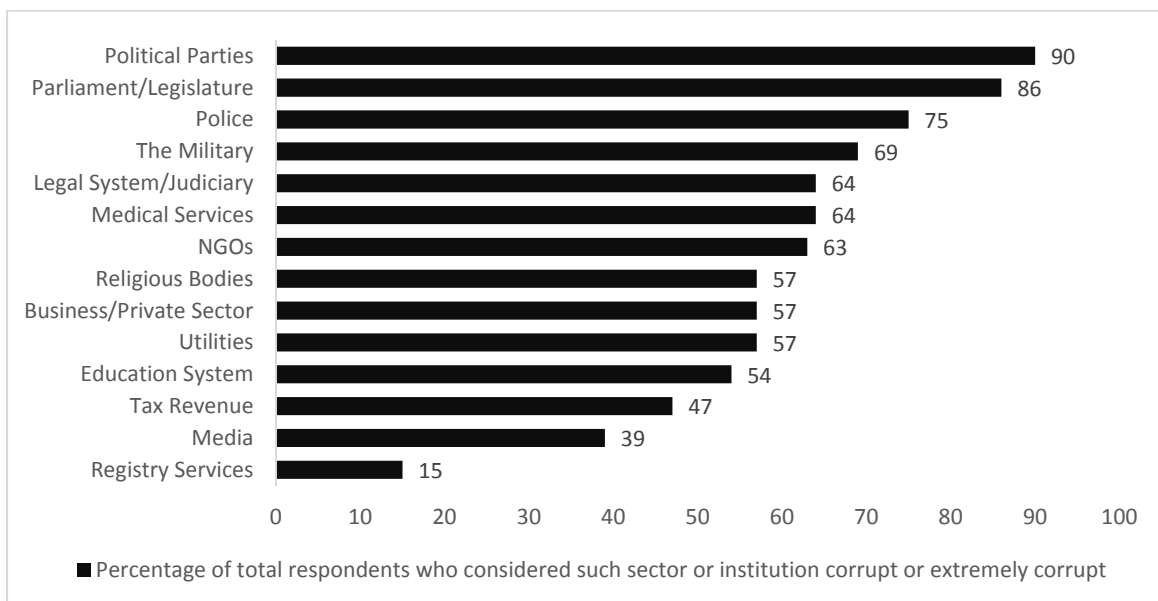
neighborhood watch programs would contribute to the effectiveness of crime prevention and to the improvement of police–community relations (Lee, Cheurprakobkit, and Denq, 1999: 72).

[Graph 7-5] Trust and Distrust of the Police (1994, 2006)



Source: Values Surveys (1994 & 2006)

[Graph 7-6] Impact of Corruption on Different Sectors and Institutions in Taiwan (2006)



Source: Yu, et al. (2008), p. 176.

As police corruption and citizens' distrust in the police endangered the legitimacy of the democratic government, the KMT and DPP governments made an effort to demonstrate to the public their commitment to rectifying corruption. The Public Functionary Assets Disclosure Law (or the "Sunshine Law") was created in 1993 to monitor corruption among government officials. The law has contributed to an increase in the accessibility of the public to information on public officials' assets and integrity, including those of high-ranking police officials. In 2001, for example, Ting Yuan-Chin, a former head of the National Police Agency and incumbent national policy advisor to President Chen, violated the law by not fully disclosing his assets to the government, although his wealth had dramatically and suspiciously increased. However, the law is also criticized as being a "toothless tiger" because the penalties for violation are so minor that they cannot effectively deter the corruption of officials. Furthermore, the Control *Yuan*, which takes charge of its enforcement, lacks sufficient resources and the legal authority to investigate criminal responsibility (*Taipei Times*, July 12, 2001: 8).

The eradication of "Black Gold" was a key campaign platform of President Chen; in fact, it contributed to his victory in the presidential election of 2000 (Liu, 2001: 8). However, Chen's pledged effort produced only superficial results⁵⁴ due to severe confrontations between the ruling party and opposition parties in the legislature. For example, on October 2, 2003, the Executive *Yuan* of the DPP government proposed draft amendments to the Election and Recall Law. To maintain a clean election and reduce the influence of "Black Gold" on electoral politics, the draft amendments stipulated that a party nominating a candidate who had a record for having committed a violent crime would face a fine of between NT\$500,00 and NT\$5 million. The draft also imposed a fine of between NT\$1 million and NT\$10 million on anyone who was guilty of buying votes or bribing rival candidates to withdraw from a race (Ko, 2003: 2). However, due to repeated boycotts by the opposition parties in the legislature, the DPP government's effort to repress "Black Gold" politics was unsuccessful. Taiwan's Public Officials Election and Recall Law was significantly amended on November 7, 2007. Ironically, it was Ma's KMT government that passed the bill, although the KMT had repeatedly rejected its passage during Chen's presidential tenure.

Other measures were also introduced to combat corruption. To monitor vote-buying schemes in the presidential election of 2004, police officers were promised promotions and cash awards for their success in cracking down on vote-buying (*The China Post*, February 11, 2004). In December 2005, an anti-corruption committee under the DPP ruling party became operational. The committee aimed to revitalize the DPP's image of integrity and discipline by contrasting it with the old, corrupt image of the KMT. The committee was open to all people, including non-DPP members, who were encouraged to report their findings about unlawful practices committed by DPP members, government officials, and law enforcement agencies (Yu, 2009: 159). However, because the committee was under DPP control rather than being granted organizational independence, a meaningful increase in police accountability was not expected.

(2) Human Rights Violation

Political democratization in Taiwan led to the creation of legal measures to protect human rights from the abuse of power by law enforcement agencies. A Miranda-style warning was introduced in 1997 to facilitate the foundation of basic protection for criminal suspects (Lin, 2001b: 2). In 1999, interrogation at night without the consent of the suspect was prohibited by amendments to the criminal procedure code in order to guarantee due process during criminal proceedings (Lin, 1999: 4). An additional revision of the criminal procedure code in 2001 led to the transfer of power to issue a search warrant from prosecutors to judges. In the past, prosecutors were given full powers to authorize searches without any requirement to file for search warrants from the courts. Under the new rules, the law enforcement agencies, including the police and prosecutors, must obtain a warrant from the courts before carrying out a search. Although they can conduct a search without a warrant in an emergency, they must still file a report with the courts within three days of the search to request retroactive approval. To protect civil rights, any emergency search that is not reported within the three-day period is nullified by the courts (Lin, 2001a: 2).

However, human rights violations on the part of the police through the utilization of questionable methods, including torture, to extract confessions from criminal suspects did not simply disappear with

democratization. In a survey conducted in 2000, over 1,700 prisoners said that the police had employed the use of torture in obtaining confessions. There is, however, no statistical evidence on the prevalence of torture because it tends to be conducted in a closed room in the presence of no one other than police officers. Among the numerous factors that have led to human rights violations by the police, including the legacy of the martial law period, police performance evaluation methods in Taiwan are also responsible for the continuity of police torture, even in the changed political landscape of democratization. The police earn credit for having a case go to trial, even if the ultimate verdict in the court is not guilty. Cases of the police being prosecuted for torturing suspects are extremely rare, although human rights activists and lawyers believe that torture by the police remains a reality in Taiwan (Chuang, 2001: 4). The judiciary's acceptance of confessions also encourages the police to torture suspects. Defendants' confessions made during police interrogations, which used to be regarded as the "king of evidence" during the martial law period, still carry a great deal of weight when decisions are made by the court (Lin, 2001b: 2).

The revision of the Code of Criminal Procedure on February 6, 2003 intensified the protection of human rights by making investigation procedure more transparent and restraining the weight of confessions as proof. For example, Article 100 stipulates that the entire proceedings of an examination of the accused should be audio- or video-recorded without interruption. Article 156 stipulates that if the accused states that his or her confession was extracted by improper means, the prosecutor must prove that the confession was voluntary; otherwise, it cannot be used as evidence. In the past, if a defendant claimed to have been tortured by the police, the burden of proof was on the defendant (Kao, 2006: 8).

In spite of these amendments, however, the Taiwanese law and judiciary still in fact provide the police with room to violate human rights during their investigation of crimes and their law enforcement activities. The legal competence of the evidence obtained by illegal means, such as the illegal monitoring of communication or a confession obtained through violence, coercion, seduction, and/or deception, is decided based on a balanced consideration of the protection of human rights and the maintenance of the public interest rather than being strictly excluded. Article 158(4) of the Code of Criminal Procedure stipulates that "unless otherwise provided by law, evidence obtained in violation of statutory procedure by officials having

the responsibility of carrying out criminal procedure shall be decided as to its capacity of proof taking into account the maintenance of the balance between the protection of human rights and public interests” (Lo, 2006: 232). In an environment in which human rights violations are sometimes tolerated by the judiciary in the name of maintaining the public interest, police officers, who are pushed by higher police authorities to keep crime statistics down and do whatever they can to increase the ratio of crimes solved, are forced and tempted to resort to torture to extract confessions from suspects (Jou, 2000: 3). Another amendment of the Code on December 12, 2007 did not lead to a change in the stipulation of Article 158(4).

Intensifying public demand for a crackdown on corruption and the desire of the government to show its visible efforts to eradicate the “Black Gold” problem also tend to place law enforcement agencies under pressure to violate human rights and civil liberties. In 2000, for example, the incoming Minister of Justice, Chen Ting-Nan, who was designated by President-Elect Chen Shui-Bian, claimed the necessity to provide anti-corruption investigation officers with greater powers to search, seize, and arrest without a prosecutor-signed warrant and to place the burden of proving innocence on the suspect when he or she is found to have suspicious amounts of wealth. The suspect who is unable to point to a source of income, according to his plan, should be inferred to be guilty (*Taipei Times*, April 24, 2000: 4). His proposal was criticized as “crusades” that turned into “witch-hunts” because he tried to justify the means—eroding civil liberties—for the end—fighting corruption—by violating the principle of the presumption of innocence and the right to remain silent (Kennedy, 2000: 12; 2001: 20).

(3) Political Neutrality

The KMT Government

New legal devices introduced by the KMT during the democratic transition since the lifting of martial law in 1987, such as the revision of the criminal code and the replacement of the Police Violation Code with the Social Order Maintenance Law, did not prevent the arbitrary enforcement of law by the police under the KMT regime during the initial period of democratic transition. On the contrary, the KMT government,

which was now under crisis regarding its political survival under democratization, had a much stronger incentive to use the police force to protect and complement its declining power. During the democratic transitional period in the late 1980s and early 1990s, Lee Teng-Hui and his KMT members encountered not only external challenges from the DPP but also internal disputes with the non-mainstream KMT members, who criticized Lee Teng-Hui's initiation of democratic reform. To combat this political crisis both inside and outside of the party, the KMT relied on local factional leaders, including business tycoons, and even organized criminal groups to win elections that were becoming more competitive and less predictable. In this way, Lee, known as "Mr. Democracy," intensified the "Black Gold" phenomenon in Taiwan (Cao, Huang, and Sun, 2014: 45).

As the KMT encountered deepening political crisis and utilized the "Black Gold" to overcome the crisis, crime control strategies and decisions became politically charged in a highly partial way to coerce these groups to follow the party's orders. As a result, many police officers were forced to assist the KMT candidates during the period of democratic transition. For example, police crackdowns on gangs were frequently used to win elections rather than to eliminate those criminal organizations. Some influential underworld figures tended to be arrested just a few days before an election if they did not support the KMT or imprisoned after an election because they supported the wrong side—losing or non-KMT candidates. The target of law enforcement was highly selective and based on political considerations rather than criminal evidence. The KMT's strategy was that if the targeted local elites did not support the KMT candidates, the law enforcement agencies would treat them as criminal figures and arrest them (Chin, 2003: 180, 192).

In this way, law enforcement was used by the KMT as a political tool even after the successful democratic transition in the late 1980s and early 1990s. At a glance, the Taiwanese police continued to exist as an "arbitrary enforcer," satisfying the need of the central government and ruling party to tame local factions and coerce their obedience. However, there was a decline in the capability of the police to enforce the law impartially, as they were exploited for the political purpose of the ruling group in elections. Although complaints and anxiety about vote-buying and campaign violence accumulated,⁵⁵ the KMT,

which still had to rely on local factions to secure political support in local communities, did not show the will to resolve these problems, and it became clear to the public that the police lacked the willingness and the capacity to enforce the law in an impartial manner (Liu, 1999: 12). The political use of the police not only weakened their capacity but also exacerbated the political crisis of the KMT regime. The KMT was now in a dilemma or “no-win” situation. The failure to prosecute guilty parties, or the local elites, due to the necessity of the KMT to win their cooptation would further exacerbate its image as a corrupt political force. Conversely, successful prosecution or fair police enforcement of the law could shake the KMT’s local foundation severely by endangering coopted local factions in the city and county councils of the pro-KMT regions (Chin, 2003: 192–193). This dilemma eventually led to the loss of the KMT’s political power in the presidential election of 2000.

The DPP Government

Chen Shui-Bian made efforts to improve his unstable and precarious hold on power as the first president to be inaugurated with regime turnover in Taiwan. One of the measures he adopted to secure his political power was to follow the KMT’s old strategy of utilizing the executive apparatus, including the coercive organs, for his political advantage. As the first president from the opposition party, he had the advantage of attacking and eliminating the practice of the political use of law enforcement agencies that occurred during the KMT’s rule. However, he did not ask the law enforcement agencies, such as the Attorney General’s Office, the MJIB, and the police, to break from their old pattern of arbitrary enforcement of the law. While some of these agencies showed resistance to a reform proposal that might threaten their interests at the organizational level, as shown in the case of the MJIB in the prior chapter, most law enforcement agencies at the individual level adapted themselves to the new political circumstances of DPP rule by showing their willingness to serve their new master’s needs (Chu and Im, 2013: 116).⁵⁶ The police offered effective weapons for political intimidation by exercising surveillance over the political opponents—now the KMT—as well as by applying selective prosecution and suppressing any evidence of the unlawful actions of the DPP. The DPP, which, in the past, had strongly advocated for political neutrality and the separation

of the party and the police, now caused the politicization of the police in a similar way as their counterpart had done before (Cao, Huang, and Sun, 2014: 46).

The merit system of the police was not helpful in regard to preventing the political influence of the president on the police. In Taiwan, promotion is officially based on the principles of the merit system that developed with the long history of Chinese bureaucratic tradition. However, in reality, numerous informal factors exert an influence upon the promotion of police officers. Politics and the network of human relations (or patronage) are types of informal factors that extend beyond official principles. Regarding political influence on the promotion of high-ranking officers, many police officers believe that promotion, especially to a commanding position, is deeply influenced by informal connections to politicians—not by professional qualifications. Ambitious police officers should ally themselves with particular political parties and politicians. The ethnic division between native Taiwanese and mainlanders within the police organizations further deepened the importance of informal networks for the police. The reduced internal cohesion of the police increased the entry points of infiltration of political influence into the police force (Cao, Huang, and Sun, 2014: 45, 70).

The decentralization of the police, which had been led by the promulgation of the Local Autonomy Statute in 1999, also increased the danger of the politicization of the police at the local level. The local police departments became part of the local government since city mayors and county magistrates were granted the authority to evaluate police performance in their jurisdiction and to approve the appointment of the chief of police (Cao, Huang, and Sun, 2014: 71). The decentralization of the police and the delegation of power to the local government significantly increased the accountability of the police to local communities. However, when the executive and the legislature at the local level are occupied by the same political force or local faction, the police are not accountable to the local society but are dependent on a particular local faction. The police are still placed at risk of political exploitation by local politicians.

The doubt about the political use of the police by the new DPP government to oppress its political opponents was raised from the start of President Chen's inauguration as president. In September 2000, the Taipei mayor, Ma Ying-Jeou, accused the president of using "Green Terror"—the DPP's newer version of

the KMT's "White Terror"—tactics to discredit his political rivals, even though Chen swore to end "White Terror," which had been commonly practiced by the past KMT regime and had produced many victims.⁵⁷ Ma claimed that the Presidential Office ordered the MJIB to look into flaws in Ma's Taipei City administration due to his recent attacks against the central government and President Chen, as well as the public's belief that he would be running for the next presidency in 2004. It was well known that relations between Mayor Ma and President Chen had been uneasy since Chen was defeated by Ma in the 1998 mayoral election of Taipei City (*Taipei Times*, September 11, 2000: 3). Seven years later, on February 13, 2007, just one year prior to the presidential election of 2008, Ma again became the object of prosecutors' investigation. This time, he was indicted on corruption charges. He was alleged to have embezzled half of his special allowance funds. While the KMT labeled him a victim of political oppression, the DPP criticized his presidential bid by comparing him to a "thief declaring he would like to become a police officer when he gets arrested" (Wang and Shih, 2007: 3).

Ma also launched a counterattack by making use of his influence on Taipei City's local police as a city mayor, which further jeopardized the already precarious political leadership of President Chen. Since his reelection in 2004, President Chen encountered severe anti-president campaigns, which focused on corruption scandals that implicated his family and which asked for him to step down. In October 2006, tens of thousands of anti-Chen camp protestors took to the streets of Taipei without obtaining permission from the Taipei City government. The rally violated the Assembly and Parade Law. However, the Taipei police did not enforce the law because Mayor Ma decided not to do so. The city government's decision not to remove the protesters in accordance with the law meant that the city was in contempt of the law. The city's decision was criticized as a violation of the principle of the rule of law (Chang, 2006: 3). To stop the "soft approach" of Ma and the Taipei police toward anti-Chen protests in Taipei City, the Ministry of Interior and the NPA of the DPP government intervened. The Taipei police, which had already granted permission to an anti-Chen protest group to continue its street demonstrations several days prior, decided to revoke the permission although they were now criticized by the anti-Chen camp for their allegedly "wrongful decision" (*The China Post*, October 13, 2006).

In this way, the police and its law enforcement duties are still exposed to political pressure and interference. During the democratic transition, the police had in fact found themselves in a more precarious situation. While the police in the past were exposed to single political pressure from the KMT, the police under democratic conditions were now forced to deal with divergent and sometimes conflicting political pressures from different political forces simultaneously. Conflicting political pressures on the police even came from the same party. When the anti-Chen protests spread into the southern Taiwan port city of Kaohsiung on September 19, 2006, the DPP government and NPA asked the mayor of Kaohsiung, Chen Chu, to discipline her chief of police, Tsai Yi-Jen, for his failure to control the anti-Chen demonstration. It was a political gesture of the DPP government to obtain legitimacy for disciplining Tsai because the NPA had the legal authority to fire local police officers. The NPA director-general had already given a demerit to Tsai, and a second demerit would lead to his dismissal from the police force. However, Mayor Chen refused to take any disciplinary action against him. The mayor of Tainan, Hsu Tain-Tsair, encountered the same situation. At first, he refused to discipline his chief of police, Wang Wen-Chung, who, like Tsai, had been given a demerit for the same reason. However, unlike Chen, Hsu complied after the NPA urged him to take disciplinary action. Both Chen and Hsu came from the same party (the DPP), although their responses to the DPP government were different (*The China Post*, January 10, 2007).

The dissipated will and capacity of the DPP government to stop the KMT's legacy—the use of the police for the sake of suppressing domestic dissent—did not simply lead to the continuation of its character as the “arbitrary enforcer.” The police also experienced a leakage of its capacity and a transformation into the “mediator,” losing its capability to enforce the law at the local level. The measures devised by the central government for intensifying police accountability to local society, especially Lee's decision in 1999 to decentralize the police, led to the incompetence of the police force vis-à-vis the power of the local authorities. Under the “semi-autonomous” system of local government during KMT's authoritarian rule, the power of local governments was, in reality, feeble because they had no money, manpower, or police power (Lee, 2003: 9). However, as democratization and decentralization proceeded with regard to the

intensified “Black Gold” politics, the local elites developed into significant political and economic forces armed with human, financial, and coercive means.

III. Transformation of State Coercion

(1) Trajectory of Changes in Policing: Toward a “Mediator”

With the democratic transition, the Taiwanese police have been transformed from “arbitrary enforcers” into “mediators.” Rather than enforcing any kind of universal law that should be applied uniformly to the entire country, the Taiwanese police mediate disputes among local residents in an ad hoc manner.

The capacity of the police has declined significantly. Democratization weakened the top-down power of the authoritarian center, which had functioned as a source of power for the police, and it strengthened the bottom-up power of the local community, with which the police had to deal to enforce the law. The crisis and decline of the political power of the KMT at the national level not only weakened its own resource foundation for securing the cooptation of the local factions at the local level but also the capacity of the police. The political influence of the hegemonic ruling party at the local level had complemented the limited capacity of the police vis-à-vis the local elites. Compared to other authoritarian countries, such as Korea, the size of the police force in Taiwan was very small, and only a small portion of the government’s financial resources was invested in the police force. The Taiwanese police were “limited arbitrary enforcers” whose strength had been sustained by the power of the hegemonic ruling party under martial law.

However, when the power of the KMT gradually dissipated with the democratic transition, it soon became clear that the capability of the police to enforce the law and coerce compliance at the local level was very limited. Moreover, democratization deprived the police of numerous legal tools that had guaranteed their strong and arbitrary power under martial law. For example, the sanctions of detention, forced labor, and reformatory education executed under the Police Offense Law were nullified in 1990

(Chen, 2003: 391; Kao, 2007: 196). The police were now deprived of political tutelage and legal means and gradually became hesitant to enforce the law against local power holders.

A series of institutional and legal reforms has intensified the accountability of the police, especially to local communities. With the democratic transition, the police started to be exposed to direct criticism and oversight by the citizens since the military retreated from the realm of public security and the police undertook the duty of maintaining social order. The decentralization of the police intensified the responsibility of the police to meet the needs of the local communities. The continued corruption, human rights violations, significantly deteriorating confidence in the police, and political mobilization of the police by politicians signify that the institutional measures put in place to improve police accountability have not produced successful results in terms of practice.

The transition of the Taiwanese police to the role of mediator also raises the question of the sustainability of democracy in Taiwan. For Jeffrey Martin (2013b), the Taiwanese police, who play the role of “mediators,” are an example of the successful implementation of democratic policing, since divergent interests are represented and agreements are made through the mediation of the police at the local level. The neighborhood police stations are provided to citizens as ad hoc assemblies of local elites, in which bodies of local elites convene to represent the interests of each side of their clients involved in a dispute and then negotiate to find a solution to the unfolding event (Martin, 2013b: 633). However, the trajectory of the changes in the Taiwanese police force from the role of “arbitrary enforcer” under martial law to that of “mediator” under the democratic transition which has been shown in this chapter illustrates that the “mediator” in Taiwan cannot be viewed as carrying out democratic policing.

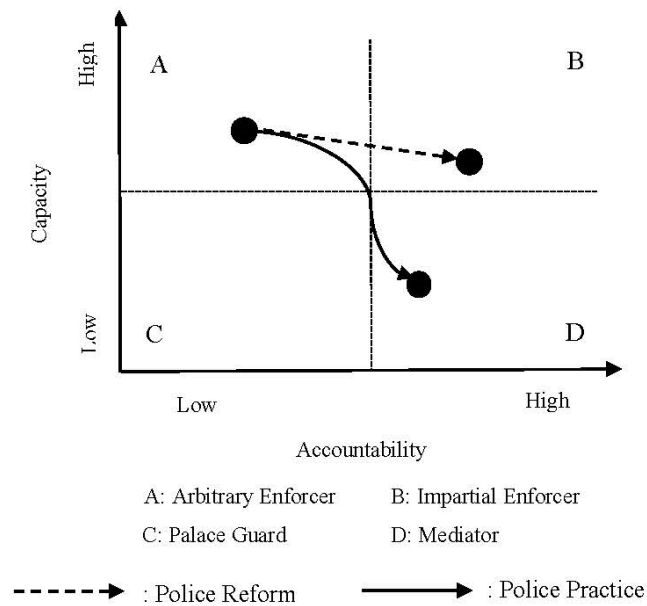
The role of dispute mediation played by the police, coupled with the involvement of the local elites in the process of mediation, has a significant limitation that prevents it from being called democratic and threatens the democratic value of equality before the law. People in democratic political systems—whether direct or representative—have an equal political right to elect and to be elected. However, under the “particularistic democracy”—the terminology used by Martin to describe the democracy in Taiwan (Martin, 2013b: 628–630)—only the people who have connections (*guanxi*) with the local elites have a right to be

represented in the mediation process held at a police station. Those people—such as immigrants from other regions or foreign countries—who lack an ability to mobilize any local connections, cannot be represented in the mediation process and could be victims of police mediation fabricated by collusion between the police and the influential local elites. The impartiality of police mediation and the democratic value of equality cannot be maintained if only privileged people with local connections are represented, while the voices of people who have no local connections are simply muted. The Taiwanese police, who play the role of mediator without having the sufficient capacity to enforce the universal law and coerce compliance, in this sense, have a serious limitation regarding being viewed as conducting democratic policing.

(2) The Effects of Police Reform

The Figure 7-1 illustrates the direction of police reform intended by presidents and the actual trajectory of change in the practice of the police since the democratic transition in the late 1980s. As discussed in Chapter 6, the implementation of the police reforms of Presidents Lee and Chen led to the anticipation that the Taiwanese police would be transformed from the “arbitrary enforcer” to the “impartial enforcer.” The institutional reforms implemented by President Lee intensified the accountability of the police with the somewhat successful maintenance of their capacity, although the internal disorder of the ruling group and the tensions between the president and the legislature under Chen’s presidency increased the uncertainty regarding the direction of the transformation of the police.

[Figure 7-1] Trajectory of Police Reforms and Changes of Police Practice in Taiwan



However, the actual transition of the police at the practice level has shown that both the capacity and the accountability of the police have deteriorated more than expected. Two factors—the changes in the geopolitical condition and the existence of strong local power—caused results that differed from those that had been anticipated by restraining the effects of police reform on the transformation of the police.

First, unlike Korea, the geopolitical condition of national division did not minimize the decline of police capacity during the period of democratic transition. In Korea, the traditional hegemonic ruling group still firmly maintains not only a hostile attitude and aggressive foreign policies toward North Korea but also its status as the most powerful party in Korean politics by embracing the support of the conservative forces. This hegemonic ruling group utilized the police to secure domestic order and oppress its political opponents in the name of national security. Its counterpart in Taiwan was the KMT. It maintained a hostile attitude and aggressive policy toward China and exploited the police to secure internal order and to maintain regime security in the name of national security. The combination of the geopolitical condition of national division and the existence of a hegemonic group that was antagonistic toward the other side of the divided nations contributed to the maintenance of a strong police capacity.

However, the transformed geopolitical conditions and the changed attitude and policy of the traditional hegemonic group caused divergence in Korea and Taiwan in terms of police capacity and accountability. Military tensions between North and South Korea have not ameliorated, yet all the while, the traditional hegemonic ruling groups have firmly maintained their hostile attitudes and policies toward North Korea. Conversely, the relationship between Taiwan and China has witnessed a dramatic improvement since the end of the Cold War. Although military tensions between the two continue, inter-strait relations have been significantly improved in other economic and cultural sectors through the exchange of material, as well as financial and human resources. More importantly, the KMT, which had oppressed its people by using the police in the name of protecting the country from the communist threat, now insists on accommodating Chinese policies in order to preserve Taiwan's Chinese identity. In other words, for the KMT, the maintenance of a strong police force is no longer necessary for the protection of the country from the communist threat. A strong police force can no longer be justified in the name of national security.

Today, the political group that might utilize the strong police force to oppress political opponents in the name of national security is the traditional opposition party—the DPP—since it aims to be independent from China. However, the DPP also showed convergence toward a more accommodating position regarding China rather than clarifying its resolute policy toward the independence of Taiwan since direct and intensified tensions between Taiwan and China do not help to secure popular support during elections. The DPP leaders endeavored to avoid the excessive and provocative expression of pro-independence sentiment. For example, in the presidential election of 2000, all the principal candidates, regardless of party membership, showed a striking convergence toward the political center on the cross-strait issue or the shift toward a more accommodating position than that of Lee Teng-Hui, who was the first president born in Taiwan. Each candidate, including Lien Chan of the KMT and Chen Shui-Bian of the DPP, pledged to implement policies geared toward opening up new direct links and expanding trade with China (Diamond, 2000: 10). As a result, the positive effect of the geopolitical condition of the national division regarding the capacity of the Taiwanese police has been reduced since the democratic transition.

The dissipated effect of the geopolitical factor in Taiwan provided favorable conditions for the increase in police accountability. In Korea, any institutional measures proposed to increase the accountability of the police encountered the criticism that Korea, due to the national division and the threats from North Korea, needed a police force with a single and unified structure that is uniformly and swiftly commanded from above. Measures of accountability were objected to since they were considered to cause inefficiency on the part of the police. However, in Taiwan, the decentralization of the police and the increase in police accountability to local communities were accomplished under the condition of the weakened effect of the geopolitical condition of national division that had prevented the increase in police accountability. Of course, since the national division and the continuation of the threats from China, the level of decentralization of the Taiwanese police is relatively low compared to other countries that adopt a local police system. The local governments in Taiwan are granted only partial authority related to budgets and the appointment of police chiefs. The effort to intensify the authority of local governments over the police was frustrated under Chen's presidency.

The existence of strong local factions exerted a positive effect on police accountability. During the authoritarian period, the KMT strategically utilized local factions to secure its political influence and legitimacy in local communities because it had a weak foundation at the local level as an émigré regime. Unlike the politicians at the national political level, the local politicians connect with police officers at a closer distance and take charge of overseeing police law enforcement more efficiently at the community level. The police become more accountable to the local communities because coherent and efficient oversight is possible when local power is strong. However, the same factor related to the strong local elites that was beneficial to police accountability exerted a negative effect on police capacity. As examined in this chapter, the excessive strength of the local elites who are connected with "Black Gold" politics causes the symptom of "police capture" by local forces. The close relationship between the police and the local elites degenerated into their collusion, which, in turn, prevented the successful enforcement of the law in an impartial manner. Consequently, with the unfolding of democratic transition, the Taiwanese police were transformed into "mediators."

IV. Conclusion

The police force in Taiwan once functioned as an “arbitrary enforcer” under martial law, but it has now become a “mediator” that fails to enforce law or coerce compliance at the local level as Taiwan has entered into the phase of democratic transition. The mediating role of the Taiwanese police cannot be called democratic policing because the law is not universally and equally applied. The mediation process of the police, which occurs in an ad hoc manner with the help of the local elites who represent each side of the parties concerned with a conflict, isolates people who have no local connection, while it contributes to the maintenance of order that is beneficial for the people who have strong local connections. Impartial law enforcement, the rule of law, and the democratic value of equality before the law cannot be sustained when the police simply function as “mediators.” The effects of the police reform implemented by presidents were restrained by other factors, such as the changes in the geopolitical situation and the enhancement of the local elites. The transformation of the police into “mediators” in Taiwan is a result of complex interactions among various institutional, structural, and agency-related factors.

Chapter 8

Reforming the “Palace Guard” in Mexico

Mexico had been under the authoritarian rule of the PRI for nearly seven decades. Unlike other authoritarian countries in Latin America, Mexico maintained a high level of political stability, with the military successfully restraining itself from becoming involved in politics, during this period. Political democratization in Mexico started with a crisis of the hegemonic rule of the PRI in the late 1980s; however, the unfolding of democratization did not mean any abrupt demise of the PRI, although Mexico witnessed the first peaceful regime turnover in 2000. The crisis of the PRI as a hegemonic ruling group proceeded in a protracted manner, and the democratic transition in Mexico proceeded in an evolutionary manner (Morris, 2009: 23). Police reform is not the product of a political vacuum. Although the creation of law enforcement agencies that successfully maintain public order and enforce the law in an impartial way is a normative goal all politicians and citizens in new democracies share, the formation and implementation of concrete police reform can hardly escape the influence of political dynamics. This chapter will examine new political leaders’ various reform efforts for transforming the police into more capable and accountable law enforcement agencies during the democratic evolution in Mexico. It will show how complex causal effects of various political and bureaucratic factors dictated the timing and direction of police reform.

I. Democratization and Conditions for Police Reform

(1) The State: Institutional Transformation

The authoritarianism of the PRI faced a series of political and economic crises in the late 1980s. Politics and the economy had long been mutually intertwined in Mexico since the PRI’s hegemonic rule was based on the system of authoritarian corporatism. The PRI offered monopolistic privileges to leaders and members

of various social sectors, such as labor unions and peasants' associations, which in turn provided their political support for the PRI. The system was far from democratic because the voices and interests of people outside the official organizations that had been given monopolistic status in each of their sectors were oppressed by the state. The economic crisis that the PRI encountered in the 1980s weakened both the political and economic foundation of its hegemonic rule because the reduced resources available for satisfying its supporters' demands and buying off dissident groups led to a crisis of maintaining authoritarian corporatism. The PRI initiated an economic reform following neo-liberal economic ideology to combat the economic crisis; however, this further weakened their political influence, because the viability of corporatism, which had sustained the political power of the PRI, became vitally damaged by the neo-liberal economic reform (Middlebrook, 2004: 5).

Moreover, the controversial presidential election of 1988 triggered a legitimacy crisis. Salinas' obvious fraud and problematic victory⁵⁸ further undermined the legitimacy of the PRI regime that was already crippled due to the economic crisis (Hamilton, 2011: 160-161). The PRI was forced to engage in noticeable democratic reforms in these political, economic, and legitimacy crises in the late 1980s. Institutional transformation was triggered to create a democratic system of government by restraining the power of the president and intensifying the autonomy and capacity of other branches of government.

One of the most significant institutional accomplishments of Mexico's democratic transition is the creation of autonomous federal electoral bodies responsible for monitoring electoral processes and resolving post-electoral disputes. The Federal Electoral Institute (IFE) was established in 1994 as a permanent organization with its own budget and staff; it became fully autonomous from the Ministry of the Interior's direct control in 1996 (Middlebrook, 2004: 6). At the very least, the most minimal requirement of democracy (i.e., fair, free, and competitive elections) could be institutionally and practically secured in Mexico with the establishment of the politically autonomous IFE, although a serious dispute over the electoral process and the results of the presidential election in 2006 damaged its reputation.

Key government institutions, like the legislature and the Supreme Court, also began to take on a degree of autonomy that had been unknown in the past; they were charged with checking the power of the once

omnipotent executive body (Morris, 2009: 2-3; Selee and Peschard, 2010: 2). The presidential victory of non-PRI candidates—the election of Vicente Fox in 2000 and the election of Felipe Calderón in 2006—led to the demise of the traditional corporatist system, depriving a PRI-controlled Federal Government from directly rewarding various interest groups for vote-buying (Camp, 2014: 144).

Legislature

The role of the legislature was strengthened, especially since the PRI lost the majority in the legislature in late 1997. In the past, the legislative body primarily examined presidential legislative initiatives and only made recommendations to the executive body for alterations. Previously, almost all presidential legislations were approved by the legislature since it had functioned as a rubber stamp of the executive body; however, democratic transition changed the status and function of the legislature. It started to significantly alter bills proposed by the executive branch before giving its approval, and by the end of the Fox Administration, the approval rate of budget and fiscal proposals reached only 20 percent. In contrast, the number of legislative proposals from parties abruptly increased from the early 1990s and became larger than the total number of bills presented by the executive body (Camp, 2014: 194-199).

This intensified role of the legislature with democratization, however, was not a simple result of legal and institutional changes of its status through a constitutional revision, as was the case in Korea and Taiwan. The increased proportion of legislators who were beyond the president's political control or the occupation of the legislature by the opposition parties led to increased voices and roles of the legislature in the process of legislation in Mexico. When a ruling party failed to dominate the legislature as a majority, the legislature started to play its innate role of lawmaking and restraining presidential power. In fact, the Mexican Constitution had already expressed ideas on a government system of checks and balances. What materialized this idea was the ruling PRI's loss of the majority in 1997 for the first time in its nearly seventy years of hegemonic rule in Mexico (Weldon, 2004: 134). The results of the election, not constitutional revision, were a main driving force that freed the legislature from the influence of the president.

However, the legislature, which for the first time was beyond the absolute control of the president, started to encounter institutional defects bestowed upon it by Mexico's authoritarian past. Its internal organization had been designed on the assumption of the absolute majority of the PRI. Principal governing bodies of the legislature, such as the High Commission, could not be formed when no party had an absolute majority, which had been unimaginable for seven decades but at last materialized in 1997 with the PRI's loss of its majority. The legislature soon encountered a functional inefficiency due to its inability to form a High Commission and select its members. Political and institutional progress was made to solve this institutional defect. For example, the Congressional Organic Law was reformed in 1999 to ensure more efficient and politically balanced internal representation (Middlebork, 2004: 25). However, the legislature in Mexico still has limited power to effectively check presidential power due to its own institutional weaknesses and obstacles. The absence of reelection due to the "no reelection" rule undermines individual legislators' professional ability and their ties to constituents, which are necessary for the legislature to offer a counterweight to presidential power (Morris, 2009: 36).

Judiciary

The judiciary also began to play an independent and active role in the governing process after the constitutional reform in 1994 that substantially increased the formal authority and political independence of the Supreme Court. It introduced selection criteria for justices designed to ensure their political neutrality (Middlebrook, 2004: 26). The president's control over the Supreme Court became limited because he had to obtain a two-thirds majority in the Senate to appoint justices. A series of judicial reforms introduced important institutional innovations, which allowed the Court to declare laws or administrative acts unconstitutional through its power of judicial review and to arbitrate conflicts among different branches and levels of government. The legal-institutional reforms of the judiciary were crucial for the more influential role of the Court during the democratic transition period. The Court emerged as a key arbiter in the practice of Mexican politics of federalism (Magaloni and Zepeda, 2004: 169). However, it was the change in the distribution of power among political parties (or the decline of the PRI) and the non-PRI

presidents who failed to control the legislature through the ruling party that changed the justices' behavior in the Court. The emergence of an independent judiciary was linked with the fragmentation of political power among the elected branches of government (Camp, 2104: 206-207).

(2) Agency: Conflict and Control

President between the Legislature and Bureaucrats

The legal and institutional change of the state did not necessarily cause changes in the president's power to control the legislature. As discussed in Chapter 3, the Mexican presidents during the authoritarian period successfully controlled all of the branches of government by utilizing their status as chairman of the ruling party, the PRI, and informal networks of patron–clientelism (*camarillas*). As long as the president's informal ties continued to hold political influence and his party occupied the majority in the legislature, he enjoyed the ability to control the legislature similarly to his authoritarian predecessors. The result of elections led to a practical change in the power balance between the president and the legislature.

Although the PRI had encountered severe political, economic, and legitimacy crises beginning in the mid-1980s, it continued to dominate the legislature as a majority until it lost this status in the Chamber of Deputies election in 1997. However, as Table 8-1 illustrates, it still remained the largest party in the legislature until its miserable defeat in the legislative election in 2006. The PAN became the largest party for the first time in 2006; however, it has never occupied a majority in the legislature. The PRI came back to the legislature as the largest party through its landslide victory in the legislative election of 2009, while the ruling PAN lost almost half of its seats in the legislature in this election. Since the late 1980s, Mexico has formed a party system of competition among three major parties—the PRI, the PAN, and the PRD. However, the PRD has never been a majority party in the legislature. It also failed to produce a president, although its presidential candidates succeeded in obtaining a large portion of the popular vote. Politics at the federal level have mainly seen tensions and struggle between the PRI and the PAN because each of

them occupied at least one of the two bodies of government—the legislature and the executive branches—since the democratic transition in the late 1980s.

[Table 8-1] Percentage of Congressional Seats (Chamber of Deputies) in Mexico

	1988	1991	1994	1997	2000	2003	2006	2009
HRP(PRI)*	52.0	64.2	60.0	47.6	41.8	45.0	21.2	47.4
DCP(PAN)**	20.6	18.0	23.8	24.4	41.6	30.6	41.4	28.6
Total	100	100	100	100	100	100	100	100

Source: Camp (2014), p. 225.

*PRI = Institutional Revolution Party

**PAN = National Action Party

##Dark Shell: The Ruling Party

President Ernesto Zedillo (1994–1999) was the last president of the PRI’s seven-decade hegemonic rule. He was also the first president to be elected through a free, fair, and competitive presidential election, since his predecessors had been elected through obviously fraudulent and vote-buying elections almost without exception (Philip, 1999: 76). His presidency was characterized with the gradual weakening of the ruling PRI in the legislature since losing its majority status in the legislative election of 1994. President Zedillo’s power over the legislature also weakened with the declining power of the PRI.

However, President Zedillo encountered no difficulty gaining control over the bureaucrats within the executive body, since his presidential inauguration signified a simple transfer of presidential power from the former President Salinas to himself within the same ruling group rather than the replacement of the existing ruling group with a new one. President Zedillo was granted bureaucrats of the executive branch that had been under the tight control of the PRI regime. He was free from any concerns about the disloyalty of the bureaucrats because all of the existing officials had been recruited and promoted during the PRI’s authoritarian rule. He was also able to control the bureaucrats by utilizing the informal networks of *camarillas*.

Vicente Fox’s victory in the presidential election of 2000 was a turning point in the political history of Mexico; it signified the end of the PRI’s authoritarian rule and the first peaceful regime turnover through a

democratic election. Fox demonstrated a strong image when he was a presidential candidate; however, the executive–legislative stalemate under his presidency made him ineffective (Hamilton, 2011: 162-164). The source of his political impotence was the weak status of his ruling party in the legislature. The legislative election of 2000 produced an almost equal distribution of power between the PRI and the PAN in the Chamber of Deputies. As Table 8-1 indicates, the ruling PAN obtained 41.6 percent of the seats and the PRI won 41.8 percent of the seats. The accompanying legislative paralysis under his presidency revealed that the presidential power in fact had been based on a fragile institutional foundation (Morris, 2009: 3).

The vitalized exercise of legislative power clashed with the president's function as an agenda-setter, contributing to the unprecedented uncertainty of politics and the almost perennial deadlock situation between the executive and the legislative branches (Levy and Bruhn, 2006: 133). President Fox was forced to negotiate legislation with Congress and suffered major setbacks when his important reform initiatives were defeated. The only big legislative success of his administration was the Federal Law for Transparency and Access to Public Government Information, which civil organizations had promoted and which was passed through the legislature in 2002. However, other major reforms that his government emphasized as top priorities were either blocked inside the legislature or never sent to the legislature due to the lack of sufficient supporting votes in the legislature (Tuckman, 2012: 57-58). His police reform was proposed amid the aforementioned tension between the executive and legislative branches.

President Fox's status in the executive body was also precarious when he started his presidency because he was the first president from an opposition party. The historic regime change he had just accomplished via the presidential election meant that he now had to deal with an executive branch filled with the bureaucrats who had maintained loyalty to his political opponents (i.e., the PRI). The Mexican bureaucratic system had been built on patronage, known as the *camarillas*, rather than on a stable merit system, as discussed in Chapter 3. Since the PRI had constructed interlocking networks of patron–client relations within the bureaucracy for seven decades, the executive branch that Fox took over was still composed of the PRI's networks of informal ties for securing officials' loyalty. Tensions between the president and the

bureaucrats were inescapable, at least temporarily, and President Fox found himself in a precarious bureaucratic situation during the initial phase of his presidency.

President Calderón started his presidency with more favorable political and bureaucratic conditions than his predecessor, although he encountered a serious post-election conflict with López Obrador, the presidential candidate of the PRD, who claimed to be the “legitimate president” and refused to recognize Calderón as the new president. Because Calderón followed Fox’s administration and was the successor of the ruling party, resistance on the part of the bureaucrats within the administrative body was not a big issue compared to his predecessor. Moreover, his ruling party’s status in the legislature was heightened with the results of the legislative election of 2006, although it failed to occupy a majority. At least for the first three years of his tenure, Calderón was placed in more favorable political and bureaucratic conditions to propose and implement various reform plans, including police reform. However, the legislative election of 2009 took away almost half of the seats from his ruling party, while the PRI returned to the legislature as the largest party. Serious gridlock in the legislature was inescapable for President Calderón during his remaining presidency; the fate of his police reform was also exposed to unpredictability.

Anticipated Direction of Police Reform

Each of the presidents elected through democratic elections since 1994 encountered different political and bureaucratic situations. By applying the theoretical framework of politician’s police reform, developed in Chapter 2, different types of police reform can be anticipated, as Table 8-2 summarizes.

[Table 8-2] Anticipated Direction of Police Reforms in Mexico

	Zedillo		Fox (2000-2005)	Calderón (2006-2011)
	1994-1996	1997-1999		
Capacity to Control the Police	Strong	Strong	Weak	Strong
Capacity to Control the Legislature	Strong	Weak	Weak	Weak
Direction of Police Reform	Fat Arbitrary Enforcer	Hard Arbitrary Enforcer	Plebeian Mediator	Hard Arbitrary Enforcer
Passage of Reform	Pass	Stalemate	Pass	Stalemate

President Zedillo, who had both a strong capacity to control the police and a strong capacity to control the legislature during the first three years of his term, was expected to propose and implement police reform moving toward a “fat arbitrary enforcer”—strong extensive capacity accompanied by weak accountability. Zedillo did not have an incentive to increase police accountability because he had already secured control over the police as a ruling party president. To demonstrate his commitment to police reform and cope with criminal offenses at the societal level, or the successful fulfillment of “low policing” duties, he would plan to increase the extensive capacity of the police. Since his party occupied a majority in the legislature during this period, Zedillo’s police reform initiative was expected to pass in the legislature with no difficulty. However, after his party’s majority loss in 1997, his police reform plan would move instead toward a “hard arbitrary enforcer”—strong intensive capacity and weak accountability. The crisis in the political power of his party would create a necessity to increase the intensive capacity of the police force to successfully cope with the mounting political challenges of opposition forces, or the duties of “high policing,” by utilizing the police armored with strong discipline and organizational cohesion. Such a reform would encounter a stalemate in the legislature because opposition parties occupied the legislature and would oppose the police reform that the president proposed.

On the other hand, the police reform during Fox’s presidency would head toward a “plebeian mediator”—weak capacity and strong vertical accountability—since he had a weak capacity to control the police and a weak capacity to control the legislature. His police reform plan would be passed by the legislature, which had an almost equal distribution between the PAN and the PRI, since the “plebeian mediator” does not raise a threat to the opposition parties. President Calderón’s police reform would take the route of “hard arbitrary enforcer”—strong intensive police capacity and weak police accountability—due to his strong capacity to control the police and his weak capacity to control the legislature. He had no incentive to increase police accountability because he inherited a police force that had already been groomed for him by his predecessor. He had a strong incentive to increase the intensive police capacity to cope with challenges from opposition parties by utilizing police forces with high levels of internal discipline and organizational cohesion. His reform plan would encounter a stalemate in the legislature, especially

during the last three years of his term, because opposition parties occupied the legislature and would oppose the police reform he proposed, which would endanger the political safety of the opposition.

II. The Presidents' Police Reform

(1) Ernesto Zedillo (1994–1999)

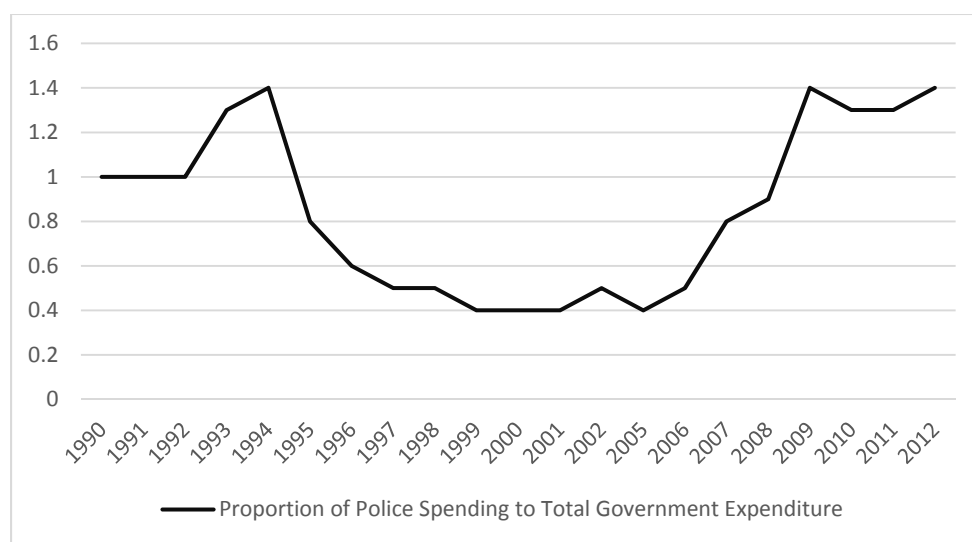
Zedillo was elected president in 1994 amid chaotic political conditions. He was hastily and unexpectedly nominated as the new presidential candidate of the ruling PRI because the original presidential candidate, Luis Donaldo Colosio, was assassinated just before the presidential election. Right after his presidential inauguration, he encountered Zapatista military insurgents from the southern part of the country. Roh Tae-Woo of Korea, Lee Teng-Hui of Taiwan, and Zedillo of Mexico had several similarities. All of these politicians were the presidential candidate of a ruling party and became president through the first free, fair, and competitive elections in their respective countries. However, unlike Roh and Lee, President Zedillo started his presidency before creating a staunch foundation of political influence in the ruling party. He proposed and implemented his police reform in the instable political conditions surrounding him and his ruling party.

Police Capacity

With the start of Zedillo's presidency, the government announced a considerable increase in Mexico's national budget for law enforcement (Dillon, 1995: 20). At first, it seemed that President Zedillo was highly motivated to intensify the capacity of the police force that had long been criticized for its failure to maintain public security. His government's "National Program for Public Safety, 1995–2000" allocated emergency funding to state governments for their public safety programs⁵⁹ and sought to create better instruments for monitoring and sanctioning police corruption at the state level (Magaloni and Zepeda, 2004: 177).

However, as Graph 8-1 illustrates, the proportion of the police budget in the total federal budget entered into a wide and deep valley from the second year of his tenure and never escaped while he was in office. The proportion of the police budget in the total federal budget reached its highest point, 1.4 percent, in 1994, the first year of his tenure. However, in the next year, it abruptly declined to 0.8 percent, and further decreased to its lowest level, 0.4 percent, in 1999. This indicates that Zedillo's government did not place importance on the intensification of the police during his presidency, and the federal police underwent a significant decline in its capacity in terms of financial input. The abrupt increase of the importance of a police budget in 1994 and the accompanied abrupt decrease of its importance in the federal budget can be explained by several factors.

[Graph 8-1] Budget of Public Security (*Seguridad Pública*)

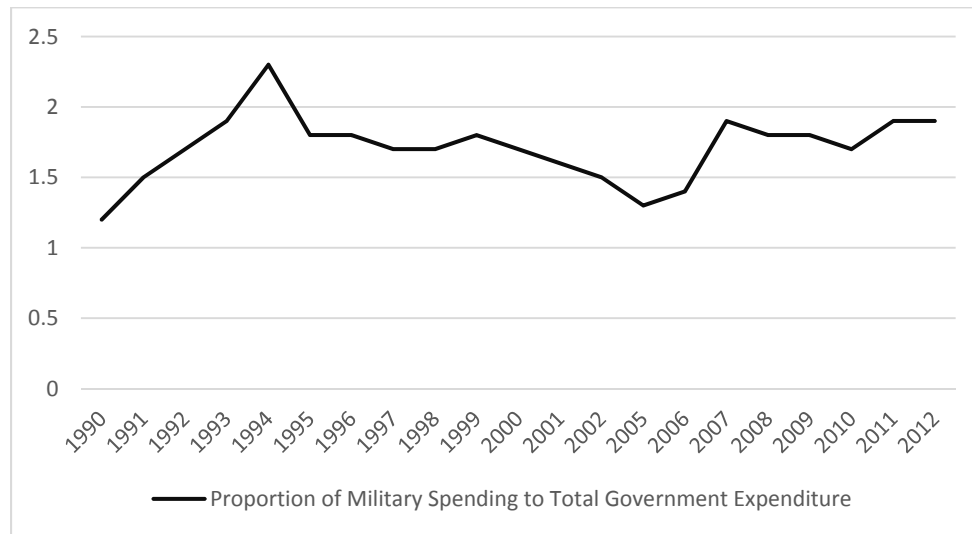


Source: *Secretaría de Hacienda y Crédito Público* (www.shcp.gob.mx)

First, the sudden and significant increase of the police budget in 1994 was prompted by the armed Zapatista insurgents, who seized towns and cities in Chiapas, a southern state of Mexico, on January 1, 1994. The Zapatista uprising drove Zedillo's government into a significant political crisis because it caused doubt that the Mexican government was capable of implementing NAFTA's neo-liberal economic policies (which Mexico planned to enter into that year) (Gilbreth and Otero, 2001: 7). President Zedillo needed to

demonstrate his strong commitment and capacity to terminate the crisis of internal disorder. As Graph 8-2 indicates, not only the proportion of police budget in the total federal budget but also the proportion of the military budget abruptly increased in 1994.

[Graph 8-2] National Defense Budget (*Defensa Nacional*)



Source: *Secretaría de Hacienda y Crédito Público* (www.shcp.gob.mx)

Second, the sudden decline in the police budget right after its abrupt increase in 1994 can be explained by Zedillo's emphasis on the discipline, not the size, of the police force. Of course, the so-called "tequila (financial) crisis" that Mexico encountered in 1994 and 1995 cannot be disregarded, because it restrained the financial capacity of the federal government of Mexico (Philip, 1999: 82). However, the reduction of the proportion, not the absolute amount, of the police budget cannot be solely explained by the financial crisis, since the reduction of available financial resources caused by the financial crisis does not necessarily cause the reduced proportion of the police budget in the overall federal budget or the reduced importance of the police, although it might reduce the absolute amount of the police budget.

What reduced the proportion of the police budget in the total government budget during Zedillo's presidency was the nature of the police reform President Zedillo implemented. Rather than enlarge the police force through the increase of financial input, Zedillo was mainly focused on reducing police

corruption and enhancing its discipline and professional standards. Purging existing police officers does not cost a lot. During his entire term, President Zedillo removed 700 police officers of the Federal Judicial Police (PJF) and fired hundreds of drug agents for accepting bribes (Morris, 2009: 85). The fired police officers were replaced with 1,000 military personnel, whom he believed to be less corrupt and more efficient than civilian police (Asch, Burger, and Fu, 2011: 27).

President Zedillo also implemented a structural reform of the national public security system. He created a new security agency, the Federal Preventive Police (PFP), in 1999. However, its main human resources were transferred directly from the armed forces, since the military officers were perceived to be more resistant to the temptation of corruption than the existing corrupt and ineffective police forces. Nearly 5,500 officers were recruited from the military, such as from army and navy battalions (López-González, 2012: 85). Other members were also recruited from the Federal Highway Police, the Fiscal Police, and the Interior Ministry's intelligence agency. To be admitted to the new agency, all the members of the old federal police had to pass drug and psychological tests as well as a criminal background check (Preston, 1998: 3). Even after appointment, they were asked to receive training in the military to equip them with militarized characters (Reames, 2007: 126). The PFP came under the direction of the Federal Ministry of Public Security (SSP) and continued to exist until 2006, when President Calderón replaced it with the Federal Police (PF).

The military's involvement in civil police affairs had already been increased significantly in the late 1980s and early 1990s by prior administrations. Retired officers and officers on leave served in state-level judicial police units and as police chiefs in many Mexican cities. However, previous Mexican administrations had resisted the policy of military involvement in day-to-day policing. The extensive use of the military for crime reduction purposes took place for the first time during the Zedillo Administration (Camp, 2004: 369). To carry out its new role in civilian affairs, including anti-drug and urban police duties, military power was expanded during his tenure. In the first two years of his term, troop strength was expanded by 15 percent to 180,000, and the military budget grew by a corresponding amount (*The New York Times*, October 20, 1996: 14). Despite the fact that both the military and police are armed, they have

very different goals in their activities; while the military is trained to confront and destroy its enemy, the police force is not supposed to kill those who violate the law; instead, it is expected to deliver them to civil authorities and seek to preserve the life and property of citizens by preventing crime (López-Montiel, 2000: 82, 87).

However, bringing the military into the realm of public security to complement or even replace the role of the police was advantageous to the president, who had to address the growing public security problem. This use was not only practical but also political. The military had been removed from politics since the 1930s and 1940s; it was praised as the Mexican exception (Levy and Bruhn, 2006: 225) and perceived as less corrupt and more efficient than the police. The armed forces' participation in public security was a practical choice on the part of the president to complement the weak capability of the police, at least for a short period, regardless of its long-term negative effects, which will be discussed later. Moreover, the military's intervention in public safety was politically useful, especially in an election year, because Zedillo was able to demonstrate his strong will and commitment to solving the public security problem. Opposition groups doubted not only the efficacy of the decision to exploit the military for public safety but also the president's political intentions (López-Montiel, 2000: 82).

Police Accountability

Delegating the responsibility of law enforcement to the military relieved the president of the burden of being concerned about police accountability, which the opposition parties had continued to question. The Constitution exempted the military from accountability to any entities outside the executive body, including the legislature. Therefore, the military answered only to the executive branch, refusing to take orders from any civilian entities other than the president. By formalizing the role of the military through the National System of Public Security, which the legislature passed in 1996, Zedillo was able to use the military more confidently for the sake of public security by restraining accountability at the lowest level (López-González, 2012: 85, 92). In a situation where the ruling party had lost its majority in the legislature for the first time

in its seven-decade history, making use of a military force that was exempted from any accountability to the uncooperative legislature was quite an attractive choice for the president.

With regard to police accountability reform, the government did not make a meaningful effort to increase police accountability during the first half of Zedillo's presidency. The National Human Rights Commission (CNDH), which President Salinas had created in 1992 to handle complaints of police abuse and carry out investigations, existed as the only government organization for police accountability in Zedillo's administration. However, it was hard to develop the CNDH as either a horizontal or vertical mechanism for intensifying police accountability, since it was under executive control until 1998. When the PRI lost its majority in the Chamber of Deputies (the lower house of the bicameral legislature) in the election of 1997, the Senate started to assume control of the CNDH in 1998 because the PRI still sturdily dominated the upper house, although it failed to do so in the lower house. Though it improved human rights in Mexico by exposing police abuses and issuing public recommendations, it had definite limitations in being considered as an institutional mechanism for police accountability because it was not given legal authority to prosecute the abuses it proved through investigations (Morris, 2009: 40).

(2) Vicente Fox (2000–2005)

Fox's election as president in 2000 ended the seven-decade hegemonic rule of the PRI in Mexico. When he was inaugurated as the first president from the opposition party (the PAN), he encountered a new political environment (i.e., the severe political competition among parties in the legislature that had been produced by the democratic transition). When two parties almost equally divided the seats of the legislature—the PRI (41.8 percent) and the PAN (41.6 percent)—creating a lack of either side's majority, it was difficult to reach congressional compromise on legislation and reform bills, including police reform (Davis, 2009: 198). Legislative gridlock and a contentious relationship between the president and Congress marked Fox's administration, while severe stalemates in police reform were inescapable from the start of his government (Lindau, 2011: 183).

After his inauguration, President Fox encountered difficulty controlling bureaucrats of the executive branch. As a president who came from the opposition party, he had virtually no foundation of influence within the bureaucracy that had for so long been controlled by presidents from the PRI. The maintenance of strong connections between the elected political elite (politicians) and the upper public administration (bureaucrats) was broken for the first time with his inauguration. Since the Mexican bureaucracy had served to protect the interests of the PRI during the period of its dictatorship, the new president from the PAN—President Fox—had no reason to leave the old bureaucratic system and its public officials intact. He initiated administrative reform to change corrupt and inefficient bureaucracy, including police officers, into less corrupt and more professional agents that were loyal to him (Morris, 2009: 39, 90-91).

Police Capacity

His presidency was tainted with increasing criminal offenses and worsening public insecurity. When hundreds of thousands poured into the streets of Mexico City in June 2004 demanding more intensified public safety, President Fox calmed public anger by promising to double the public security budget (*The Economist*, September 30, 2004). However, the increased public security budget was not among the top priorities of his government. In fact, Fox's government placed little importance on the increase of material resources of the police. As Graph 8-1 indicates, the proportion of the police budget in the total federal budget was at the lowest level under his presidency since the 1990s.

Of course, a low level of the proportion of the police budget in the total government budget does not necessarily mean that the absolute amount of the police budget is also low. If the total government budget is enlarged, the maintenance of the same proportion of the police budget leads to the increase of the absolute amount of the police budget. However, the low proportion of the police budget during Fox's presidency compared to the police budget during the periods of other governments signifies that President Fox had no intention of intensifying the material and financial aspects of police capacity. As Table 8-3 illustrates, Fox's government marked the lowest level of proportion of the police budget compared to other governments; the

average rate was only 0.4 percent under his presidency, while it was 0.7 percent under Zedillo's presidency and 1.0 percent under Calderón's presidency.

[Table 8-3] Average Rate of Police Expenditure in Total Federal Governmental Expenditure

	Zedillo (1994-1999)	Fox (2000-2005)	Calderón (2006-2011)
Average Rate (%)	0.7	0.4	1.0

Source: *Secretaría de Hacienda y Crédito Público* (www.shcp.gob.mx)

President Fox's main focus of police reform was increasing the ethics and discipline of the bureaucracy rather than increasing the size of the police force. Quite similar to President Zedillo during the second half of his term, President Fox tried to intensify the capacity of the police by improving ethical training, recruitment techniques, and internal monitoring and punishment. For these works, a new civil service law was adopted in 2003 after two years of negotiations in Congress. The law established merit as the basis for access to federal employment and specified entry requirements that applied to the middle and upper levels of the administration. He established a new recruitment program by means of examinations and dismissed those who did not comply with his professional standards (Morris, 2009: 91, 107). However, the introduction of new codes of conduct, intensified ethical training, and improved recruitment techniques were not only to increase the efficiency of public officials; they were also aimed to secure the president's control over the bureaucrats. These new rules of ethical conduct and recruitment enabled the president to freely and legitimately dismiss uncooperative officials within his government.

A large-scale purging of the police force was inescapable under his presidency. Cleaning up Mexico's corrupt forces and restoring the public's trust in police officers was already a top priority of campaign pledges in the presidential election of 2000 (Watson, 2000: 11). To purge the force of corrupt officials and increase his control over the police, President Fox started removing old personnel and replacing them with his loyal staff. Only three days after taking the presidency, Fox issued a decree establishing the Commission for Transparency and Combat against Corruption as well as the Federal Agency of Investigation, which would work to reform the Federal Judicial Police (PJF). He ordered an investigation of corruption in all of

the agencies of the Federal Government. During the first three years of his term, over 3,000 police were fired and about 5,000 bureaucrats were either sanctioned or fired (Levy and Bruhn, 2006: 138). In the latter years of his tenure, President Fox took much bolder steps in his purges. His government arrested entire police departments to demonstrate that his government held a strong commitment to improving discipline and punishing corruption (Morris, 2009: 107).

Fox's strong will to intensify the police force's capacity—not the size, but the organizational efficiency—was shown by his effort to organizationally restructure the federal police. His plans for reform contained much bolder changes compared to what his predecessor, President Zedillo, had aimed to accomplish. In 2000, Fox, then the president-elect, announced his plan to overhaul the police force. The top-to-bottom renovation would restructure nearly every kind of law enforcement institution and break the political ties between the police and the presidency that had been maintained during the PRI's rule. Fox wanted to remove federal police from the Interior Secretariat (*Secretaría de Gobernación*)—the cabinet agency in charge of domestic security and intelligence—and place them under the command of a new cabinet-level Public Safety Secretariat (Watson, 2000: 11). His plan also mapped out a reduction of power held by the Attorney General's office (PGR), which would focus primarily on prosecution and the administration of prisons (Ferriss: 2000: 6). Other duties related to the investigation of crime that had been formerly left to prosecutors would be taken over by the Public Safety Secretariat (Watson, 2000: 11).

After taking the presidency, it became clear that his police reform plan in fact intended to centralize the police force. In 2001, he replaced the notoriously corrupt PJF with the newly created Federal Investigations Agency (AFI)—an elite force partly modeled on the US Federal Bureau of Investigations (FBI). He did not undergo the troublesome process of legislation in Congress to implement the AFI; instead, he created it via presidential decree (Reames, 2007: 119). Next, in 2004, he sent Congress legislation calling for a comprehensive reform of the criminal justice system. His reform plan proposed the creation of a single national police force by unifying all police agencies at the federal level, which had been divided into the Federal Preventive Police (PFP) and the AFI. The unified agency of federal police would be placed under the direction of the Interior Secretariat, who did not need approval from the legislature to make

appointments. Under this reform, the federal police would be given new authority to investigate crime and pass cases on to a new federal prosecutor's office that would function strictly as a prosecutorial agency. The excessive power of the federal prosecutors, which had investigated crime as well as prosecute cases, would be reined in (Sullivan, 2004: 20).

In these ways, the federal police were intended to be strengthened by a unified organizational form. However, it still would have been difficult to enjoy political autonomy from the president, as the president would direct the much more intensified police force through a minister in his cabinet. Although the president expected to be given a strong coercive tool through the implementation of his police reform plan, his ambitious plan was never implemented because he failed to obtain congressional approval. His government was optimistic about passing the police reform bill, but the opposition party-dominated Congress repeatedly rejected Fox's proposed reforms. Overall, the congressional opposition blocked his efforts to enact sweeping reforms of the police force and the criminal justice system (Morris, 2009: 107).

Police Accountability

During his presidential term, Fox's effort to increase police accountability was very limited. As his police reform plan in 2004 illustrates, no institutional measure for securing police accountability was proposed. Neither performance measures nor external evaluations to increase police accountability were included in his police reform plan. Far from intensifying the responsibility of the police to other institutional agencies outside the executive branch for maintaining the impartiality of law enforcement, his reform plan intended to place the federal police under the tight command of his cabinet member, the Interior Secretariat.

Of course, other institutional reforms took place outside the police force to increase the government's overall transparency. In 2002, President Fox proposed the Federal Law for Transparency and Access to Public Government Information. The law was passed in the legislature, and a new federal agency, the Federal Institute for Access to Public Information, was created to increase people's access to information about the public sector. This law was one of the only big legislative successes of Fox's administration and is evaluated as one of the most important accomplishments of democratization in Mexico (Fox and Haight,

2010: 135-136). However, the law stipulated that information relating to public or national security was excluded from its effect. Ongoing investigations, legal proceedings, and other actions by police agencies were legally veiled from public scrutiny (Arzt, 2007: 162). As a result, even the most symbolic accomplishment of democratic transition in Mexico during Fox's presidency did not bring any meaningful increase of police accountability.

(3) Felipe Calderón (2006–2011)

When Calderón took office, his ability to govern the country was questioned because he encountered serious post-election conflict⁶⁰ due to his narrow election by a razor-thin margin (*The Washington Post*, December 15, 2006: 34). However, contrary to his predecessor, Fox, who had fallen into a legislative gridlock and a political impasse during the entire period of his tenure, President Calderón started his presidency in more favorable political and bureaucratic conditions. Because he followed Fox's administration and was the successor of the ruling party, unlike Fox, who became president with a regime turnover, he was less concerned with taming and removing unfavorable bureaucratic forces within the administrative body. Moreover, the ruling party's position in the legislature was favorable for the president. As Table 8-1 illustrates, while the ruling party had remained only the second largest party in the legislature during Fox's tenure, it rose to the status of the largest party (41.4 percent) in 2006. However, it failed to gain the majority in the election and even turned over its status of the largest party to the PRI in the next legislative election in 2009.

Police Capacity

President Calderón showed strong commitment to addressing the public security problem during his tenure. In fact, public security was his top priority. In his inaugural address in 2006, he put the recovery of public security at the top of his main agenda, even above the reduction of extreme poverty and the creation of new

jobs. His police reform efforts emphasized both increased financial input on the police and their organizational restructuring for intensified efficiency.

President Calderón's police reform made an effort to intensify the capacity of the federal police. At the beginning of his term, there were only 6,000 officers in the federal force. In 2010, Mexico maintained more than 30,000 police officers at the federal level (*The Economist*, October 14, 2010). The public security ministry's budget was also increased threefold under his presidency (Rosenberg and Cardona, 2011). As Graph 8-1 illustrates, the proportion of police budget in the federal budget abruptly increased with his inauguration. It completely escaped the wide and deep valley of decline by reaching its highest point, 1.4 percent, in 2009. As Table 8-3 indicates, the average proportion of police budget in Calderón's government even exceeded that of Zedillo's, which had been hit by the Zapatistas' uprising in 1994. In fact, President Calderón perceived the status of public insecurity in Mexico as a quasi-war situation and concentrated his police and military forces on coping with mounting organized crime. In his first three months as president, he deployed more than 27,000 federal police and military personnel to eight states to combat organized crime (Bailey, 2014: 145-149).

Beside the police force's increased financial resources, Calderón also pursued its institutional reform and organizational restructuring. In 2008, he implemented a series of police and criminal procedural reforms, including the institutional restructuring of the police to solve the pandemic coordination problem among Mexico's over 2,000 police agencies. The problem had been exacerbated with the democratic transition, since his predecessors repeatedly added new agencies to an already complicated organizational structure. At the federal level, President Calderón replaced the PFP with the Federal Police (PF), which now wielded investigative authority that had traditionally been reserved for the judicial, or ministerial, police (Sabet, 2012: 11).

In the police reform of 2008, President Calderón aimed to renovate Mexico's system of criminal trials by introducing a new system of oral trials and a criminal process based on requiring evidence beyond the suspect's confession (Camp, 2014: 207). His reform package included stronger legal protections for the presumption of innocence, prohibition of the use of torture, and requirements for the physical presence of

a judge during all hearings. The reform in fact signified the transformation of Mexico's legal arrangements and justice system from a French-style inquisitorial system to an Anglo-American-style adversarial system (Ingram and Shirk, 2014: 127). Calderón's police and criminal justice reform package was passed in the House of Deputies (lower chamber) on February 26, 2008 and given final approval by the Senate on March 6, 2008.

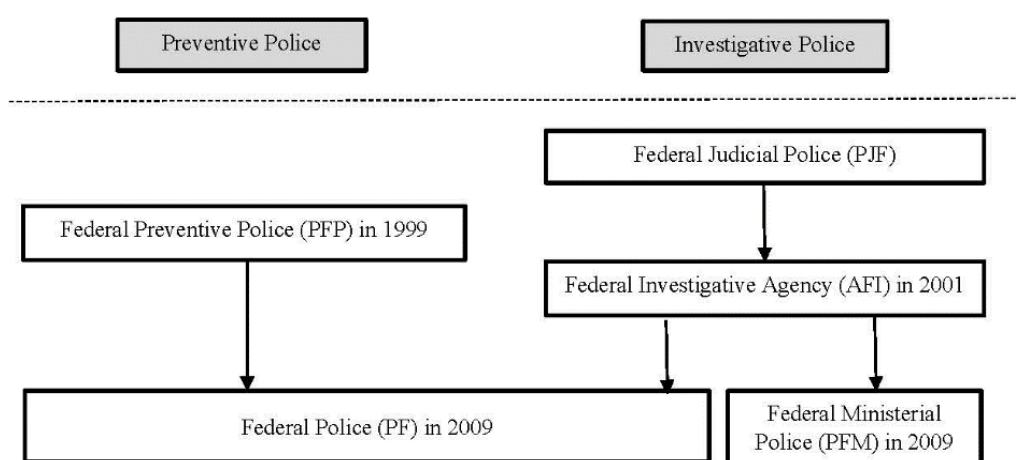
However, the passage of his reform package was at most only a partial success for him, as the final draft that passed in the legislature was the result of compromise in the legislature. In the original reform package, Calderón intended to give the police more power, including the right to enter homes without a warrant when pursuing a suspect in the act of committing a crime or if they had reason to believe someone inside was in danger. However, the provision of his initial draft was criticized as the "Gestapo law," as allowing police officers access to homes even in limited cases would open a loophole that dishonest officers could exploit. At that time, the ruling party, the PAN, needed the cooperation of opposition parties to pass reform bills because it had failed to secure a majority in the legislature even though it was the largest party. Legislators stripped the controversial provision—the warrantless searches—from the original draft, and the last-minute change was made before the approval of the reform package (Lacey, 2008: 8).

His other police reform in 2009 encountered more serious resistance and impasse in the legislature. President Calderón's initial proposal in 2009 was aimed to create a unified federal police agency under a single directorship. According to his original plan, PF would be an exclusive police force at the federal level by absorbing both the AFI and the PFP, which had existed as divided agencies under different directorship. His intention was to create a much stronger and centralized federal police force. However, opposition parties in the legislature blocked it. President Calderón inevitably submitted a truncated version of the reform, which finally passed in 2009. The AFI remained as the Federal Ministerial Police (PFM) under the PGR, while the PF continued to be directed by the Federal Ministry of Public Security (SSP). The PF intensified by adding both preventive and investigative functions.

In this way, contrary to President Calderón's initial intention and due to objections from opposition lawmakers, Mexico failed to create a unified federal police with a monopoly of power to undertake

investigative duties. The PFM continued to hold its existing authority to investigate and administer its own police force separately from the PF. The division between the preventive police and investigative police continued, with even more complicated functional overlapping between the different police agencies (Asch, Burger, and Fu, 2011: 22-24; Bailey, 2014: 157-158). Figure 8-1 shows the history of the organizational restructuring of the federal police since the 1990s.

[Figure 8-1] Federal Police Restructuring in Mexico



Calderón’s setbacks in police reform become more aggravated when his ruling party met with miserable defeat in the legislative election on July 5, 2009. The PAN’s seats in the legislature shrank from 41.4 percent to 28.6, while the PRI dramatically increased its seats from 21.2 percent to 47.4 percent and became the largest party in the legislature (Camp, 2014: 225). In this aggravated political condition, he presented another police reform plan on October 6, 2010. He aimed for organizational restructuring by unifying state and municipal police forces into 32 state-level agencies (or the so-called “State Police Corps”). The new agencies at the state level would absorb the municipal police and integrate both preventive and investigative agencies under the command of governors. His new police model upheld the unification of the municipal and state police to ensure unity of command (or “*mando único*”) (Moloeznik, 2013: 188).

Of course, the intensified state police would not enjoy full autonomy from the Federal Government. The 32 strengthened state police forces would be under some level of federal command and work closely with the federal police and military to confront the wave of drug crime (Johnson, 2010). This reform plan reflected Calderón's deep distrust of municipal police, who revealed their institutional weakness, corruption, and vulnerability to intimidation and vengeance by criminals (Archibold, 2010: 9).

However, the Chamber of Deputies, where the PRI occupied the dominant position, blocked it. The announced reason for the blockage was that it could lead to the concentration of police power into fewer hands, especially the already powerful⁶¹ state governors (Bailey, 2014: 157-158). Critics also said that merging local police forces into the state police would not help to increase their efficiency because one of the principal drivers of crime and violence in Mexico were governors who had failed to reduce violent crimes (Gutierrez and Rosenberg: 2010). Of course, city mayors opposed the proposal because it would violate their existing authority over local police (*The Economist*, November 24, 2012a). However, PRI's opposition to the proposal needs be understood in the political context of its precarious mandate at the state level. A series of state election defeats in 2005 left the PRI in control of only half of the states in Mexico (Rama and Stargardter, 2012). The PRI still remained dominant in state-level politics⁶²; however, in the 2006 presidential vote, it failed to carry any of Mexico's 31 states against Calderón (Graham, 2012). Compared to fragmented police forces under numerous municipal authorities, intensified unitary police forces under the control of governors at each state level embodied more salient dangers to the PRI, which encountered an uncertain political future in state-level politics, since the cost of losing any state governorship to a rival party would be significantly increased.

Structural problems in the organization of the police force continued to hamper efficient law enforcement. Confusion over the jurisdiction of the problem of police operation and coordination was still unsolved. For example, in Mexico's federal system, organized crime falls under the jurisdiction of both the Federal and State Government. In areas of overlap with the states, there are no clear principles that dictate when federal or state authorities should take the commanding role (Bailey, 2014: 165). For effective cooperation among different branches and levels of government, Calderón's Federal Government

developed a “3 x 3 plan,” which aimed to promote cooperation among the legislative, executive, and judicial branches at the federal, state, and local levels to promote anti-crime measures (Bailey, 2014: 151). However, an anti-organized crime strategy that evolved during Calderón’s term was implemented unevenly and incompletely. At the federal level, conflicts among the main parties in the legislature hampered implementation. At the local level, lack of inter-agency and inter-governmental communication and coordination obstructed its successful implementation (Bailey, 2014: 146).

Police Accountability

To overcome the immediate public security crisis posed by criminal organizations, Calderón relied on the armed forces instead of civilian police. He brought the military, which had maintained a relatively neutral and clean image in Mexican society, into the law enforcement process to solve the severely endangered public security. The moral capital and good image of the military allowed the president to increase the military’s role in public security, avoiding resistance from opposition parties and civil societies (López-González, 2012: 71). Shortly after assuming office in 2006, he deployed about 36,000 troops into nine states to wage a war on drugs (Lindau, 2011: 188). As Graph 8-2 illustrates, the proportion of the military budget in the total federal budget abruptly increased with his inauguration.

However, his reliance on the military to combat organized crime and drug cartels had detrimental effects on the police reform in Mexico. Calderón was criticized as being “quick to use the military but slow to reform Mexico’s corrupt police” (Roig-Franzia, 2007b: 15). The availability of the military⁶³ for the sake of maintaining public security reduced the pressure and necessity to reform the civilian police with a long-term perspective. Rather than implementing laborious reform on the corrupt and inefficient police force, Calderón’s government showed a reactionary response to organized crime by exploiting the armed forces for short-term success.⁶⁴ Hundreds of army officers, either retired or on leave from active duty, filled law enforcement jobs at all levels of government across the country, and the availability of the army mitigated the pressure to reform the police system (Bailey, 2014: 6).

The delegation of public security missions to the military was not accompanied by an adequate mechanism of supervision or the increase of either horizontal or vertical accountability. The armed forces are only responsible or subordinate to the executive power of the government, more precisely, to the president, but to no one else, while civilian law enforcement agencies, including the police, are under the formal or informal control of the military. Congress not only lacks legislative oversight of military activities, but it is also limited in assigning the budget to the military, because full discretion is given to the military in the areas of investment and increases in expenses for certain purposes, including creating new units, purchasing and replacing equipment, among others (Moloeznik, 2010: 81). Military personnel were appointed to head civilian police officers, and new police corps commanded by military personnel were created. Empowering the military, which answers to the president, in the realm of public security reinforced the president's control over law enforcement agencies by converting the military into the principal agent vis-à-vis federal and state law enforcement institutions (López-González, 2012: 71, 81).

As a result, Calderón did not make a meaningful effort to increase police accountability during his presidency. He did not create any institutional mechanisms of “policing the police,” such as independent monitoring groups or outside civilian oversight commissions, which are necessary to guarantee the accountability of police to institutions outside the executive body (Oppenheimer, 2011: 11). Moreover, his rebuilding of the 32 state police forces by giving them the responsibilities of the discredited municipal police was never implemented due to boycotting from opposition parties in the legislature, although he felt that the municipal police should be the focus of his police reform. When asked late in his term what he might do differently with respect to his anti-crime policies if he could start over again, he emphasized institutional development at the state and local levels, lamenting the high degree of corruption and profound institutional weakness (Bailey, 2014: 143).

III. Politics of Police Reform

Given that Presidents Zedillo, Fox, and Calderón served their terms under different political and bureaucratic conditions, an anticipated result was that each of their police reforms went in different directions. The unique aspect of police reform in Mexico compared to other new democracies, such as Korea and Taiwan, is that the Mexican presidents did not make a meaningful effort to increase police accountability. Almost all of their police reforms were focused on either the extensive capacity or the intensive capacity of the police. The notable absence of an effort to intensify institutional measures for police accountability in Mexico seems to be related to Mexican post-colonial leaders' obsession with the quest for a state that is capable of creating both order and sovereignty.

As discussed in Chapter 3, the permanent trouble that the Mexican political leaders encountered was not the overly developed coercive means of the state, but it was the poor status of the development of state organs that failed to maintain order and public security even under authoritarian rule. Political democratization did not change or solve the problem of building a capable state. Political leaders under democratic transition encountered the same problem. These new democratic leaders were asked to undertake not the self-limitation of state power through institutional measures of police accountability for safeguarding democratic values such as individual rights but rather the achievement and consolidation of state power for the sake of constructing social order and public security (Williams, 2011: 11). However, even the effort to create a more capable police force was stopped by the political and bureaucratic constraints that each president encountered. Table 8-4 summarizes the trajectories of police reform during the democratic transition in Mexico.

[Table 8-4] Police Reforms in Mexico

	Zedillo		Fox (2000-2005)	Calderón (2006-2011)
	1994-1996	1997-1999		
Anticipated Direction	Fat Arbitrary Enforcer	Hard Arbitrary Enforcer	Plebeian Mediator	Hard Arbitrary Enforcer
Actual Direction	Palace Guard	Hard Arbitrary Enforcer	Hard Arbitrary Enforcer	Fat and Hard Arbitrary Enforcer
Passage of Reform	Pass	Pass	Stalemate	Stalemate

First, the police reform during the first three years of Zedillo's term was anticipated to aim at creating a "fat arbitrary enforcer," since he had a great deal of control over both the police and the legislature. He had no reason to increase police accountability because he had already secured his control over the police and their loyalty to him as a president from the ruling party. A police force with a strong and extensive capacity would have been helpful in coping with increasing criminal offenses at the societal level and to satisfy the public demand for public safety. Since his ruling party dominated the legislature, his reform bill was anticipated to safely pass in the legislature.

However, his police reform went in an unexpected direction (i.e., creating a "palace guard") during the first half of his term. The proportion of the police budget in the total federal budget abruptly declined. His effort to expel corrupt police officers led to a significant organizational retrenchment of the police. He utilized the military, instead of corrupt police officers, to fulfill duties of public security. The police's isolation from their own duties further deteriorated their capacity. President Zedillo destroyed the old and corrupt police force, but he failed to construct a newer one with strong capacity. The military occupied its vacancy.

During the second half of his term, Zedillo was anticipated to reform the police into a "hard arbitrary enforcer." Since he already had strong control over the police force, he did not have the incentive to increase police accountability that he had during the first half of his term. However, he had a strong incentive to increase police capacity, especially the intensive capacity of the police, to successfully cope with mounting threats from the opposition parties at the federal level, which had already broken down the majority of his ruling party in the legislature.

The actual police reform President Zedillo implemented during this period took the anticipated trajectory. While the level of financial input on the police was still low, his institutional reform pursued a strong, intensive capacity of the police. He created a new security agency whose human resources were directly recruited from the well-disciplined military. While he only destroyed the old police during the first half of his term, he at last started to construct a newer one during the second half of his term. His reform plan was

not blocked at the legislature, since the creation of a single new police agency, not a restructuring of the entire criminal justice system, could simply bypass the legislation process in Congress.

The police reform under Fox's presidency was anticipated to proceed in the direction of a "plebeian mediator" because he encountered difficulty in controlling the police and the legislature. His presidency was the only period in which Mexico could expect an increase in police accountability. By intensifying police accountability to the citizens, he could have expected the increase of his capacity to control the police, which had served the PRI's interests during its rule. However, President Fox did not utilize an institutional measure of police accountability for his goal of securing control over the police, as he had a much stronger tool—the purging of police officers. Unlike Korea and Taiwan, Mexico had not developed a meritocratic system of bureaucracy; instead, the Mexican bureaucracy had been prevailed by patron–clientelism (*camarillas*), as discussed in Chapter 3. This means that compared to his counterparts in Korea and Taiwan, the Mexican president was able to freely purge police officers from their posts. Since the police had long been prevailed by *camarillas* of the PRI's politicians, President Fox had a more urgent and stronger incentive to eliminate any police officers that were disloyal to him. In practice, a series of large-scale purges took place under his presidency.

Instead of heading toward the "plebeian mediator," his reform plan pursued the creation of a "hard arbitrary enforcer." He aimed to create a single national police force by unifying all of the police agencies at the federal level. His plan would give him a strong coercive tool; however, the plan was blocked at the legislature.

Lastly, the direction of police reform under Calderón's presidency was anticipated to follow the path of "hard arbitrary enforcer," since he strongly controlled the police but lacked control of the legislature. Like the second half of President Zedillo's term, President Calderón had no incentive to increase police accountability because his predecessor, President Fox, had already groomed the police and secured their loyalty to the PAN government. However, he had a strong incentive to increase police capacity, especially the intensive police capacity, since his ruling party struggled with the opposition parties at the central political level. Disciplined and organizationally cohesive police forces under the tight control of the

president would provide a strong political tool for successfully coping with mounting threats from the opposition.

The actual direction of police reform under Calderón's presidency partially corresponded with these anticipations because he focused on both the intensive and extensive capacity of the police. He pursued both "fat" and "hard" arbitrary enforcers. The necessity to increase the extensive aspect of police capacity (e.g., the size and financial resources of the police force) became prominent under his presidency via his war on organized crime, or drug cartels. His police reform encountered a stalemate at the legislature and underwent compromise, curtailment, and frustration.

IV. Conclusion

Mexico has shown quite remarkable accomplishments in its successful democratic transition, especially in terms of electoral democracy. Zedillo was elected president in 1994 the first free, fair, and competitive presidential election. Fox broke the PRI's 71-year grip on power in the presidential election of 2000 and accomplished the first peaceful regime turnover. Calderón demonstrated that the opposition forces in Mexico had formed a stable political foundation in the presidential election of 2006. However, each newly elected president encountered very divergent political and bureaucratic conditions. Some presidents still enjoyed both control over the legislature and the bureaucrats, while other presidents had either one or none of these powers. The proposal and implementation of concrete police reform was strongly influenced by the political and bureaucratic interests of various actors, such as presidents, politicians from opposition parties, and government bureaucrats. The trajectory of police reform in Mexico since its democratic transition in the late 1980s and the early 1990s illustrates how dynamic interactions among the various actors in the realm of politics and bureaucracy dictate the timing and goals of the institutional transformation of the police. Although the creation of impartial law enforcement agencies through police reform is a normative goal to which every politician and citizen in a new democracy aspires, Mexico's police reform

during its democratic transition illustrates that political logic sometimes frustrates everyone's common desires, even in a democratic condition.

Chapter 9

Continuity of the “Palace Guard” in Mexico

The new democratic leaders in Mexico have made an effort to transform the police, which functioned as a “palace guard” under authoritarian rule, by proposing and implementing various institutional and organizational reforms. The president’s police reforms have been important in deciding the direction of the police’s transformation in a new democracy. However, changes and continuity of police practice have been influenced not only by presidential reforms but also by various domestic and international factors, which are beyond the control of presidents. Mexico’s public security problem has deepened with organized crime’s changing dynamics, the collapse of the PRI hegemony, and the accelerating political transition to democratization and economic reforms liberalizing the market (Bailey, 2014: 144). This chapter examines the maintenance of public security and enforcement of law in Mexico during the democratic transition beginning in the late 1980s. This discussion shows how police behavior and the transformation of policing have been influenced by the divergent effects of democratization, police reforms, and various structural factors.

I. Capable Law Enforcement

Democratization creates an open atmosphere in which citizens can freely express their demands. The most pressing public demands within Mexico’s democratic transition are directly connected with the lack of public security. The upsurge in violent crimes and citizens’ perceptions of public insecurity coincided exactly with the unfolding democratic transition. The status of public security in Mexico has even been called a “failed state,” because the central state is unable to provide even a minimum level of security for its citizens (Bailey and Cornelius, 2007: 490).

(1) Public Security

Many social, economic, and demographic factors, including an economic crisis, rising income disparity, and a growing rate of unemployment, have led to the deterioration of public security in Mexico. However, the inability of law enforcement agencies to effectively investigate, prosecute, and punish crimes is considered by most Mexican citizens to be a key reason for the lack of public security. The poor performance of Mexico's judicial and law enforcement institutions, especially at the municipal and state levels, is not a new problem. However, this emerged as a major point of public criticism as Mexico entered into the democratic transition and experienced a dramatic increase of violent crimes (Magaloni and Zepeda, 2004: 170).

Graph 9-1 presents the trends in criminal offenses at local jurisdictional levels in Mexico between 1991 and 2001. The number of crimes per 100,000 residents abruptly increased with the inauguration of President Zedillo in 1994, rising in 1997 to 1.5 times higher than the number of crimes committed in 1993, and then leveling out into a slight decline. Although crime has increased with the democratic transition, the statistics in Graph 9-1 show that public insecurity in Mexico has not yet reached a devastating level. Crime rates in Mexico during the period shown by this graph were quite low compared with other new and more advanced democracies. In 1998, for example, the number of crimes per 100,000 residents was 1,496 in Mexico, while the same statistic reached 3,803 in Korea and 4,615 in the U.S.

However, the low level of reported crime in Mexico paradoxically signifies that the country has been facing a crisis regarding public security and the criminal justice system, since other statistics show that a significant number of crimes have simply not been reported to the law enforcement authorities. Between 1996 and 2000, on average, 61 percent of all crimes in Mexico were not reported to the police (Magaloni and Zepeda, 2004: 178). In the 2000s, the rate of unreported crime worsened: 77 percent, 79 percent, and 78 percent of crimes remained unreported in 2004, 2007, and 2008, respectively (Sabet, 2013: 24).

[Graph 9-1] Reported Local Jurisdictional Crimes for Mexico, 1991–2001 (Percentage per 100,000 Residents)



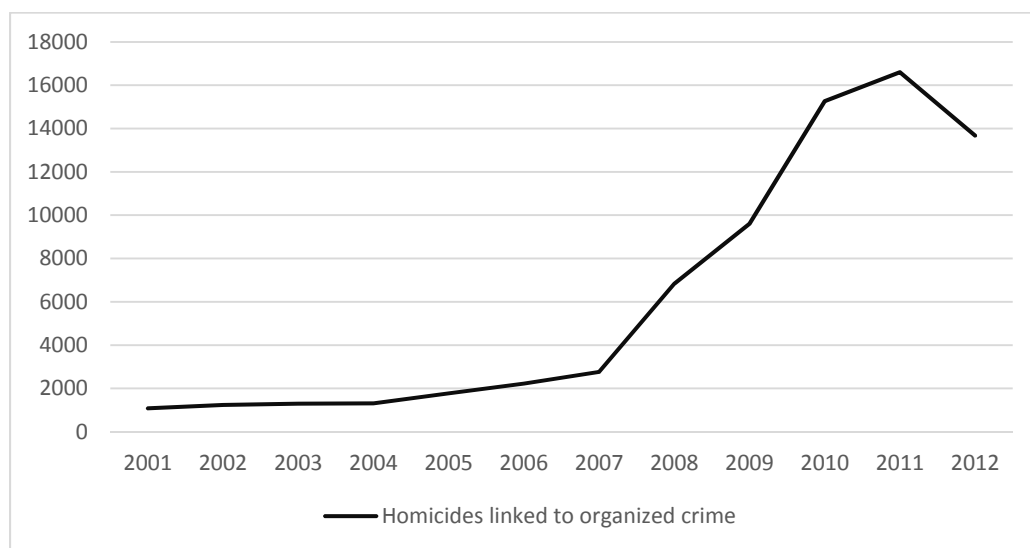
Source: Zepeda (2007), p. 135.

The crisis in public security and the police's inability to enforce the law is also shown by crime clearance rates, which have remained at an extremely low level since the democratic transition started. In 1998, Interior Minister Francisco Labastida announced that 94 percent of all violent crimes reported to the criminal justice authorities had never been prosecuted or resolved (Preston, 1998: 3). This low crime clearance rate—or high level of impunity—has persisted with no improvement. In 2010, the National Institute of Statistics announced that only 12.3 percent of crimes were reported to law enforcement agencies. Among the cases that reached the criminal justice system's agencies, less than two-thirds resulted in investigations (Tuckman, 2012: 109). The high impunity level was even more serious at the state level. Only 18.5 percent of reported crimes were investigated by state level law enforcement agencies (Middlebrook, 2004: 27).

Another significant challenge to public security and maintenance of order in Mexico has been the skyrocketing homicide rate. Graph 9-2 reveals the abrupt increase in homicides attributed to organized crimes, especially after President Calderón's inauguration in 2006. The annual number of homicides linked to organized crimes fell under 3,000 killings in the early 2000s. However, these skyrocketed after 2007 and finally reached the highest point—16,603 killings—in 2011.⁶⁵ This extraordinary number of homicides

means that Mexico has almost become a war zone. A more significant problem than the absolute number of homicides has been the systemic impunity enjoyed by violent criminals. A large portion of criminals committing these homicides have not been punished. For example, the Mexican government estimated that, between December 2006 and January 2011, 35,000 homicides were attributed to organized crime. Of these 35,000 cases of homicides, 2.8 percent led to formal criminal investigations, 0.9 percent led to formal criminal charges being filed, and, finally, 0.06 percent led to firm convictions. These incredible statistics signify that the rate of successful prosecution has dropped to close to zero and that almost no criminals have been punished for homicides within the justice system (Schedler, 2014: 11–12).

[Graph 9-2] Annual Number of Homicides Attributed to Organized Crime in Mexico, 2000–2012



Source: Schedler (2014), p. 6.

People in Mexico have revealed a deep anxiety over the deteriorating public security. Every opinion poll has highlighted public safety as the foremost concern. In a survey conducted in Mexico City, about 40 percent of residents claimed that either they or a close family member had been victimized in 1995. Moreover, most citizens revealed a significant distrust of the municipal police. About 34 percent responded that they had “little” confidence in the police, and about 52 percent responded that they had “no” confidence at all (Grayson, 1996: 9).

Table 9-1 shows how the public sense of insecurity in Mexico became a widespread problem at the national level in the 2000s. Popular discontent with the status of protection against crime in Mexico has remained at a significantly high level. The percentage of people who report feeling fully or fairly well protected against crime in Mexico has long been below 30 percent. Furthermore, the percentage of those who feel that protection against crime does not generally exist in Mexico has remained higher than 68 percent.

[Table 9-1] Perception of Protection against Crime in Mexico (To What Extent Is Protection Against Crime Effective in Mexico?)

	2007	2008	2009	2011
Positive	28	21	24	29
Negative	68	78	73	68

Source: Latinobarómetro (<http://www.latinobarometro.org>)

The significant security crisis during Mexico's democratic transition has led to repeated calls from citizens for a transformation of the police and criminal justice systems. The public has demanded more capable and transparent institutions of public security and law enforcement (Donnelly and Shirk, 2010: 1, 5). However, law enforcement agencies, accustomed to imposing laws under authoritarian rule, have tended to maintain old modes of operation that either violate individual rights when enforcing the law or allow crimes to go unpunished (Magaloni and Zepeda, 2004: 173–174). The exacerbation of public insecurity and the continued presence of an incapable and corrupt criminal justice system culminated in large-scale demonstrations. In 2004, hundreds of thousands poured onto a Mexico City street, demanding more public safety (*The Economist*, September 30, 2004). On May 8, 2011, about 70,000 people gathered in downtown Mexico City to demand an end to drug-related violence and the departure of Public Secretary Genaro Garcia Luna, the country's top law enforcement officer (Oppenheimer, 2011: 11).

Mexico's public security crisis was also worsened by President Calderón's war against drug trafficking and organized crime because the war meant an uneven distribution of public security resources within the country. Rather than focusing on improving public safety in citizens' daily lives, the president emphasized the elimination of drug-related crimes in several states along popular drug trade routes. Because the human

and material resources of public security and law enforcement were concentrated in several states to successfully implement the war against drug cartels, two conflicting phenomena of public security were formed; a deficit and surplus of state coercion took place simultaneously in different regions across the whole country.

On the one hand, in some areas, especially in northern states⁶⁶ bordering the U.S., militarized policing on an ad hoc basis and a “hard-hand” approach to criminal organizations became daily routine. This excessive use of state coercion in the war against drug trafficking severely intensified the violence in these areas to the level of a war zone (*Newsweek*, 2008). During Calderón’s government, criminal gangs killed 915 municipal police officers, 698 state police, and 463 federal agents (Johnson, 2010). Police officers frequently became the target of assaults and retaliation right after crackdowns on criminal groups.⁶⁷ On the other hand, in areas along the Pacific Coast, the police either failed or neglected to carry out their public security duties. As a result, “self-defense” (or vigilante) groups filled the void left by public law enforcement agencies, seeking to protect individuals and local communities from criminal activities (Guarneros-Meza, 2014: 2). Some people even hired contract killers who carried out what they call “revenge” because the authorities failed to do anything (*The Economist*, November 24, 2012a). In these areas, President Calderón’s security strategy with its central focus on fighting drugs was criticized for de-emphasizing the daily security needs of average Mexicans (Booth, 2012: 11).

Both a deficit and surplus of state coercion have created problems. Militarized policing, which does not emphasize effective law enforcement but instead brutal elimination of enemies, has led to more power abuses because the military are only tenuously accountable to civil governments, especially at state and municipal levels. The replacement of public policing agencies with private self-defense groups, in turn, has clearly shown that the government and its law enforcement agencies cannot maintain public order. A legitimacy crisis of democratic governance is unescapable when the central state fails to provide public security to its people.

(2) Sources of Public Insecurity

Public insecurity in Mexico is not a new problem that has merely emerged with democratization. As already discussed in Chapter 3, the quest for a state capable of creating both order and sovereignty has been an unending burden carried by Mexico's post-colonial leaders. The permanent problem that political leaders have encountered has been not the state's overly developed coercive means. It was the underdevelopment of coercive agencies of the state, which have failed to maintain order and public security. However, Mexico under the democratic transition has encountered a significantly worsening status of public security rather than the improvement of state capacity to maintain public security and enforce the law. Several factors influenced this deterioration of public safety.

Changed Geopolitics

The geographic restructuring of the cocaine commodity chain has led to an increase in drug-trafficking related organized crime. In the 1980s, about 80 percent of the cocaine supply going to the U.S.—the largest consumer of drugs in the world—passed from Colombia through the Caribbean and Florida. However, since repression made that route riskier, Mexico has become the main gateway of drugs entering the U.S. By the 1990s, 90 percent of the drug supply arrived across the U.S.-Mexican border. The Mexican federal government estimates that drug trafficking is the country's number-one export, exceeding oil, and the Mexican economy would shrink by 63 percent if the drug trade were to disappear (Morton, 2012: 1638). The increase of drug trafficking in Mexico has threatened public security because of related organized crime. However, it has also been a source of public insecurity in the U.S. The Mexican government has been, therefore, either forced or encouraged through financial support⁶⁸ to conduct a war against drug cartels. Mexico rushed into this war with drug entrepreneurs beginning in 2006, at a cost of 9,500 lives as of August 2009 (Pearce, 2010: 296).

Organizational Disharmony

The police's labyrinthine organizational structure at the federal, state, and local levels⁶⁹ started to exert more intensified negative effects on efficient and coordinated police operations with democratization. As different parties have come to power at different levels of government, police forces at each level have come under the administrative control of politicians representing divergent political forces that seek to use the police forces to maintain their political position. While the policing apparatus's political loyalty clearly leaned toward a single political force (i.e., the PRI) during the authoritarian period, democratization institutionally and politically divided the loyalty of police forces into different political constituencies that have been subject to divergent political forces (Davis, 2003: 18–19). As a result, Mexican security institutions are often locked in a zero-sum competition in which one agency's success is viewed as another's failure (Philip, 2012: 3). Any successful anti-crime police operation initiated by one party could provide political benefits to that party, such as increased popularity in upcoming elections, while the other parties would regard this success as politically disadvantageous (Uildriks, 2010: 48). The resulting lack of cooperation among different police organizations severely reduces the police's operational capacity.

In addition to an absence of coordination between different police force units, tensions between police officers and soldiers also have prevented efficient crime reduction. One paradoxical result of Mexico's democratization is that the military's role has increased in Mexico with the democratic transition, as opposed to other new democracies that witnessed the decline of their armed forces' influence (Philip, 2012: 8–9). As illustrated by the new police forces in El Salvador, Guatemala, Honduras, and Panama, the democratic transition in the 1980s and early 1990s in South and Central America led to a number of police reform plans that sought to create civil police institutions enjoying full autonomy from the armed forces (Frühling, 2009: 466). However, Mexico has shown a reverse trend to the police demilitarization that has prevailed in other Latin American countries. After democratization, Mexican presidents have tended to overuse the military in public security measures and have intensified the military's influence in police operations. The militarization of public security carries the risk that Mexico will not develop the civilian policing it needs to prevent and investigate crime in the long run—however inevitable using the military for public security purposes in the short term may be (*The Economist*, March 5, 2009).

The large-scale use of the military as a law enforcement body has led to the police's shrunken role and lower status. The military's new power to detain drug suspects and engage in asset and weapons seizures has created a parallel, militarized, law enforcement apparatus vis-à-vis civilian police forces (Lindau, 2011: 178). The secretary of defense and some zone commanders have threatened the status of civilian police by recommending specific military officers to serve as police officials at the state and local levels. Joint operations between the police and military have failed to improve coordination among the various security agencies at different government levels. Military officers have commanded anti-crime operations and prefer to avoid working with police agencies that they believe to be corrupt and unreliable (Bailey, 2014: 153–154). The military has resisted cooperating with or even receiving orders from what they often considered corrupt and inefficient civilian authorities, while showing “exclusive subordination” only to the president (López-González, 2012: 72, 79). Police officers, in turn, have revealed their antipathy toward the military's intensified role in law enforcement and public security.⁷⁰ They have proved reluctant to obey specific orders given by military chiefs, especially when the police's areas of influence are threatened by the military (López-Montiel, 2000: 87).

From Collusion to War

Political diversity and the unpredictability of future owners of power in the new political environment of democratization has changed the relationship between the central state and organized criminal groups. During the PRI's hegemonic rule, a statist equilibrium existed based on an implicit compact between drug cartel affiliated traffickers and the ruling PRI's officials (Morton, 2012: 1639). The former agreed to pay for official protection and exercise restraint in excessive violence against the central state, while the latter promised to tolerate illicit enterprises (Schedler, 2014: 9).

This implicit agreement during PRI's authoritarian rule, however, could no longer be maintained in the changed political conditions of democracy. When state and local elections brought politicians from opposing parties into power, previously established bargains with drug-trafficking organizations through bribes and implicit permission to do illegal business were rejected or renegotiated by the new political

actors. New political leaders' policies of war against drug-trafficking organizations caused direct and open confrontation between the central state and organized criminal groups, which drove several regions (e.g., Ciudad Juárez, Culiacán, Tijuana, Chihuahua, and Acapulco) into conditions comparable to that of war zones (Rios, 2013: 139–141). According to a survey in 2010, only 21 percent of respondents said President Calderón's war against drug gangs had made the country safer, whereas half thought it had heightened the danger (*The Economist*, 25 March, 2010).

In 2012, President Calderón compared himself to a “surgeon” who attempted to remove a tumor and found that the cancer had spread around the body, insisting that his war on drug cartels was a necessary “surgery” to beat the “cancer” attacking Mexico, although his drug war had already cost thousands of lives (*The Economist*, June 23, 2012). However, his confrontational approach to narcotics syndicates based on a tenacious effort to eradicate drug cartels by sending in armed forces resulted in some negative effects on criminal violence (Hughes and Graham, 2011). When he took office in 2006, only four major criminal organizations operated in Mexico. However, several years after he had deployed the military to crush major drug cartels and catch their kingpins (*capos*),⁷¹ smaller violent groups splintered off from the crushed major cartels, and at least a dozen groups competed with one another to occupy and defend their illegal business territories.⁷² Moreover, since the smaller groups could not control major cross-border trafficking networks, unlike their larger predecessors or current rivals, the smaller consortiums often diversified their business into kidnappings, extortion rackets, people-smuggling, and other crimes.⁷³ These new splinter drug gangs further reduced public security by adding new security risks (Rosenberg and Uranga, 2011).

The distinctly negative consequences of President Calderón's confrontational approach to narcotics syndicates became an issue in the 2012 presidential election. The PRI's presidential candidate, Enrique Peña Nieto, pledged to revamp police forces to focus more on tackling violent crimes rather than capturing or killing crime lords,⁷⁴ and was successful in defeating the ruling party's candidate, Josefina Vazquez (Gardner and Trotta, 2012).

Limitation of Resources

The limited availability of human and material resource has reduced the capability and effectiveness of Mexico's police. To understand the strengths or weaknesses of Mexican criminal justice institutions, the simple number of police officers is unimportant. Mexico maintains about 463,000 police. With 366 officers per 100,000 people, Mexico is better supplied with police than the U.S., Britain, and France, among others. However, the police are badly organized with poor levels of discipline and professional qualities (*The Economist*, October 14, 2010). For example, police salaries are low even by Mexican standards: in 2005, a police officer's daily average income was US\$13.45, which is lower than laborers' average income in other sectors, such as manufacturing (US\$35.77), construction (US\$15.27), and services (US\$22.09). Due to inadequate material supplies, basic equipment, such as bullets, uniforms, and bulletproof vests must often be purchased by police officers themselves (Shirk and Cázares, 2007, 19–20). As a result, many police officers are threatened by criminals who carry better weapons than police forces (LaRose and Maddan, 2009: 336). Drug traffickers undermine law enforcement agencies' capabilities at every level, from federal to municipal, by using both bribes and threats of violence—thanks to the vastness of their resources and coercive capacity accumulated through illegal businesses (Lindau, 2011: 194).

To be a police officer in Mexico implies holding a low-paid, high-risk job that carries strong social distrust and dishonor. Police officers are treated as “second-class citizens” who do not qualify for the standard minimum wage and the 40-hour weekly work limit because the constitution distinguishes between police officers and other public servants (*The Economist*, October 14, 2010). The job change rate among police officers is high since they leave as soon as a better job arises. As a result, vacancies are chronic in the municipal police,⁷⁵ and the resulting pressing need to fill positions culminates in the relaxation of entrance requirement and deteriorating quality of police officers over time (Zepeda, 2010: 49). Police academies provide only four months of basic training on average, and only 17 of the 58 police training institutes require their applicants to have a minimum level of education. In 2002, 55.6 percent of Mexico's police officers either lacked formal education or had only completed elementary school (Moloeznik, 2010: 66). A survey conducted in 2006 also revealed that being a police officer was for those close to the bottom of the social ladder whose career alternatives were seasonal labor, crossing to the U.S., or affiliating with

criminal organizations. Out of 292,124 preventive police officers at state and municipal levels, 68.3 percent had some primary school education, 25.2 percent had completed middle to higher education, and 2.5 percent lacked any type of education (López-Portillo, 2012: 110–111).

Democratization and the military's intensified role in public security have exacerbated the negative effects of the absence of meritocratic traditions on the quality of policing in Mexico. In most departments, promotions are based primarily on personal connections or patronage. Police officers in top and middle management positions can also be replaced following the arrival of new police chiefs. The failure to develop a meritocratic promotions process has weakened police officers' incentives to be the best at their work, given their small hopes of moving up the ladder to leadership positions (Sabet, 2010: 173–174). The military's intensified influence in public security has further disturbed the promotion system for Mexican police. At the local level, elected officials are responsible to select those in charge of local and state police agencies. When governors make their decision to appoint public security ministers and chiefs of police, they tend to consult with or receive direct recommendations from the defense minister or the regional military chief (López-González, 2012: 88).

II. Accountable Law Enforcement

Citizens tend to perceive that the central state has failed in its duty to society of ensuring public safety when public security is undermined by the corruption and human rights violations of the law enforcement agencies charged with maintaining public security (Suárez, 2010: 149). The Mexican police are viewed as part of the problem instead of as the solution (Sabet, 2013: 23). The police's venality and legal violations most vividly show how they have destroyed the foundations of law enforcement and public security by aggravating citizens' distrust of, and dissatisfaction with, law enforcement agencies.

(1) Corruption

Mexico's police corruption takes various forms, running from accepting daily bribes to drug trafficking and collusion with organized crime. The poorly paid police officers are widely known to stop motorists to extort money (Fineman, 1995: 13) and take \$2 bribes⁷⁶ to ignore parking violations (Thompson, 2000: 17). Local police and some of municipal governments⁷⁷ are so infiltrated by organized crime that they are essentially considered virtual arms of drug cartels, ceasing to function as public service entities (Roig-Franzia, 2007b: 15). The drug cartels' power to control entire regions and supplement their drug trade with other heinous crimes, such as kidnapping and human trafficking, heavily relies on corrupt local police (Miller, 2008). On August 6, 2010, the Public Safety Secretary announced that narcotics cartels paid around \$100 million a month in bribes to municipal police officers across Mexico. Drug gangs subject municipal police to a choice between taking a "lead" (*plomo*) bullet and accepting a payoff in "silver" (*plata*) to look the other way.⁷⁸ President Calderón revealed his deep distrust of municipal police when he tried to abolish and replace them with intensified state police agencies. He said, "There is no possibility of setting directives on strategy, logistics or even discipline on this enormous body of police at the municipal level" (Johnson, 2010).

Of course, the federal police, including high-ranking officials of law enforcement agencies, are not immune to corruption. In 2008, two of Mexico's top anti-drug officials in the attorney general's office were arrested and accused of taking huge bribes to leak information on the government's anti-drug operations to drug smugglers (Cortazar, 2010). In 2010, several dozen federal police officers were arrested for crimes including murder, kidnapping, and extortion (*The Economist*, November 26, 2011). With regard to pandemic police corruption in Mexico, some police officers believe that citizens' willing participation in corrupt practices exacerbates corruption in police forces. From this perspective, corruption also starts with citizens because they offer police officers money after they break the law, as well as to speed up their business and save time needed in formal proceedings. The police force believes police corruption, in part, reflects a society as corrupt as its police are (Azaola, 2010: 138, 144). According to Latinobarómetro's 2000 survey, 35 percent of respondents answered that people in Mexico very or quite often followed the law, while 65 percent responded that people in Mexico were somewhat lawful or not at all. In 2010, only

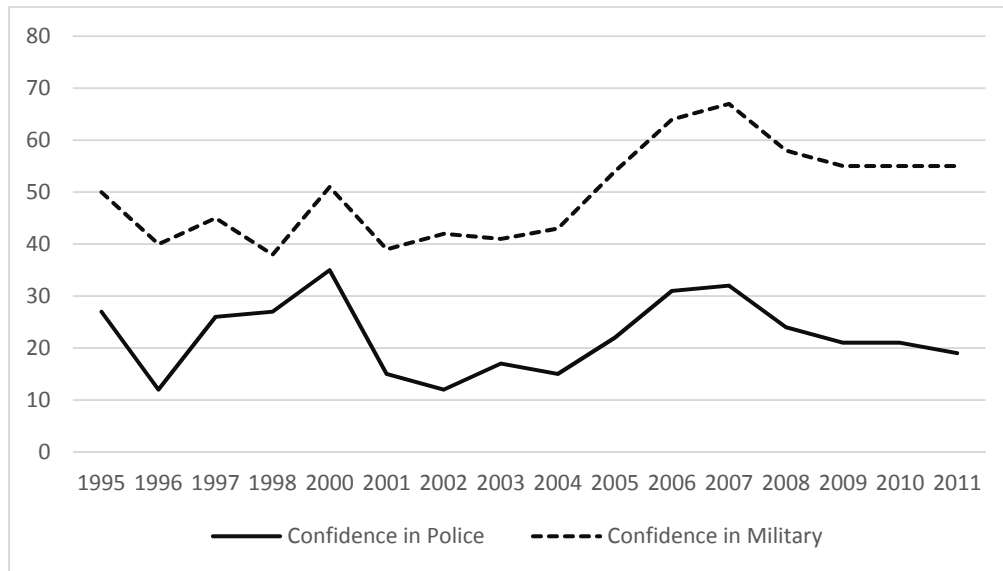
10 percent of respondents believed that Mexicans were very or quite law-abiding, while those who answered people in Mexico followed the law some of the time or not at all increased to 78 percent.

However, people's distrust of the police has reached extremely serious levels with corruption possibly reaching pandemic proportions in almost every sector of Mexican society. Its citizens lack confidence in the police and perceive the process of reporting crimes as time consuming (or a "waste of time") due to the police's inefficiency and high rates of criminal impunity (i.e., non-punishment). Moreover, they even harbor fear of being victimized by police officers who respond to their needs in corrupt ways.⁷⁹ Citizens believe, if the police intervene in a dispute, the individual who is able to pay the largest bribe will receive the most favorable treatment from the officers. Citizens also fear that reporting crime to the police may lead to reprisals and victimization since police officers who are connected with criminal organizations leak information about reports to offenders (Davis, 2003: 17). Calls for police service are rare since this is considered the last resort when a crime is committed (Brown, Benedict, and Wilkinson, 2006: 161). For example, people do not report burglaries out of fear that the police officers who come to take a report will either plunder them or send thieves to do it later (Thompson, 2000: 17). Only 25 percent of those who were victims of crime between 1999 and 2005 reported the crime to the police (Shirk and Cázares, 2007, 12).

Graph 9-3 shows the changing levels of public confidence in the police between 1995 and 2011 in Mexico. The overall confidence level in the police is extremely low. During this period, an average of 22.2 percent of respondents answered that they have much or some confidence in the police. A comparison with the military reveals how the police inspire low levels of confidence in citizens: the average confidence level in the military was 49.8 percent during the same period. President Fox's government exemplifies the dramatic fluctuation of public trust in the police. In 2000, when he was inaugurated as the president, the confidence level of police reached its highest point (35 percent). However, only two years later, it plummeted to the lowest level (12 percent) in 2002. During the first two years of President Calderón's tenure, the police enjoyed increasing and relatively high levels of confidence: 31 percent in 2006 and 32 percent in 2007. However, as his war against drug trafficking caused increasing violence, police confidence

also strongly declined. In 2011, almost at the end of his tenure, only 19 percent of respondents trusted the police.

[Graph 9-3] Confidence in the Police and Military (1995–2011)



Source: Latinobarómetro (<http://www.latinobarometro.org>)

The police need to convince citizens to cooperate with them for effective prevention of crime (Bayley, 2006: 143). However, due to low trust and high suspicion levels among citizens about police activities, Mexican police officers have to fight on two fronts when they conduct street operations. They not only combat crime to protect citizens and maintain order but also citizens' distrust as the police try to protect them during policing operations (Azaola, 2010: 144). Since a regime's legitimacy cannot be sustained without the government's effectiveness in protecting the lives and property of its citizens from crime, restoration of confidence in the police and reforms of the criminal justice system have been key issues for newly elected democratic leaders (Bailey and Cornelius, 2007: 490). Police corruption and human rights violation have been a crucial part of nearly all political party platforms in presidential and legislative elections in Mexico (LaRose and Maddan, 2009: 334).

To restore public confidence in the police, Mexican presidents have attempted to sanitize the police by undertaking purges and organizational restructuring of the federal police force. They have created new federal police force agencies after large-scale purges in the wake of their inaugurations. However, the same problems—corruption, inefficiency, and human rights violation, among others—appear again in these newly created agencies. The unending circle of corruption even after purges have prevailed during the democratic transition period in Mexico. For example, in 2001, the Fox administration disbanded the Federal Judicial Police (PJF), replacing it with the new Federal Investigations Agency (AFI). He also purged 2,600 federal law enforcement officials at the beginning of his presidency. However, the chronic problem of police corruption soon reappeared, clearly not eradicated. In 2005, nearly 1,500 (about 21 percent) of the 7,000 agents of the newly created AFI were under investigation for suspected criminal activities (Lindau, 2011: 193).

The same pattern repeated during Calderón's presidency. Right after his presidential inauguration, he demoted the heads of federal police agencies in all 32 Mexican states and 250 other high-ranking officers, as part of corruption crackdowns. The demoted police chiefs and officers were ordered to undergo ethics training, while the new police chiefs were required to submit to regular drug screenings, polygraph tests, and reviews of their personal finances (Roig-Franzia, 2007a: 18). In 2010, however, President Calderón had to carry out another large-scale purge of the federal police: 3,200 police officers—approximately 10 percent of its total personnel—were fired⁸⁰ by government (Moloeznik, 2013: 190). Calderón's government introduced an exam to weed out corrupt or unintelligent police officers. However, no more than a quarter of total police officers took the exam (*The Economist*, October 14, 2010).

In spite of these presidents' efforts to reduce police corruption, Table 9-2 reveals that the public is dissatisfied and distrustful of police officers at all levels of security forces. In 2003, all police agencies at municipal, state, and federal levels failed to obtain more than 50 percent of their citizens' trust in terms of their crime control duties and fair treatment of people. In particular, municipal police obtained the worst levels of confidence: only 19.8 percent of respondents answered that municipal police were successful at crime control, and only 13.9 percent agreed that municipal police treated people fairly. The state police

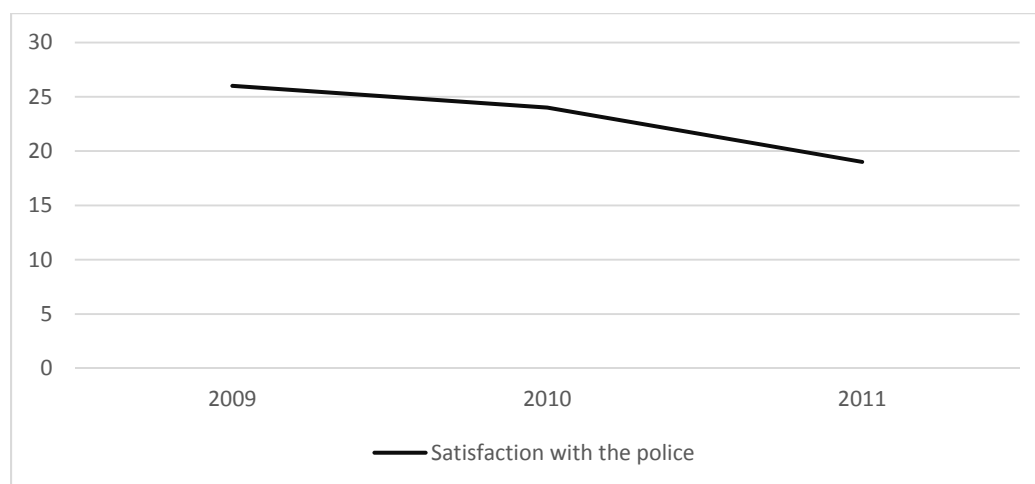
received only slightly better evaluations from citizens: 26.7 percent answered that the state police were successful in their duties of crime control, and 25.0 percent of respondents expected fair treatment by state police. The federal police obtained the highest levels of confidence: 49.1 percent of respondents agreed that the federal police were successful at crime control, and 36.6 percent expected fair treatment by the federal police.

[Table 9-2] Perceptions of Crime Control and Fair Treatment of Police in Mexico (2003)

	Successful Crime Control		Fair Treatment of People	
	Yes	No	Yes	No
Municipal Police	19.8%	80.2%	13.9%	86.1%
State Police	26.7%	73.3%	25.0%	75.0%
Federal Police	49.1%	50.9%	36.6%	64.4%

Source: Brown, Benedict, and Wilkinson (2006), p. 166.

[Graph 9-4] Satisfaction with the Police (2009–2011)



Source: Latinobarómetro (<http://www.latinobarometro.org>)

Graph 9-4 also indicates the police continued to fail to satisfy their citizens in the way they worked during President Calderón's tenure. People's satisfaction levels even showed a tendency to decline, although he made a sustained effort to build an efficient and professional police force through his ambitious police and criminal justice reforms. In 2009, 26 percent of people surveyed answered that they were very or fairly

satisfied with the way the police worked, while the level of satisfaction declined to 24 percent and 19 percent in 2010 and 2011, respectively.

(2) Human Rights Violations

Human rights violations committed by the police illustrate another aspect of the perpetration of injustice and flagrant disregard for constitutional rights in Mexico. Torture, arbitrary detention, extrajudicial execution, and involvement in drug trafficking still afflict Mexican police forces, with instances of police brutality to the public being continuously exposed (Kwak, San Miguel, and Carreon, 2012: 126, 130).

Local police continue to have a bad reputation for abusing rights. In 1994, for example, Mexico City police were accused of 3,988 cases of abuse (Fineman, 1995: 13). Federal police, who are relatively well disciplined as compared to local police, however, are also known to abuse rights. In 2010, complaints of rights violations by the federal police—including torture and arbitrary detention reached almost 600 (Rosenberg and Cardona, 2011). In response to societal pressures to restore public faith in the public security sector, police departments periodically dismiss police officers for human rights abuses or corruption. However, these police officers are rarely prosecuted, and dismissed officers are often rehired elsewhere in the law enforcement system of other cities or states (Schrader, 1995: 1). Between December 2006 and June 2010, only 41 accusations of torture were investigated, and, of those, only one resulted in a jail sentence (Rosenberg and Cardona, 2011).

Democratization has merely changed the police's façade, while the police continue to commit human rights violations in more subtle and hidden forms. For example, everyday police dirty work, including extracting confessions through torturing, is sometimes subcontracted to informal para-police groups known as *madrinas* (godmothers). The police hire them to do messy and illegal enforcement jobs, such as torturing suspects, extracting confessions, and shaking down petty drug dealers (Donnelly and Shirk, 2010: 24). The *madrinas* originated in the police's use of political informants to control and monitor dissident groups and social movements opposing the PRI regime during the authoritarian period. At that time, these informants

devoted themselves to watching certain political figures' activities or any politically suspicious behaviors. The democratic transition, however, has simply moved their focus from political to criminal suspicions, rather than eliminating the remnants of authoritarianism. The *madrinas* have successfully survived, rather than disappeared with, the tide of democratization by taking charge of new duties in the process of criminal investigations (Fondevila, 2011: 226).

The military's penetration into civilian police functions, especially under Calderón's presidency, has further exacerbated human rights violations by law enforcement agencies. Mexico's geopolitical position—the lack of strong external military threats and tensions between divided nations—has provided different conditions for forming law enforcement agencies. Korea and Taiwan have developed strong, arbitrary law enforcement agencies that have violated human rights in the name of national security. In Mexico, any governmental efforts to strengthen the police force, which has meant the police taking on an extended and intensified role, was hard to justify as safeguarding national security from external threats. However, since Mexico has encountered growing drug trafficking and organized crime as its new threat, it has become subjected to a similar pattern as that which has justified human rights abuses against civilians by repressive central state organs under Korea and Taiwan's authoritarian governments. As the war against crime and drug trafficking intensified in Mexico, the concept of “supremacy of national security over public security” has characterized the security strategy paradigm of Mexican government (Moloeznik, 2013: 186).

To mitigate the mounting problem of public insecurity and effectively combat drug cartels, the military, which is indifferent to human rights, took over an expanded role in police duties. It has become common to see military officers in the streets for regular policing duties, such as controlling traffic, invigilating the streets, and conducting car and residence searches. While the police use firearms as a “last resort” to uphold their duty to protect human rights, the armed forces are trained to use heavy weaponry in direct and fatal ways appropriate to eliminating enemy forces (Moloeznik, 2013: 184–185). The military's increasing involvement in internal security affairs has resulted in detrimental effects on both the military and civilian police forces.

First, the armed forces, which had maintained a clean image in the past by distancing themselves from politics, became exposed to corruption, human rights abuses, and political controversy. To obtain short-term, visible results in their war against criminal offenses, they were tempted to operate extra-judicially, such as using torture. Complaints of torture, murder, and illegal detention by the army abruptly increased as the military took a leading role in the drug war. Mexico's national human rights commission received about 2,000 accusations of abuse by the military in 2008 and the first six months of 2009, while they had received 367 complaints in 2007 and 182 in 2006. In 2011, Human Rights Watch also documented more than 170 cases of torture—including beatings and electric shocks—committed by the military to extract information about organized crime (*The Globe and Mail*, November 14, 2011: 10).

Sometimes, a hunter can become the prey. Even police officers, who are believed to be corrupt and unreliable due to their continued collusion with drug cartels, are subjected to military human rights violations. In March 2009, 25 police officers were detained by the military and tortured, eliciting false confessions (Rosenberg, 2009). Since the military is less accountable to civilian oversight, these human rights violations are hard to control.⁸¹ Of the 1,615 investigations opened in the five states that have been the most affected by the drug violence since 2007, no soldier had been convicted as of 2011 (*The Globe and Mail*, November 14, 2011: 10).

Second, citizens' distrust of public security and law enforcement agencies has been aggravated because the policing activities conducted by the military have been executed using violations of human rights (Guaneros-Meza, 2014: 3). Whenever the military are sent to liquidate drug cartels and restore public security, the risk of human rights violations significantly increases since normal constitutional guarantees of civil rights remain effectively suspended, without any legislative approval (Lindau, 2011: 186). According to a 2012 survey, 74 percent of respondents answered that human rights violations by the police and military were an extremely widespread problem (*The Globe and Mail*, June 28, 2012: 14).

Nevertheless, the military's human rights violations are justified by efficiency in crime-fighting activities, and these abuses have been permitted⁸² as necessary in safeguarding something of more important value, that is, national defense against growing, internationalized, and more organized criminal

offenses (Donnelly and Shirk, 2010: 35). For example, in 2008, the drug war's exigencies pushed Calderón's government to enact an important exclusion to reform measures targeting the criminal justice system. The police were allowed to hold suspects accused of being involved in organized crime for up to 80 days without having to present charges against them, while, in the past, the police could only hold suspects for 72 hours without charging them. Unlike other defendants, these suspects could be denied the right to the new public oral trials (Lacey, 2008: 8). Those special rules for organized crime were criticized as harmful to citizens' rights because the exceptions could lead to abuses (McKinley Jr., 2008: 3).

(3) Political Neutrality

Higher ranking police officers have strong incentives to serve politicians' political needs, rather than to maintain political neutrality, since these politicians have the authority to appoint and direct officers. Police officers' dependency on politicians is more significant in Mexico than in other new democracies such as Korea and Taiwan due to its weak tradition of bureaucratic meritocracy. Informal networks of patron-clientelism, or *camarillas*, have long prevailed in state institutions.

Democratization has further exacerbated the dependence of police officers on politicians, especially at state and municipal levels, since the frequent and unpredictable replacement of mayors and governors through elections—giving these the right to appoint and promote police officers under their jurisdiction—has increased police officers' job insecurity. Newly elected mayors and governors appoint their own loyal servants to command the police force in their municipality or state, in many cases regardless of their experience in law enforcement agencies. In the uncertain political condition of the democratic transition, many police commanders have to spend their time looking out for their next jobs because they know that the next mayors or governors will banish them from their posts, appointing more loyal personnel to their posts. The commanders must obtain these incoming bosses' trust by contributing to their electoral success (Zepeda, 2010: 49–50).

The police's dependence on politicians is also significant at the federal government level. Throughout the twentieth century, Mexican presidents had tightly secured police loyalty to themselves. One typical measure to secure this allegiance was purging through anti-corruption campaigns. Almost all Mexican presidents had ritualistically pursued anti-corruption campaigns upon taking presidential office to purge corrupt—in fact, disloyal—officials and to secure their loyalty to the new boss (Morris, 2009: 4). The presidents' tight control of the police frequently culminated in mobilizing the latter to achieve political goals. Democratization has not change this old pattern of purging “disloyal” officials in the name of purifying organization and utilizing law enforcement agencies for political purposes to oppress opposing parties.

Several episodes of the political mobilization of law enforcement agencies in offensive measures against political enemies illustrate how law enforcement and anti-corruption movements have been a battleground between antagonistic political forces. For example, President Fox initiated a series of anti-corruption programs during his tenure not only to increase his control over government officials by expelling disloyal officials but also to damage the reputation and influence of opposition parties' politicians by revealing their corrupt behaviors. Francisco Barrios, the former governor of Chihuahua, was in charge of the Fox government's anti-corruption campaign, as the secretary of the Office of the Comptroller General. Soon, the opposition parties, especially the PRI, went on the counter attack. The local PRI-controlled state congress in Chihuahua found 19 irregularities during Francisco Barrios's term as governor. However, Fox's government dismissed an audit in this corruption investigation and never filed a formal charge on the governor's case. This inconsistent and arbitrary implementation of Fox's anti-corruption movement increased doubts about his real purpose and damaged the movement's credibility (Morris, 2009: 100).

President Fox also mobilized his law enforcement agencies to check Andrés Manuel López Obrador's political influence as the Party of the Democratic Revolution's (PRD) leader and the head of the Federal District's government. He was considered the likeliest winner of the forthcoming 2006 presidential election. In order to stop López Obrador from running as a presidential candidate, Fox sent a directive to the attorney general's office to prosecute Obrador for violating the law during the implementation of a road construction

plan. However, he had immunity as a current head of government in the Federal District, and impeachment proceedings stalled after he secured the help not only of his own party, the PRD, but also the PRI in the impeachment vote. As the impeachment failed, President Fox was forced to drop the case, and the attorney general was removed from his post due to public criticism of this political use of law enforcement agencies. Fox's plan to damage López Obrador's influence and reputation backfired since López Obrador returned to his pre-election campaigning as a much more popular and influential candidate with the image of a martyr who had endured political oppression (Tuckman, 2012: 65). López Obrador was defeated in the election by a razor-thin margin (0.6 percent) by Calderón, the candidate of the ruling National Action Party (PAN). The "martyr" proclaimed himself the "legitimate president" and refused to recognize Calderón as the new president.

President Calderón also used law enforcement agencies for his political purposes. Mobilization of the police for political goals aggravated criticisms of the arbitrariness of the police's law enforcement operations. He relied almost entirely on his loyalists among both high-ranking officials and rank-and-file police officers, who carried out his orders without question, including using their authority to attack political opponents (Tuckman, 2012: 68–69). In 2009, two months before midterm congressional elections, the federal law enforcement agencies arrested 10 city mayors and 25 other local officials for collusion with an important drug trafficking organization in Michoacán. Of these mayors arrested, eight (80 percent) were members of opposition parties (the PRI or PRD), while only two (20 percent) were members of the ruling party (the PAN). This operation's political nature became clearer when 34 of those 35 arrested were eventually declared innocent in court due to a lack of evidence (Bailey, 2014: 4). Many viewed the operation as another partisan maneuver to strengthen the government's hand in the upcoming mid-term election.

Opposition parties' politicians had already criticized President Calderón's use of law enforcement agencies for political purposes. They believed that the president was exploiting the security crisis—the escalating drug-related crime and war against drug cartels—to enhance his legitimacy and popularity as a president who was fighting against enemies of the public's security. Criticism of his mobilization of law enforcement agencies to oppress his political opponents further intensified when federal prosecutors of

Calderón's government accused several PRI leaders just before the 2012 presidential election.⁸³ Suspicions of his political use of law enforcement agencies also hampered anti-crime cooperation between the federal and state governments since governors from opposition parties had no reason to support federal government anti-crime initiatives that targeted them and their parties' politicians (Bailey, 2014: 145, 151).

Due to their experience under authoritarian rule and the extremely antagonistic inter-party competition during the democratic transition, both Mexico's public and political elite have become quite wary of how the government might use the central state's coercive, physical tools—its enforcement agencies—for the president and his ruling party's political purposes. Opposition parties are suspicious about the government's use of security policy to create partisan advantage. The public, in turn, is deeply distrustful of the police's practice of law enforcement. Police agencies themselves have little confidence in other agencies because different agencies at various government levels are under the influence of different political forces. Police officers even lack confidence in other officers within their units because many are captured or employed by various political patrons and criminal organizations that maintain competitive and hostile relationships with one another (Bailey, 2014: 148). Political democratization has established political and organizational conditions in which the police's political neutrality and internal cohesion cannot be maintained.

III. Transformation of State Coercion

(1) Consolidation of the "Palace Guard"

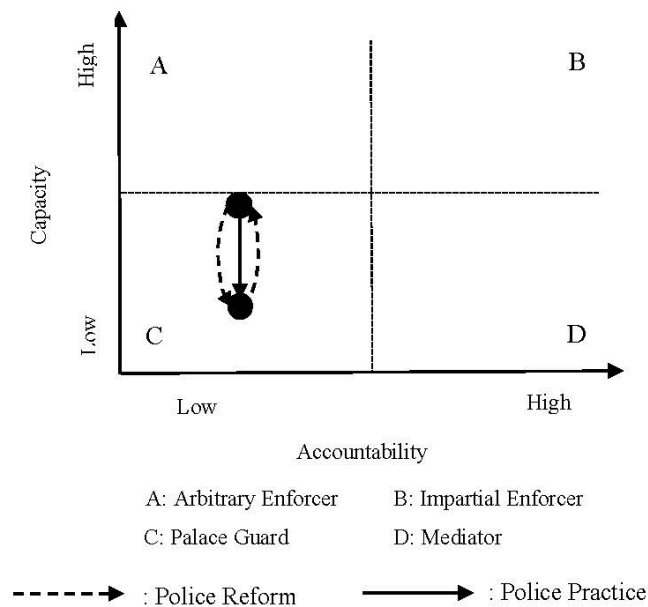
The Mexican police functioned as the president's loyal "palace guard" during the PRI's authoritarian rule. As discussed in Chapter 3, lacking both the capacity to maintain public security and accountability to other institutions outside the executive branch, the police operated as the president's political tool, serving the ruling group's interests at the expense of public security outside the president's following. Since the late 1980s and early 1990s, Mexico has accomplished remarkable progress in its successful democratic

transition, especially in terms of electoral democracy. Everyone, therefore, expected the democratic transition would transform the police into “impartial law enforcers.”

However, proposals and implementation of police reforms have been strongly influenced by the political and bureaucratic interests of various actors, such as presidents, government bureaucrats, and politicians from opposing parties. Since each newly elected president has encountered quite divergent political and bureaucratic conditions, their police reforms have headed in different directions contrary to the average citizen’s desire, even though the creation of impartial law enforcement agencies through reforms is a normative goal to which every citizen and politician in new democracies aspire. As shown in Chapter 8, President Zedillo’s police reforms further consolidated the “palace guard” role during the first half of his term. During the second half of his term, these reforms took the route toward creating “hard arbitrary enforcers.” Police reforms under Fox’s presidency also pursued the creation of “hard arbitrary enforcers,” although this was blocked by the legislature. Last, police reforms under Calderón followed the path of both “hard” and “fat” arbitrary enforcers. His reform plan met with a stalemate in the legislature, where it was subjected to compromise, curtailment, and frustration. In these ways, the trajectories of Mexico’s police reforms have bounced between the “palace guard” and “arbitrary enforcers” roles.

A closer examination of the police’s actual behavior or police practice, however, illustrates that the trajectories of changes in police practice have resulted in the deepening and consolidation of the “palace guard” role. The police’s capabilities have further weakened, while no meaningful change has been achieved in police accountability during the democratic transition. Figure 9-1 shows the difference between the direction of police reform and the actual trajectory of the transformation of the police at the practice level.

[Figure 9-1] Trajectory of Police Reforms and Changes in Police Practice in Mexico



(2) Effects of Divergent Factors

Several factors exerted detrimental effects on the police's capabilities. The geographic restructuring of the cocaine commodity chain was responsible for the increase in organized crime related to drug trafficking in Mexico, since it had become the main drug-trafficking route from Central America into the U.S. The chronic organizational disarray of Mexico's police further deteriorated with democratization because different police agencies at different government levels were now dominated by different political forces (i.e., parties). The utilization of the military to carry out public security operations caused tension between soldiers and police officers, which prevented any cooperation in efficient crime reduction. The confrontational approach Calderón's government used to battle the narcotics syndicates intensified violent conflicts not only between the central state and major drug cartels but also among small drug-trafficking organizations that took over territories left uncontrolled by crushed major drug cartels. This policy also

caused the diversification of drug cartels' businesses into other illegal activities such as kidnappings, extortion rackets, and people smuggling.

The police's accountability has been maintained at a low level during the democratic transition. Corruption, human rights violations, and the police's involvement in political affairs have continued to undermine the rule of law and impartial law enforcement in Mexico. Arbitrary arrests, the use of torture to obtain confessions, and the mobilization of the police to attack the legitimacy of the presidents' political opponents have revealed that the police lack the will and capacity to enforce laws impartially (Hamilton, 2011: 157). To satisfy public demands for the rule of law, Mexican presidents, especially President Calderón, have implemented institutional reforms of the judicial system (*ex post* mechanisms for the rule of law). However, the police's corruption and their arbitrary enforcement of laws (*ex ante* mechanisms for the rule of law) have continuously undermined the effectiveness of any judiciary reforms in the top hierarchies of the criminal justice system (Hamilton, 2011: 173).

Local governments' intensified strength has not increased police accountability to local communities in Mexico. In Taiwan, police decentralization and authorities' grants relating local police to local governments has increased police accountability to local communities. However, the same thing has not happened in Mexico. This country has long maintained a decentralized form of police organization. State and municipal governments have had their own police forces within the federal system's framework. However, although Mexico officially accepted federalism, its government system has been *de facto* a centralized one since many unofficial measures sustained the political, economic, and bureaucratic power of the federal government vis-à-vis state and municipal governments during the PRI's authoritarian rule. This centralized control over provinces was maintained by informal party ties between the president and PRI governors, who owed their positions to presidential approval.

Democratization exacerbated the central state's weak capacity to provide public security. Without the support of a hegemonic party, which had provided governing capacity to the central state through informal measures, the state's law-enforcement capacity in itself was extremely limited (Levy and Bruhn, 2006: 273). Moreover, non-PRI presidents decided not to intervene in political conflicts at local and regional levels.

President Fox, for example, intentionally embraced the principle of non-intervention in provincial affairs, which he considered as a step toward democratization across the entire country (Tuckman, 2012: 88).

However, the collapse of the PRI's political monopoly in the federal government, the election of non-PRI presidents, and the non-intervention of the federal government in political conflicts at local and regional levels caused unintended results. While the federal government underwent democratic changes, many provincial governments escaped the wave of democratization as they were occupied by newly strengthened authoritarian mayors and governors (Holzner, 2010: 142). Democratization created a patchwork in which democratic local governments existed side by side with authoritarian ones (Holzner, 2010: 16, 49). If local governments remain under authoritarian systems, police decentralization does not automatically cause increased police accountability to local communities. To be accountable, the police need to be responsible to local residents and legislature. The transfer of power directing the police to mayors and local governments without building institutional measures for oversight of the police by agencies outside local executive bodies has simply increased local police's dependency on their local masters. As provincial governments have remained bulwarks of authoritarianism, an increase of police accountability at the local level could hardly be expected.

IV. Conclusion

Throughout its recent history, Mexico has struggled to intensify the central state's power to make it strong enough to provide at least a minimum level of public security. Post-colonial leaders in Mexico were burdened with the quest for a central state capable of creating both order and sovereignty. Building impartial law enforcement agencies and providing constraints on coercive central state powers were pushed to the side as secondary goals, since the central state and its police forces lacked the capacity to enforce laws. When the democratic transition started to unfold in the late 1980s and early 1990s, Mexican citizens expected that the "palace guard" police would be transformed into impartial law enforcement agencies with the wave of democratization. However, the outcome of democratic change was the consolidation of the

police's "palace guarding" role. The police's capabilities, which had been emphasized at the cost of police accountability, deteriorated even further with democratization. The failure to transform the police into "impartial enforcers" did not simply frustrate Mexican citizens' common desire for a central state with the capacity to maintain public security. It also increased their skepticism about democratic governments' efficiency and legitimacy. Not only democratic governance but also democratic values and the rule of law have been endangered by the crisis of public security and law enforcement.

Chapter 10

Democratization, State Coercion, and the Rule of Law

Korea, Taiwan, and Mexico have demonstrated quite remarkable accomplishments during their successful democratic transitions, especially in terms of electoral democracy. When an authoritarian regime collapses and the democratic transition starts to unfold with the foundation of new democratic rules, people hope for the best: Every “evil thing” will be eliminated with the removal of authoritarianism, while every “good thing” will come with democratization. Democratic policing, or the creation of impartial enforcement agencies, is a normative goal to which every politician and citizen in a new democracy aspires.

However, the trajectories of change regarding the police in these three countries show that policing in a democracy is different from democratic policing and that the creation of impartial law enforcement agencies is not automatic after democratic transition. Democratic policing is obtained through struggle, rather than simply given, because political logic sometimes frustrates everyone’s common desires, even in a democracy. Other various structural factors at the domestic and international levels, which exist beyond the control of the law enforcement agency, also exert constraining effects on the transformation of the police into an “impartial enforcer” in new democracies. The dissertation traces how the timing and direction of the institutional and behavioral transformation of the police are dictated by complex interactions among various institutional, structural, and agency factors. The concluding chapter will provide a comparative analysis of the divergent police transformation routes taken by these countries, with a focus on the complex causal effects of various factors.

I. Reforming Authoritarian Policing

(1) Authoritarian Policing

The creation and development of law enforcement agencies are closely related with the process of modern state formation. The existence of a properly operating police force symbolically demonstrates that the state holds a monopoly on the legitimate use of physical force as a means of domination within its territory. Not all states in the world have succeeded in building solid police institutions, and the types of police differ by country. As discussed in Chapter 3, Korea, Taiwan, and Mexico had developed their own forms of police forces during their authoritarian periods. As a result, when the new democratic leaders implemented police reforms, the initial condition of law enforcement was not same in each country.

“Arbitrary Enforcer” in Korea

During the authoritarian period, Korea was a typical “arbitrary enforcer.” National division, the existence of a strong external threat from North Korea, and a crisis of national security allowed the use of the police to secure political interests and maintain the regime’s security. Although the strong capability of the police enabled them to maintain public security, they failed to enforce the law impartially. During the geopolitical confrontation with North Korea, the military governments of Park and Chun initiated intensive countermeasures against crime, especially organized bandits, for the purpose of building a more tightly controlled “garrison state.” Korean police had been characterized by a highly centralized national police system. All police departments across the entire country were homogenous in terms of department policy, ruling authority structure, and policing practices. The police performed various and extended functions, covering not only crime prevention and investigation but also counter-communist operations and the management of homeland reserve forces.

Law enforcement agencies served as a tool of the ruling power for the oppression of political opponents and to maintain social control through surveillance and coercion. Due to the lack of legitimacy to govern, which should come from democratic procedures for consensus building, the authoritarian regimes were heavily dependent on the physical force of the police and utilized it as a political means of suppressing anti-government activities and political opponents. A remarkable portion of police personnel and resources was allocated to monitoring and suppressing political opponents and democratic movements, which further

deepened the antagonistic relationships between the police and citizens. The police were not viewed as a neutral authority that citizens in trouble could turn to for aid and assistance. Because authoritarian rule had cast the Korean police in the role of suppressor and intimidator, the Korean people continued to view their police with suspicion and distrust. They identified the police with control by the government rather than an organization that served their need for impartial law enforcement (Hoffman, 1982: 10).

Limited “Arbitrary Enforcer” in Taiwan

Under KMT rule, the police in Taiwan functioned as an “arbitrary enforcer.” The main function of the police was to secure the stability of the KMT regime rather than to serve the people. The repression of political dissidents was an integral part of policing. Fear of a communist insurrection was all the justification needed to suppress freedom of thought, speech, publication, assembly, and the press. In the name of defending Taiwan from the communist threat in the mainland, the police focused on monitoring and repressing political opponents, while preventing crime against citizens was a secondary priority. To fulfill the political duties of regime security more efficiently and to conduct their crucial role as the operational base of the state for maintaining order, the Taiwanese police were given wide discretion and authority with respect to search, seizure, detention, and arrests. At the local level, the police were encouraged to be actively involved in neighborhood activities. They were involved in divergent functions of the state, rather than being specialized in public security and law enforcement.

However, under KMT rule, the Taiwanese police rule did not perfectly correspond to the ideal type of “arbitrary enforcer.” The police of the KMT regime were somewhere between an “arbitrary enforcer” and a “palace guard” because the police force’s capacity to coerce compliance at the local level was not rooted in its own quantitative and qualitative strength. As an émigré regime that had arrived from the outside, the KMT was unable to infiltrate local Taiwanese society to the deepest level on its own. It thus strategically utilized local factions to establish and maintain its influence in local politics. Local factions received various types of privileges in exchange for their political loyalty to the KMT. The capacity of the police at the local level originated from the political strengths of the KMT, which was bought by local factions through

informal measures. As long as the KMT had enough resources to buy the cooptation of the local elites, the police could expect the maintenance of police capacity in local communities.

The “Palace Guard” in Mexico

During the authoritarian period, the police in Mexico were “the president’s police” and functioned as a typical “palace guard,” i.e., a law enforcement agency with weak capability and weak accountability. The Mexican police protected the interests of the ruling group at the expense of public security outside the president’s court. The operation of police forces focused on political affairs and social control near the palace of the president, while the police functions of community service and crime prevention were marginalized. Inequality was evident in the realm of public security. The capacity of the state to maintain public order and to enforce the law was not evenly distributed across the country because many municipalities had no public security force at all.

Police organizations were significantly fragmented. Preventive police and judicial (or investigative) police co-exist in the same territorial spaces. The federal government and each of the 32 states had their own preventive and judicial police forces, while municipalities were permitted to maintain only preventive police forces. Governments at all levels repeatedly created new police forces rather than reform old ones, due to resistance from political factions in the government and the police. During authoritarian rule, the police were not successful in ensuring public safety. Security and law enforcement institutions at the local and state levels, which took primary responsibility for fighting crime, were especially incapable of successfully coping with criminal offenses.

In spite of weakly professionalized and inefficient police forces, the Mexican government kept the level of crime related with drug trafficking organizations at a lower level. Rather than relying on the physical and coercive means of state organs to suppress those drug trafficking organizations, the PRI government chose to create an informal agreement with the major drug cartels. The government implicitly agreed to allow traffickers to continue their illicit enterprises as long as they paid bribes and no major eruptions of violence took place.

(2) Police Reform

Long Detour in Korea

As discussed in Chapter 4, Roh Tae-Woo, the first democratically elected president in Korea after the constitutional revision in 1987, held control over both the legislature and the police. President Roh sought to increase police capability through reform. Before the three-party merger, his police reform was inclined towards creating a “fat arbitrary enforcer” because he emphasized the extensive capacity—or the size—of the police force, which was intended to cope with mounting organized crime. President Roh intensified the extensive capacity of the police just after the three-party merger by dramatically increasing police expenditure and manpower. However, he also strengthened intensive police capacity by elevating the institutional status of the police via enacting a new Police Act in 1991. The police reform leaned toward creating a “hard and fat arbitrary enforcer.”

President Kim Young-Sam’s reform created more of a “palace guard.” He reduced the capacity of the police because their loyalty to him was uncertain. He reduced not only the total number of high-ranking police officers at the central command office but also the overall scale of police organizations at a national level. However, during his presidency, there was no meaningful effort to make changes designed to increase police accountability and impartial law enforcement. Kim had no foundation of influence in the executive when he was inaugurated as president because he had entered the ruling bloc as the leader of a minor group via the three-party merger. However, he did not intensify police accountability in order to secure his control over police officials. He utilized another strategic option— a large-scale purging of police officers—to tame the police officials and secure his control over the police.

A meaningful effort to increase police accountability was made by the President Kim Dae-Jung, who had weak control over the legislature and the police. He intensified vertical police accountability to ensure the responsibility of the police to citizens. His reform initiative emphasized citizens’ oversight of the police and the service roles of the police (or citizen-oriented policing) based on cooperation and collaboration

between the police and citizens. However, he had no interest in increasing police capability. Kim's government not only frustrated the desire of the police to be granted investigative power but also weakened the overall extensive capacity of the police. His government reduced the organizational scale of the National Police Agency at the central command office level. At the local level, the government also reduced the total number of mini-police stations. The proportion of police expenditure in terms of total government spending abruptly decreased following Kim's inauguration. During Kim's term, no meaningful effort to increase the police budget was witnessed.

Evolution and Stagnation in Taiwan

The first democratically elected president in Taiwan, Lee Teng-Hui, also had as firm a grip on both the police and the legislature as his counterpart in Korea. President Lee had a strong incentive to use the police force as the "arbitrary enforcer" for his political purposes. Chapter 6 shows that the actual police reform proposed and implemented by President Lee took a trajectory that differs from the anticipated route toward an "arbitrary enforcer." His police reform was aimed at transforming the police into an "impartial enforcer." The police were dispossessed of many legal and institutional tools that they had used for the oppressive and arbitrary enforcement of law during the martial law period. The extended roles that they had previously enjoyed were reduced. As the military retreated from the duties of public security, however, the police enjoyed intensified authority in their own areas of law enforcement and the maintenance of public order. The financial and human resources of the police were also maintained at high levels during his presidency.

A more dramatic unforeseen change occurred in the dimension of police accountability in the last year of his presidency. He decisively decentralized the police and increased their accountability to local governments. Local governments were provided with the authority to draw up local police budgets and to choose police chiefs from a list of NPA-endorsed candidates. Although the local police still remained under the centralized direction and command system, the decentralization of the police and the increase in police accountability to local governments were significant changes, considering the maintenance of highly centralized police forces during the past half-century.

The police reform during President Chen's first term was characterized with internal disorder and tensions with the legislature. Rather than strengthening the existing police forces, whose loyalty to him was uncertain, he attempted to establish a new agency to combat corruption. This plan nonetheless encountered resistance from the opposition parties. They objected to the proposal for fear of the political mobilization of the new agency for the suppression of opposition parties. The creation of the new agency was also resisted by officials in the existing law enforcement agencies. The president objected to the intensification of police accountability to local governments, a move that differed from his predecessor's increasing of such accountability. The KMT had constructed a strong bulwark in local politics, thereby rendering the DPP's political status unstable. Although the increase in police accountability was a useful way for the president to expand his control over the police, such an increase was a risky option that would have reinforced the influence of the opposition parties on the police at the local level when local politics were dominated by the oppositional forces.

President Chen's second term was replete with severe tensions between the ruling and opposition parties, as well as a substantially low level of popularity because of the government's inefficiency in directing the country. The president lost his capacity to formulate and drive a new police reform plan. No meaningful police reform effort was exerted during this period.

Tensions and Stalemate in Mexico

Chapter 8 illustrates that President Zedillo's police reform went in the direction of creating a "palace guard" during the first half of his term. His effort to expel corrupt police officers led to a significant organizational retrenchment of the police. He utilized the military, instead of corrupt police officers, to fulfill the duties of public security. The police's isolation from their own duties further deteriorated their capacity. President Zedillo destroyed the old, corrupt police force, but he failed to construct a newer one with strong capacity. The military occupied this vacancy. The police reform President Zedillo implemented during the second half of his term took the direction toward creating a "hard arbitrary enforcer." While the level of financial input directed toward the police was still low, his institutional reform pursued a strong, intensive police

capacity. He created a new security agency whose human resources were directly recruited from the well-disciplined military. While he only destroyed the old police during the first half of his term, he finally began to construct a newer police force during the second half of his term.

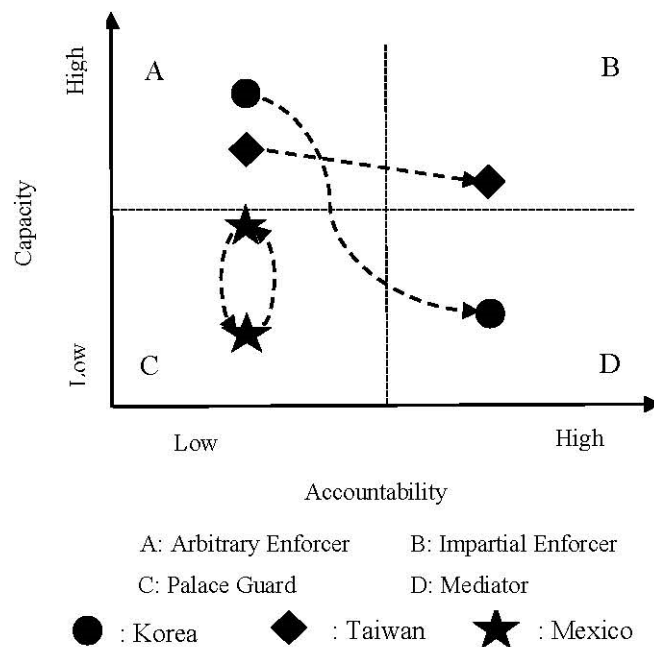
The police reform under Fox's presidency was anticipated to move towards a "plebeian mediator" because he encountered difficulty in controlling the police and the legislature. His presidency was the only period in which Mexico could have seen an increase in police accountability. By intensifying the police force's accountability to the citizens, he could have attempted to increase his capacity to control the police, which had previously served the PRI's interests. However, instead of heading toward a "plebeian mediator," his reform plan pursued the creation of a "hard arbitrary enforcer." President Fox did not utilize institutional measures of police accountability in pursuing his goal of securing control over the police because he had a much stronger tool—the purging of police officers. Fox aimed to create a single national police force by unifying all of the police agencies at the federal level. His plan would have given him a strong coercive state organization; however, the plan was blocked by the legislature.

President Calderón had no incentive to increase police accountability, because his predecessor, President Fox, had already tamed the police and secured their loyalty to the PAN government. However, he had a strong incentive to increase police capacity, especially intensive police capacity, because his ruling party struggled with the opposition parties at the central political level. Disciplined and organizationally cohesive police forces under the tight control of the president would provide a strong political tool for successfully coping with mounting threats from the opposition. President Calderón focused on both the intensive and extensive capacity of the police. He pursued both "fat" and "hard" arbitrary enforcers. The need to increase the extensive aspect of police capacity (e.g., the size and financial resources of the police force) became prominent under his presidency via his war on organized crime, or drug cartels. His police reform encountered a stalemate at the legislature and brought compromise, curtailment, and frustration.

Figure 10-1 compares the trajectories of police reform taken by Korea, Taiwan, and Mexico during the period of democratic transition beginning in the late 1980s and early 1990s. Police reform in Korea first

aimed at the continuation of an “arbitrary enforcer,” then headed toward a “palace guard,” and ultimately pursued a “mediator.” Police reform in Taiwan evolutionarily pursued the creation of an “impartial enforcer,” but encountered stagnation due to internal disorder within the government with regard to the direction of police reform and a stalemate in the legislature. Police reform in Mexico first aimed at the deepening of the “palace guard,” then pursued the creation of an “arbitrary enforcer.”

[Figure 10-1] Trajectories of Police Reform in Korea, Taiwan, and Mexico



(3) The Police Reform Theory

Conformity with and Deviation from Expectations

In Chapter 2, the author provided a theoretical framework of police reform to anticipate the timing and direction of police reform chosen by a newly elected president in new democracies. The policy goals of a president’s police reform are influenced by the political and bureaucratic conditions in which the president

is imbedded. His police reform is an outcome of his strategic consideration of the political and bureaucratic conditions—i.e., the president’s capacity to control the police and the president’s capacity to control the legislature—in which he is embedded. Regardless of differences in regime type, the ultimate goal of all politicians is to increase their power and protect their interests. The president’s police reform is the product of power politics for the sake of the maximization of political interests. The best choice for the president is not necessarily the best choice for his citizens.

In fact, the police reforms in Korea, Taiwan, and Mexico during their democratic transitions show that political logic sometimes frustrates everyone’s common desires, even in a democracy, although the creation of impartial law enforcement agencies through police reform is a normative goal to which every politician and citizen in a new democracy aspires. The tragedy of new democracies is that the president’s choice for police reform among the various options available to him is not always the best option for the transformation of the police into a democratic policing unit, even if it is the best option for the fulfillment of the political goals of the president. This dissertation shows that police reform in pursuit of impartial law enforcement is a remote and challenging goal in new democracies.

However, the direction of concrete police reform proposed and implemented by the president has not always corresponded that reform’s anticipated direction. In fact, a great deal of deviation from the anticipated routes has been witnessed. President Kim Young-Sam was anticipated to proceed in the direction of a “patrician mediator” because he encountered difficulty in controlling the police while he secured the strong capacity needed to control the legislature. However, the actual direction of his police reform was more toward the creation of a “palace guard.” President Lee, who enjoyed strong control over both the legislature and the police, was anticipated to transform the force into an “arbitrary enforcer.” However, the actual police reform proposed and implemented by the president was aimed at transforming the police into an “impartial enforcer.” The police reform under Fox’s presidency was anticipated to proceed in the direction of creating a “plebeian mediator” because he encountered difficulty in controlling the police and the legislature. However, President Fox did not utilize an institutional measure of police accountability

to reach his goal of securing control over the police. Instead of heading toward a “plebeian mediator,” his reform plan pursued the creation of an “arbitrary enforcer.”

These directions of police reform, which differ from the anticipated direction, signify that the theoretical framework of police reform proposed in the dissertation has only limited validity. The limitation is quite predictable because the framework anticipates the timing and goals of police reform based on only two factors: (1) the president’s capacity to control the police and (2) the president’s capacity to control the legislature. Restricting causal factors into two variables is helpful in creating a parsimonious analysis and prediction across various cases. However, deviation will be witnessed because the timing and direction of police reform are also influenced by other factors.

The President and the Ruling Party

The president’s capacity to control the legislature can vary, regardless of the ruling party’s status in the legislature. Having a ruling-party majority in the legislature does not necessarily mean that the president controls the legislature. For example, during Kim Young-Sam’s presidency, the legislature was not a certain ally of the president, even though it was occupied by the ruling party, because his political faction was only a minority member of the ruling party. President Kim Young-Sam’s political faction had merged with Roh’s faction through the three-party merger, with Roh’s faction still being the most influential within the ruling party. President Kim faced internal conflicts between his own reform-minded groups and Roh’s existing authoritarian groups in the ruling party with regard to the implementation of democratic reform programs (Lee, 2007: 115–116). Although the legislature was occupied by the ruling party, he was unable to increase the accountability of the police to the legislature, because the loyalty of the ruling party was not certain due to internal tensions and conflicts between the two rival factions.⁸⁴ The weak status of the president within the ruling party caused the unanticipated police reform direction toward the “palace guard” during his presidency, as discussed in Chapter 4.

Purging as an Alternative Option

For some presidents, police accountability is unnecessary, even if they strongly desire to intensify their control over the police and secure their loyalty, because they have an alternative method of satisfying their desire—the purging of disloyal police officials. Compared to the institutional measures of police accountability, which require a legislative process, purging is a convenient means of taming disloyal officials, especially when the meritocratic tradition is weakly established. As discussed in Chapter 8, Mexican presidents were able to freely purge police officers from their posts in the name of purifying police organizations because the police had long been prevailed upon by *camarillas* of the PRI's politicians.

However, purging is not only available to a president in a country with weak meritocracy. A president in a country with a strong meritocratic tradition within the bureaucracy can also utilize purging to tame police officials, replacing the option of police accountability. For example, President Kim Young-Sam utilized a large-scale purging to secure his control over the police, as shown in Chapter 4. Meritocracy in Korea protects the job security of bureaucrats, including police officers. However, by mobilizing the mass media to uncover the suspected malpractice of public officials, President Kim was able to purge public officials without violating the constitutional protection of job security for bureaucrats. Corrupt—in fact disloyal—officials were forced to “voluntarily” resign from their posts under the pressure of mass media and public criticism.

Local Politics

An unanticipated direction for police reform can also be prompted by the political influence of the ruling party on local politics. As discussed in Chapter 6, intensified police accountability to local societies toward the end of the Lee's tenure in Taiwan was the result of a strategic choice of the KMT to reduce the cost of a potential defeat in presidential elections the following year. Because the KMT maintained its dominance over the DPP at the local political level, the KMT's policy of decentralization and increasing police accountability was an insurance measure designed to secure its influence over police at the local level and restrain the central government's power in case the succeeding administration was occupied by the DPP.

The importance of the status of local politics was also witnessed in the police reform during Calderón's presidency. As shown in Chapter 8, the PRI's opposition to the police reform proposal of President Calderón, which aimed to unify the state and municipal police forces into 32 state-level agencies, was led by the precarious mandate of the PRI at the state level. A series of state election defeats in 2005 left the PRI in control of only half of the states in Mexico. The PRI still remained dominant in state-level politics; however, in the 2006 presidential vote, it failed to carry any of Mexico's 31 states against Calderón. Compared to fragmented police forces under numerous municipal authorities, intensified unitary police forces under the control of governors in each state embodied a more salient danger to the PRI because it was facing an uncertain political future in state-level politics.

The Utilization of the Military

Sometimes, a president does not feel the need to implement a police reform when he has other available institutional agencies or physical forces that can be utilized as public security agencies. The military is among these alternative agencies. As shown in Chapter 8, President Zedillo's police reform went in the unexpected direction of creating a "palace guard" during the first half of his term. He freely fired corrupt police officers without worrying about a detrimental effect of reduced police capacity on public security because he was able to fill this gap with other forces. He utilized the military, instead of corrupt police officers, to fulfill the duties of public security.

The military were also preferred by President Calderón as an alternative to the police force. He was criticized as being "quick to use the military but slow to reform Mexico's corrupt police" (Roig-Franzia, 2007b: 15). The availability of the military for the sake of maintaining public security reduced the pressure and need to reform the civilian police. Rather than implementing laborious reforms of the corrupt and inefficient police force, Calderón's government showed a reactionary response to organized crime by exploiting its armed forces for short-term success.

However, among the three new democracies, the use of the military for public security purposes by a democratic president was only possible in Mexico, where the military had long been detached from politics

under the PRI's authoritarian rule. The use of military forces was not an option for the presidents of Korea and Taiwan, because the military in these countries had been deeply involved in political affairs during the authoritarian period and were banished from civilian affairs during the democratic transition. In this way, the role of the military in civilian affairs in Mexico has taken an opposite direction from that in Korea and Taiwan. Military involvement was intensified with the democratization in Mexico, while it was weakened with the democratic transition in Korea and Taiwan.

II. Transformation of the Police

(1) Trajectories of Change

Partial Transition to an "Impartial Enforcer" in Korea

Korean police have taken the trajectory of an incomplete transition to an "impartial enforcer" and still maintain many institutional characteristics of an "arbitrary enforcer." The transformation of the police in Korea since the democratic transition of the late 1980s has been a partial or incomplete transition to an "impartial enforcer," or continuity as an "arbitrary enforcer," because the police during this period have maintained a strong presence, but the level of accountability is still low.

The Korean police have maintained a strong presence without any serious crises. The continued strong military threat from the North has firmly positioned national security as the top policy priority of government and justified the centralization and extension of the coercive apparatus of the state. Combat police forces and conscripted policemen still make up about half of total police personnel. Although presidents Kim Young-Sam and Kim Dae-Jung implemented police reforms that aimed at the creation of either a "palace guard" or a "mediator," Korean police have never become these types of police, because police capacity has been maintained at a high level.

Police accountability has remained at a low level, with some improvements. The Korean police indirectly supported the ruling parties during the democratic transition period, while their authoritarian

predecessor preferred more direct involvement in electoral fraud. Even after the democratic transition, the police provided the ruling party candidates with information about the activities of opposition party candidates. They also tolerated violence against opposition party workers by hoodlums that the ruling party employed to disturb the election campaigns of the opposition parties. The police have been criticized for discriminatorily enforcing election law for different parties—being stricter and more rigid for opposition parties and more generous and flexible for the ruling party. As discussed in Chapter 5, discrimination between the two major parties in terms of the enforcement of electoral law gradually disappeared with democratization. However, small parties and candidates with no party affiliations were unfairly treated by Korean law enforcement agencies, while large parties that occupied at least the status of the second largest party in the legislature enjoyed the lenient application of electoral law, regardless of their status as either a ruling or an opposition party.

Transition to a “Mediator” in Taiwan

With the democratic transition, the Taiwanese police have been transformed from an “arbitrary enforcer” into a “mediator.” As show in Chapter 7, rather than enforcing any kind of universal law that should be applied uniformly over the entire country, the Taiwanese police mediate disputes among local residents in an ad hoc manner.

The capacity of the police has declined significantly. Democratization weakened the top-down power of the authoritarian center, which had functioned as a source of power for the police, and it strengthened the bottom-up power of local factions, which the police had to deal with to enforce the law. The crisis and decline of the political power of the KMT at the national level not only weakened its own foundation for securing the cooptation of local factions but also the capacity of the police because the political influence of the hegemonic ruling party at the local level had complemented the limited capacity of the police vis-à-vis the local elites.

When the power of the KMT gradually dissipated with the democratic transition, it soon became clear that the capability of the police to enforce the law and coerce compliance at the local level was very limited.

Moreover, democratization deprived the police of numerous legal tools that had guaranteed their strong and arbitrary power under martial law. The police became influenced by the rise of “Black Gold” politics. Police operations against illegal businesses are frequently interfered with by members of the local city/county councils who are members of the underworld or have close ties with the owners of illegal businesses.

A series of institutional and legal reforms has intensified the accountability of the police, especially to local communities. With the democratic transition, the police started to be exposed to direct criticism and oversight by the citizens because the military retreated from the realm of public security and the police took on the duty of maintaining social order. The decentralization of the police intensified the responsibility of the police to meet the needs of the local communities. However, the continued corruption, human rights violations, significantly deteriorating confidence in the police, and political mobilization of the police by politicians signify that the institutional measures put in place to improve police accountability have not produced successful results in terms of practice.

Continuity of the “Palace Guard” in Mexico

Mexico’s police continue to act as a “palace guard.” The police’s capabilities have further weakened, while no meaningful change has been achieved in police accountability during the democratic transition, as illustrated in Chapter 9.

The police’s accountability has been maintained at a low level during the democratic transition. Corruption, human rights violations, and police involvement in political affairs have continued to undermine the rule of law and impartial law enforcement in Mexico. Arbitrary arrests, the use of torture to obtain confessions, and the mobilization of the police to attack the legitimacy of the presidents’ political opponents have revealed that the police lack the will and capacity to enforce the law impartially. At the PRI regime’s peak, corruption was partially regulated by the centralization of control over opportunities for corruption among the police. Democracy, however, threatened the state’s system of corruption regulation.

With democratization, Mexico experienced a severe decline in police capability. The homicide rate skyrocketed, while a large number of criminals committing homicides remained unpunished. The high

impunity level indicated that the criminal justice system in Mexico had encountered a significant crisis. Moreover, the uneven distribution of public security worsened the crisis of legitimacy of the democratic government and its law enforcement agencies. In some areas, people encountered a surplus of state coercion due to militarized policing related to the war against drug trafficking, while in other areas, a deficit of state coercion caused the replacement of public policing agencies with private self-defense groups.

Public insecurity in Mexico is not a new problem that has emerged with democratization. The quest for a state capable of creating both order and sovereignty has been an unending burden carried by Mexico's post-colonial leaders. The permanent problem that political leaders have encountered has not been the state's overly developed means of coercion. Rather, it has been the underdevelopment of the coercive agencies of the state, which have failed to maintain order and public security. However, during the democratic transition, Mexico has encountered significantly worsening public security, rather than the improvement of state capacity to maintain public security and enforce the law.

[Figure 10-2] Transformation of Police in Korea, Taiwan, and Mexico

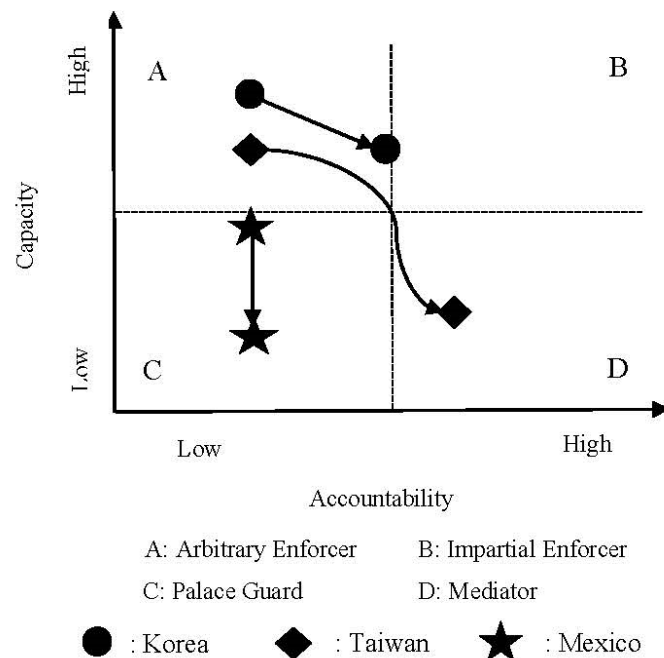


Figure 10-2 shows how Korea, Taiwan, and Mexico have taken divergent trajectories in terms of change in the police during the period of democratic transition beginning in the late 1980s and early 1990s. Policing in Korea has been transformed from an “arbitrary enforcer” into an “impartial enforcer,” with a slight decline in police capacity and some improvement in police accountability. However, this transition is incomplete because policing in Korea still contains many remnants of authoritarian policing. Policing in Taiwan has shown the most dramatic change. It has been transformed from a limited “arbitrary enforcer” into a “mediator.” Police accountability has significantly increased. However, police capacity has also seriously declined. The police in Taiwan are not enforcers but mediators. They mediate disputes among local residents in an ad hoc manner, rather than enforcing any kind of universal law that is applied uniformly over the entire country. Policing in Mexico has remained a “palace guard” during this period. Police capacity has been further weakened, while police accountability still remains at a low level, without any meaningful improvement.

(2) Factors of Divergence

These divergent trajectories of change in the police have been influenced by various factors. The effects exerted by each of these factors on police capacity and police accountability are not homogeneous. Some factors push police capacity and police accountability in the same direction—either increasing or decreasing—while other factors increase only one with the expense of the other. Moreover, the effect of a same factor could be different depending on the existence of other factors. As a result, the speed and direction of the change in each of the institutional and practical aspects of the police—i.e., police capacity and police accountability—caused by these factors are different.

Reduction of Physical Oppression

In Chapter 1, it was anticipated that reducing the physical means of oppression, which had been held by the authoritarian state and its police force, would cause a decrease in police capacity. Citizens who complied

with the direction and order of the police simply because the police were equipped with physical means would have no reason to obey if the means of physical oppression was lost. Of course, the competitive hypothesis anticipated that police capacity would actually increase with the reduction of physical oppression because citizens would voluntarily comply with the law enforcement of a police force that is backed up by a legitimate government selected through democratic procedures. The case studies of this dissertation show that the effect of reduced means of police oppression was not significant.

The democratic transition proceeded in an evolutionary and gradual manner in Taiwan and Mexico. In Taiwan, the pace and direction of legal and institutional changes to the government and electoral system were controlled by the KMT regime and implemented step-by-step based on agreement and consensus between ruling and opposing groups (Chao and Myers, 1998: 295). In Mexico, core institutional innovations for the democratic change, such as the creation and strengthening of the Federal Electoral Institute (IFE), were implemented under the PRI regime (Middlebrook, 2004: 6). As a result, the physical tension and confrontation between the coercive organs of the state and the citizens were not conspicuous during the democratic transitional period, as compared with other countries that underwent abrupt democratic changes. In these gradual and top-down democratizations, the decline of the oppressive means of the police did not culminate in the outspoken antagonism of citizens towards the police, because conflicts and tensions between the two had been weak.

However, Korea's democratization process was different from those in Taiwan and Mexico. Korea experienced bottom-up democratization, characterized by violent confrontations between the police forces and resistant citizens. Of course, the mode of democratic transition in Korea cannot be solely defined as bottom-up democratization since it also showed some characteristics of top-down democratization, or a "transition by pact." The process could be called a mixture of bottom-up and top-down democratization because the process of constitutional revision and the presidential election in 1987 showed that the democratic transition in Korea also proceeded through negotiations and pacts among political elites (Lee, 2007: 110). However, compared to Taiwan and Mexico, violent tensions between the state and citizens took

place more prominently and insistently in Korea. The mode of democratization in Korea was less gradual and more violent than those in Taiwan and Mexico.⁸⁵

In this mode of democratic transition, which was characterized by a prominent role of citizens and bottom-up force, people's hostility toward the police was expressed in a more straightforward way. Physical tensions between the police and citizens frequently took place in the democratizing political setting of the late 1980s and 1990s, even after the end of the authoritarian regime. In Korea, the people had not only developed hostility toward the authoritarian regime and its police but had also won the chance to express their hostility during the democratization period. It was anticipated that democratization would cause a decrease in police capacity because the police would lose the physical means of coercing citizens' into compliance, while the citizens would show resentment and antipathy, which had been accumulated during the authoritarian period, in aggressive and even violent ways.

However, Korea's style of democratic transition—citizens' continued strong antipathy toward the police and frequent physical tensions between demonstrators and the police after the end of authoritarianism—caused a paradoxical result: the maintenance of strong police capacity, as illustrated in Chapter 5. The situation gave the new government and its police forces a justification for maintaining strong police forces. A great number of conscripted riot police continued to be maintained, constituting about half of the total number of police officers, even after the initiation of democratization.

Political Competition and Local Politics

In Chapter 1, a hypothesis was built suggesting that the increase of political competition among different political forces during democratic transition exerts a negative effect on both police capacity and police accountability. The hegemonic party of authoritarian rule complements the capacity of the police. It politically coerces social forces to comply with the police by providing carrots and sticks to obtain their cooptation. The collapse of the hegemonic party causes the weakening of police capacity because it means that the ruling party is no longer able to provide a political backup to the coercive power of the police.

Increased political competition could exert a negative effect on police accountability. The dispersal of police responsibility to various institutional agencies prevents efficient checks and constraints on the arbitrariness of police operations. Moreover, frequent changes in the ruling party and the dominant forces in the executive and legislative bodies of government increase the unpredictability of who occupies those institutions to which the police are accountable. Those institutions that take charge of constraining arbitrary police enforcement of the law are gradually filled with people who have no chance to accumulate knowledge on the police due to frequent transfers of power. However, a comparative analysis of Korea, Taiwan, and Mexico reveals that the effects of increased political competition on police capacity and accountability are not universal. Political competition exerts divergent effects, depending on other factors, such as the conditions of local politics.

In Taiwan, the intensified political competition between the KMT and the DPP reduced police capacity. As discussed in Chapter 3, the KMT regime, as an émigré regime, utilized both carrots and sticks in order to secure its capacity and legitimacy at the local level of Taiwanese society. In exchange for their political loyalty to the KMT, local factions received various types of privilege. The police force's capacity to coerce compliance at the local level was rooted not in its own quantitative and qualitative strength but rather in the political strengths of the KMT, which was bought by local factions through informal measures. However, the centralized political competition encountered by the KMT during the democratic transition meant that the carrots were gradually depleted and the sticks were blunted. With the political weakening of the KMT, the police also lost their power to coerce compliance and enforce the law in local communities.

Mexico also illustrates that increased political competition weakens police capacity. Like the KMT regime in Taiwan, the authoritarian regime of the PRI in Mexico also resorted to the cooptation of provincial forces to maintain the stability of the authoritarian system. It also provided carrots and sticks within the system of corporatism and patron-clientelism (*camarillas*), as shown in Chapter 3. The hegemonic power of the PRI had guaranteed at least a minimal level of police capacity for the maintenance of order by imposing cooptation on the regional and local elites. Democratization and increased political competition changed not only the political capacity of the PRI but also the capacity of the police to coerce compliance.

However, the effect of increased political competition on police accountability has been different in these two countries. Political competition increased police accountability in Taiwan, while it decreased police accountability in Mexico. This difference was caused by the characteristics of local politics in these two countries.

In Taiwan, increased political competition between the KMT and the DPP increased police accountability. The Taiwanese police became more accountable both to the local legislature and local residents with intensified political competition because local politics had existed as an island of democracy in an authoritarian ocean during the KMT's rule. The suspension of the constitution prohibited almost all elections at the central level, and legislators who had been elected in the mainland before the retreat of the KMT to the island in 1949 enjoyed lifetime tenure. To mitigate the discontent of the Taiwanese citizens regarding limited political participation and to secure its legitimacy in the eyes of local communities, the KMT permitted elections at the local level. Of course, the KMT secured its dominance in the local politics by coopting major local factions. However, democratization intensified political competition not only at the central level but also at the local level.

Police accountability also increased, because monitoring and oversight of local police by the local legislature and communities were activated with democratization and intensified political competition at the local level. Unlike politicians at the national level, local politicians connect with police officers at a closer distance and take charge of overseeing police law enforcement more efficiently at the community level. The police force becomes more accountable to local communities because coherent and efficient oversight is possible when local power is strong and democracy is entrenched at the local level. Taiwan satisfied these requirements due to a long history of electoral democracy at the local level, even under authoritarianism, and the further deepening of local democracy with democratic transition at the central level since the late 1980s.

Mexico took a different trajectory of changes and continuity of local politics. In Mexico, three major parties—the PRI, the PAN, and the PRD—severely competed with one another, especially at the provincial level. The different effect of political competition on police accountability was caused by the characteristics

of local politics in Mexico. While local politics had existed as a “democratic island” in Taiwan during its authoritarian period, Mexico’s local politics had simply been part of the authoritarian ocean during the PRI’s rule. More significant differences between Taiwan and Mexico occurred with democratization. While democratization unfolded equally at the local and central levels in Taiwan, local politics in Mexico remained an “island of authoritarianism” during the democratic transition.

In other words, the democratic transition proceeded asymmetrically in Mexico, changing the legal and institutional systems of the federal government. The power of the legislature and the independence of the judiciary system were intensified, while the power of the president and the executive branch were exposed to more checks and balances by other branches of government. However, many provincial and local governments escaped the influence of the democratic wave. Because an authoritarian provincial and local government system remained intact, the provincial legislature, local judiciary systems, and local communities were unable to constrain the arbitrariness and corruption of the police that were under the control of governors and majors. Increased political competition at the local level did not lead to the creation of new institutional measures for police accountability simply because it changed the people who occupied government posts.

Increased political competition at the federal level exerted a negative effect on police accountability in Mexico. Without the hegemonic presence of the PRI at the center of the state, neither the police nor the citizens counted on the same informal practices of authority based on *camarillas* that had given the federal state at least a minimum level of control over the police during the PRI’s authoritarian rule, although this measure of accountability was far from perfect. The newly elected government leadership had no official institutional ability to impose authority on the police system at the provincial and local levels, which was already fragmented and out of the federal government’s control (Davis, 2009: 197). Therefore, political competition liberated the police from the last remaining control measures of the federal government, rather than adding new ones. Transferring the ability to direct the police force to mayors and local governments, without building institutional measures for the oversight of the police by agencies outside of local executive bodies, has increased local police’s dependency on their local masters. Because provincial governments

have remained bulwarks of authoritarianism, an increase in police accountability at the local level is not expected.

On the other hand, the Korean case illustrates that the negative effect of increased political competition on police capacity can be minimalized when local powers are weak. Korea also experienced intense political competition during the democratic transitional period. However, this was restricted in the politics of the central government because the electoral system for local governments has been very slow-developing in Korea. Majors and governors had long been appointed by the central government, and local elections are very recent phenomena in Korea. Moreover, Korea lacks local power and has maintained a highly centralized form of government. Although the authoritarian leaders in Taiwan required the cooptation of local powers to make up for their weak legitimacy as an émigré regime during the authoritarian rule of the Kuomintang (KMT), their counterparts in Korea did not require any such cooperation with local power for the efficient and legitimate rule of the country. The lack of a strong local power prevented a quick decline in police presence. The intensified political competition and the weakening of the hegemonic ruling bloc at the central-government level did not cause the debilitation of the police, or “police capture” by local factions, at the local level.

The Effect of Geopolitics

The cases of Korea and Taiwan show the effect of geopolitical conditions on the formation of a garrison state and the political role of the police in regime security. When a country encounters a serious external threat, institutional measures that act as constraints on the police tend to be compromised or seriously eroded in the name of national security, and the police capacity is overly developed. Moreover, security-oriented governments—or garrison states—frequently call upon their citizens to sacrifice their individual rights for the sake of the security, sovereignty, and stability of the state (Ra, 2014: 59-60). However, the garrison states of Korea and Taiwan had different fates because of their different geopolitical situations.

In Korea, the continuation of national division and strong security threats from North Korea restricted the abrupt decline of police capacity. The continued military threat from the North has firmly positioned

the national security issue as a top policy priority of the government and justified the centralization and extension of the coercive apparatus of the state, even in the changed political environment of democratization (Woo, 2011: 14, 28). The Korean police, which had evolved as quasi-military forces under a Cold War structure, maintained militarized characteristics, with a large number of combat police forces and conscripted police officers, even after the democratic transition.

This geopolitical situation of national division exerted a detrimental effect on efforts to increase police accountability. The NSA, which guarantees the arbitrary use of police power, has been one of the strongest legal tools that has prevented the intensification of police accountability. The NSA still survives as a strong legal tool of the police. Other efforts to increase police accountability, such as the creation of local police accountable to local societies, have also been frustrated due to opponents' belief that the national police under a single command are necessary, while strong police accountability prevents consistent and swift operations in the face of strong national enemies. The geopolitical situation of national division guarantees a single command structure for the police that is invincible to external oversight.

Unlike in Korea, the geopolitical condition of national division in Taiwan did not minimize the decline in police capacity during the period of democratic transition. In Korea, the traditional hegemonic ruling group still firmly maintains not only a hostile attitude and aggressive foreign policies toward North Korea but also its status as the most powerful party in Korean politics by embracing the support of conservative forces. This hegemonic ruling group utilized the police to secure domestic order and oppress its political opponents in the name of national security. Its counterpart in Taiwan—the KMT—also maintained a hostile attitude and aggressive policy toward China and exploited the police to secure internal order and to maintain regime security in the name of national security during the authoritarian period. The combination of the geopolitical condition of national division and the existence of the KMT, which was antagonistic toward mainland China, contributed to the maintenance of strong police capacity under the martial law.

However, the transformed geopolitical conditions and the changed attitudes and policies of the traditional hegemonic groups caused a divergence between Korea and Taiwan in terms of police capacity and accountability. Military tensions between North and South Korea have not ameliorated, but all the

while, the traditional hegemonic ruling groups have firmly maintained their hostile attitudes and policies toward North Korea. Conversely, the relationship between Taiwan and China has witnessed a dramatic improvement since the end of the Cold War. Although military tensions between the two continue, interstate relations have been significantly improved in other economic and cultural sectors. More importantly, the KMT, which had oppressed its people by using the police in the name of protecting the country from the communist threat, now insists on accommodating Chinese policies in order to preserve Taiwan's Chinese identity. In these changed conditions, a strong police force can no longer be justified by the KMT in the name of national security.

Today, the political group that might utilize the strong police force to oppress political opponents in the name of national security after branding them as "communist spies" is the major opposition party, the DPP, not the KMT. The DPP seeks the formation of a sovereign state based on the Taiwanese identity that exists independently from China, while the KMT vindicates the maintenance of Taiwan's Chinese identity and its future unification with China. These different ideas and policies regarding Taiwan's future relations with China have caused not only political but also identity tensions between the two groups. DPP supporters criticize KMT supporters as "betraying" or "selling out" Taiwan (Wang and Chang, 2006: 377).

However, it is not easy for DPP politicians to suddenly brand the KMT and its supporters as "communist betrayers" and oppress them using the police force, because the DPP experienced the "white terror" committed by the KMT in the name of national security during the previous authoritarian period. Moreover, the DPP showed convergence towards a more accommodating position regarding China, rather than clarifying its resolute policy toward the independence of Taiwan, because direct and intensified tensions between Taiwan and China do not help secure popular support during elections.⁸⁶ As a result, the positive effect of the geopolitical conditions of the national division on the capacity of the Taiwanese police, which had been exerted during the authoritarian period, was weakened in Taiwan because the doctrine of the national security crisis lost its political usefulness in rationalizing the maintenance of a strong police force.

The changed geopolitical factors in Taiwan provided favorable conditions for increased police accountability, while in Korea, the decentralization of the police force and increased police accountability

to local communities were still prevented by the geopolitical conditions of national division. However, the level of decentralization of the Taiwanese police also has been relatively low compared to other countries that have adopted a local police system. The local governments in Taiwan are granted only partial authority regarding budgets and the appointment of police chiefs. The effort to further intensify the authority of local governments over the police was frustrated under Chen's presidency as shown in Chapter 6.

Conversely, Mexico began to encounter an increased geopolitical influence. The geographic restructuring of the cocaine commodity chain that began in the 1980s led to an increase in drug-trafficking-related organized crime. Mexico is now the main gateway for drugs entering the U.S. In the name of protecting the country from drug cartels, the Mexican government implemented large-scale police and military operations with pressure and sponsorship from the U.S. government.⁸⁷ However, while external security threats contributed to the construction of "garrison states" in Korea and Taiwan, the unfolding of new internal security threats—the drug war—in Mexico has revealed that the Mexican state is penetrated by drug entrepreneurs and an economy of violence at various levels, rather than building a solid garrison state (Pearce, 2010: 296).

The geographic restructuring of the drug-trafficking route, the increase in drug-trafficking-related organized crime, and the implementation of the drug war exerted a negative effect on police accountability in Mexico. Since Mexico has encountered growing drug trafficking and organized crime, it has become subject to a similar pattern to that which has justified human rights abuses against civilians by repressive central state organs under Korea's and Taiwan's authoritarian governments. The military's human rights violations are justified by efficient crime-fighting activities, and these abuses have been permitted as necessary in safeguarding something of more value, that is, national defense, against growing, internationalized, and organized criminal offenses (Donnelly and Shirk, 2010: 35). Whenever the military is sent to liquidate drug cartels and restore public security, the risk of human rights violations significantly increases because normal constitutional guarantees of civil rights remain effectively suspended without any legislative approval. The concept of the "supremacy of national security over public security" has characterized the security strategy paradigm in Mexico (Moloeznik, 2013: 186).

III. Rule of Law and Democratic Consolidation

(1) The Rule of Law

The rule of law is the ultimate goal that all law enforcement agencies in a democracy aim to accomplish through the fulfillment of their duties of impartial law enforcement. Without considering the role of law enforcement agencies in impartial law enforcement, only a partial picture of the changes in and development of the rule of law can be developed. Law enforcement agencies function as the “*ex ante*” mechanism for settling the rule of law, using their capacity to coerce people to follow the law and to prevent any possible violation of the law in advance. The settlement of the rule of law requires that those subject to the enforcement of legal obligations have confidence that the enforcement of the law is carried out in an impartial way.

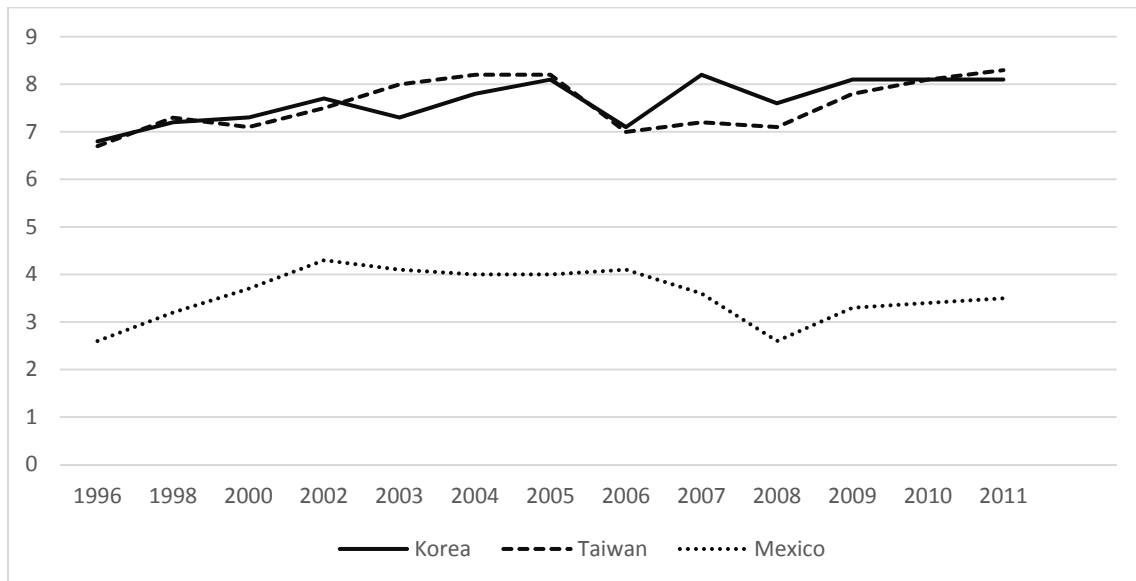
Korea, Taiwan, and Mexico have shown different trajectories of change in their police forces since the unfolding of democratic transition beginning at the late 1980s. The rule of law in these countries also took divergent routes during the period. Table 10-1 shows the changing levels of democracy and the rule of law in Korea, Taiwan, and Mexico from 1996 to 2011. Although these three countries maintained stable levels of democracy during this period, they showed different levels of the rule of law. Korea and Taiwan have maintained a relatively higher level of the rule of law as compared to Mexico, which has shown a very low level of the rule of law. Each of their levels of the rule of law also underwent variations. While Taiwan reached full democracy in 2004 and has maintained this level until the present, its level of the rule of law abruptly declined in 2006 and only returned to its former level in 2010. Mexico experienced a gradual decline in the rule of law after 2002, followed by abrupt decline in 2007 and 2008, although it witnessed some improvement after 2008. Korea also experienced an erosion of the rule of law in 2003, 2006, and 2008.

[Table 10-1] Comparison of Democracy and the Rule of Law in Korea, Taiwan, and Mexico (1996-2011)

Year	Korea		Taiwan		Mexico	
	Democracy	Rule of Law	Democracy	Rule of Law	Democracy	Rule of Law
1996	7	6.8	8	6.7	4	2.6
1998	8	7.2	9	7.3	6	3.2
2000	8	7.3	9	7.1	8	3.7
2002	8	7.7	9	7.5	8	4.3
2003	8	7.3	9	8.0	8	4.1
2004	8	7.8	10	8.2	8	4.0
2005	8	8.1	10	8.2	8	4.0
2006	8	7.1	10	7.0	8	4.1
2007	8	8.2	10	7.2	8	3.6
2008	8	7.6	10	7.1	8	2.6
2009	8	8.1	10	7.8	8	3.3
2010	8	8.1	10	8.1	8	3.4
2011	8	8.1	10	8.3	8	3.5

Source: The Polity IV data of Marshall, Jaggers, and Gurr (2011); the Index of Rule of Law in the Worldwide Governance Indicators (WGI) of the World Bank.

[Graph 10-1] Changes in the Rule of Law in Korea, Taiwan, and Mexico (1996-2011)



Source: The Polity IV data of Marshall, Jaggers, and Gurr (2012); the Index of Rule of Law in the Worldwide Governance Indicators (WGI) of the World Bank.

The result for Mexico is disappointing because the level of rule of law has remained at half that of Korea, although these two countries have held almost the same level of democracy since the 2000s. The rule of

law in Taiwan is also disappointing when compared with Korea. The level of democracy was always higher than in Korea during this period. However, as Graph 10-1 shows, there has been no meaningful difference between the two countries in terms of the level of the rule of law. Taiwan was sometimes even surpassed by Korea in terms of rule of law. That means that Korea, as compared to its level of democracy, has accomplished relatively successful results in terms of the rule of law during this period.

The unsatisfactory results for the rule of law in Taiwan and Mexico, as compared to Korea, can be explained by low levels of police confidence in these two countries. Table 10-2 compares the levels of police confidence in Korea, Taiwan, and Mexico. In 2005, the level of police confidence in Korea was remarkably higher than in Taiwan and Mexico. In that year, Taiwan's level of democracy was higher than Korea's. However, the rule of law level was almost the same in that year. It could be inferred that the higher level of police confidence in Korea enabled Korea to obtain a higher level of the rule of law, which was equivalent to that of Taiwan, although its level of democracy was lower than Taiwan's. Mexico had the lowest level of police confidence. It could be inferred that, in Mexico, the low level of confidence culminated in the low level of the rule of law offsetting the positive effect of democracy on the rule of law.

[Table 10-2] Mean Police Confidence in Korea, Taiwan, and Mexico (Year: 2005)

	Korea	Taiwan	Mexico
Police Confidence*	2.59	2.29	2.09

*A higher score represents a higher level of confidence in the police (1 = not at all, and 4 = a great deal).

Source: Cao, Lai, and Zhao (2012), pp. 44-45.

The somewhat disappointing result for Taiwan and the significantly frustrating result for Mexico in terms of the rule of law are also indicated by other statistics. In a survey conducted by the Asian Barometer in 2006, only 43.1 percent of Taiwanese citizens answered that they either strongly or somewhat agreed that everyone was treated equally by the government, while 53.6 percent of Taiwanese citizens answered that they either somewhat or strongly disagreed that everyone was treated equally by the government. This result

indicates that public distrust regarding the fairness of the government reached a significant level in Taiwan, although the level of democracy remained at a high level.

Mexican citizens have shown much more negative attitudes toward the fairness of judicial system since the 2000. As Table 10-3 indicates, in 2001, only 40 percent agreed that the judicial system punished those who were guilty regardless of who they are, while 57 percent disagreed with that statement. The positive attitude toward the fairness of Mexican judicial system remained below 40 percent during this period, while the negative attitude toward the fairness of Mexican judicial system has been always higher than 57 percent. This result indicates that Mexico has encountered a significant crisis regarding the rule of law since the 2000s.

[Table 10-3] Fairness of the judicial system in Mexico (The judicial system punishes those who are guilty regardless of who they are)

	2001	2003	2005	2011
Agree	40	31	35	34
Disagree	57	68	64	61

Source: Latinobarómetro

(2) Democratic Consolidation

The impartial enforcement of the law has a crucial meaning not only for the rule of law but also for the legitimacy of a democratic government because citizens evaluate the performance of the government to consolidate the rule of law through their primary contact with police officers. When the police successfully demonstrate their willingness and capacity to enforce the law in an impartial manner, rather than serving the political interests of their masters, both the rule of law and the legitimacy of the democratic government can be entrenched in fledgling democracies.

However, new democracies encounter a dilemma because increasing the openness or transparency of a democracy causes a crisis of legitimacy for democratic governance by revealing the corrupt behavior of state officials, which had been veiled during the authoritarian period. Democratization heightens societal

attention to and condemnation of corruption. That is a necessary condition for marshaling the resources needed to battle the corruption. However, the frequent disclosure of the corruption of state officials tends to undermine legitimacy and the public's satisfaction with the new democracy because it indicates that the new democratic government is more corrupt than its authoritarian predecessor and poor at governing the country. This decreases popular support for the democratic government and undermines the people's faith in those institutions needed to establish the rule of law, such as the police. When the government loses the faith, confidence, and support of its citizens, it also loses the capacity to reform the state agencies into more transparent, accountable, and efficient institutions (Morris, 2009: 10).

This is why either unaccountable or incapable police culminate in a crisis of democracy or exert a negative effect on the consolidation of democracy. The increased perception of the inability of the police to maintain public security and enforce the law in an impartial manner threatens not only the legitimacy of the democratic government but also the values of democracy because it intensifies the belief that democracy and democratic government are neither suitable for the maintenance of order nor helpful for the foundation of the impartial enforcement of the law. Moreover, it can bring about nostalgia for the authoritarianism that provided stability and security in the past among citizens who are frustrated with the democratic government and its law enforcement agencies.

A values survey (World Values Survey) conducted in 1996 in Korea indicates that most Korean citizens believed democracies were good at maintaining order. The citizens who answered that democracies were not good at maintaining order amounted to only 22.6 percent, while the citizens who disagreed with the statement that democracies were not good at maintaining order amounted to 76.2 percent. In 2001, the percentage of citizens who answered that democracies were not good at maintaining order was reduced to 19.9 percent. However, the citizens who answered that democracies were good at maintaining order increased to 65.6 percent. This result indicates that people dissatisfied with democracy, as well as people satisfied with democracy in terms of its capacity to maintain order, increased during this period, although more citizens were satisfied with democracy. A survey conducted by the Asian Barometer in 2003 revealed

that 61.4 percent of Korean citizens were satisfied with the way democracy worked in Korea, while only 37.9 percent of Korean citizens were not satisfied with the way democracy worked in Korea.

Taiwan shows a more negative result in terms of citizens' satisfaction with democracy as compared to Korea, although its level of democracy has been always higher than Korea's. In a survey conducted by the Asian Barometer in 2001, 46.1 percent of Taiwanese citizens answered that they were satisfied with the way democracy worked in Taiwan, while 45 percent of Taiwanese citizens answered that they were dissatisfied with the way democracy work in Taiwan. In 2006, Taiwanese citizens' satisfaction with democracy was improved: 56.5 percent answered that they were satisfied with democracy, while 38.7 percent revealed their dissatisfaction with democracy. Taiwanese citizens' negative attitude toward the police further culminated in their skepticism of democracy and nostalgia for authoritarianism. A nationwide survey in 2003 found that close to half (46 percent) of respondents agreed that "the politics under martial law and the rule of Chiang Ching-Kuo were better for Taiwan than current democratic politics" (Wu, 2005: 92).

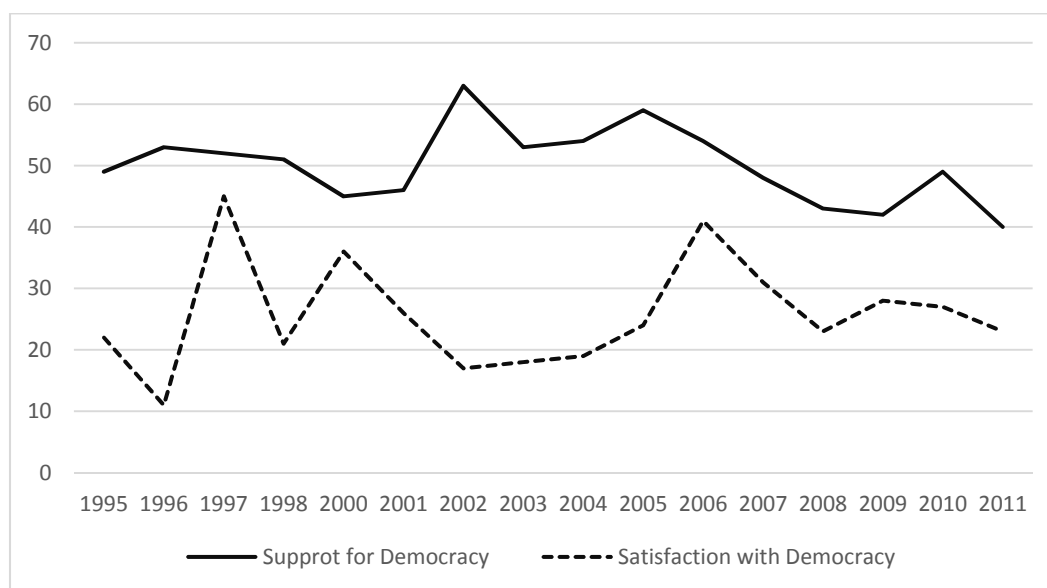
This low level of public satisfaction with democracy in Taiwan is not unrelated to the role of the police. As already discussed in Chapter 7, the Taiwanese police, which exist as a "mediator," not an "enforcer," cannot be viewed as carrying out democratic policing. The dispute mediation role played by the police, coupled with the involvement of local elites in the process of mediation, is a significant limitation that prevents policing from being called democratic. It threatens the democratic value of equality before the law. People in democratic political systems—whether direct or representative—have an equal political right to elect and to be elected. However, in local communities, where the police conduct their duties as a "mediator," only the people who have connections (*guanxi*) with the local elites have a right to be represented in the mediation process held at a police station. Those people who lack the ability to mobilize any local connections cannot be represented in the mediation process and could be victims of police mediation that is fabricated by collusion between the police and influential local elites.

The impartiality of police mediation and the democratic value of equality cannot be maintained if only privileged people with local connections are represented, while the voices of people who have no local

connections are simply muted. The Taiwanese police, who play the role of mediator without having sufficient capacity to enforce the universal law and coerce compliance, have a serious limitation regarding being viewed as conducting democratic policing. This limitation of the Taiwanese police exerts a negative effect on the entrenchment of the rule of law and the consolidation of democracy.

The crisis of democracy is more significant in Mexico compared to Korea and Taiwan. Mexican citizens have shown strikingly low levels of support for and satisfaction with democracy since the democratic transition that began in the late 1980s and early 1990s. As Graph 10-4 indicates, support for democracy, which had reached 49 percent in 1995, gradually decreased under Zedillo's presidency, falling to 45 percent in 2000. With the inauguration of President Fox, the support of democracy increased and reached its highest level, 63 percent, in 2002. However, this statistic soon declined abruptly. President Calderón's presidency was tainted with a significant decline in citizens' support for democracy, which fell to 42 percent in 2009. Although support increased the following year, it reached the lowest level, 40 percent, in 2011.

[Graph 10-4] Support for Democracy and Satisfaction with Democracy in Mexico



Source: Latinobarómetro

Graph 10-4 also shows the level of satisfaction with democracy among Mexican citizens. Compared to Korea and Taiwan, the public satisfaction with democracy is miserable in Mexico. Since 1995, the level of public satisfaction with democracy has fluctuated between 11 percent and 45 percent. Especially, the tenure of President Fox saw significantly low levels of public satisfaction with democracy. It was below 20 percent for three consecutive years starting in 2002.

The crisis of democracy in Mexico is deeply related with the crisis of public security and law enforcement agencies. As discussed in Chapter 9, Mexico has shown the uneven distribution of state coercion, or the coexistence of a surplus of state coercion and a deficit of state coercion. Both the surplus and deficit exert negative effects on the consolidation of democracy in Mexico.

First, Mexico is exposed to the erosion of democracy because excessive state coercion in some of its territories exerts a negative effect on democratic development. In some areas, especially in northern states bordering the U.S., militarized policing on an ad hoc basis and a “hard-handed” approach to criminal organizations became a daily routine. This excessive use of state coercion in the war against drug trafficking severely intensified the violence in these areas, often to the level of a war zone. In these areas, an “ironfisted” approach to law enforcement, such as the death penalty and the militarization of police forces, poses threats to the consolidation of democracy by violating individual rights, despite being preferred by the police and the military (Donnelly and Shirk, 2010: 23). An aggressive “hard-line” stance on the part of law enforcement hinders fundamental democratic institutional development and fosters the expansion of non-democratic institutions and practices. It preserves the authoritarian proclivities of the state by leading to a more punitive legal system and fostering more tolerance of police misconduct in the name of providing greater public security (Frühling, 2009: 471; Lindau, 2011: 177).

Second, the capacity of the democratic governance is weakened by the state coercion deficit. The failure of the democratic government to provide public security in some regions of the country directly culminates in the decline of democratic performance in these regions. When the police fail to enforce the laws and protect the rights and property of the citizens, they undermine not only the rule of law but also democratic governance itself because public security is one of the basic public goods produced and provided by a

government, regardless of regime type. The spreading of violent crimes, such as murder, torture, and kidnapping, on a huge scale reveals a massive failure on the part of the Mexican state to protect its citizens and to fulfill the basic duty of the state (Schedler, 2014: 11). Confronted with the failure of the state and its law enforcement agencies in maintaining public security and enforcing the laws, citizens are forced to “take the law (or justice) into their own hands” to ensure their safety (Suárez, 2010: 148-149). The emergence of vigilantism shows how citizens’ trust in the police, government, and criminal justice systems has fallen to the lowest level since the initiation of Mexico’s democratic transition (Moore, 1996: 1).

The incompetent police force also aggravated inequality in Mexican society. While the rich are able to purchase a measure of security from private security companies, the poor have no choice but to resort to vigilantism (Turbiville, Jr., 2006: 7). The unequal distribution of safety between the rich and the poor further weakens the democratic foundation in Mexico, whose level of inequality is notorious. The crisis of democratic governance in Mexico is already being observed. In a survey in 2011, about 25 percent of the respondents declared themselves willing to vote for candidates related to drug trafficking in order to establish peace and security (Schedler, 2014: 14).

Citizens’ fear for their basic security and their low confidence in law enforcement agencies could further culminate in a willingness to trade civil liberties and rights for public security (Shirk, 2010: 237). According to a survey in 2009, only 42 percent of Mexicans preferred democracy over any other system of government, representing a 9 percent decline since 1996, while 44 percent of Mexicans were willing to support military rule under certain circumstances (Lindau, 2011: 200). When public security, one of the most essential public goods, is not provided by the state, the rule of law, civil liberties and rights, and other crucial values that are necessary for the consolidation of democracy cannot be entrenched.

IV. Conclusion

The police force has many two-sided characteristics. The physical means that are used by the police are necessary for the maintenance of public security by protecting lives and property from crimes. However,

the same physical means can be utilized as a coercive tool to oppress rights and liberty. The police are law enforcement agents that stand as a stepping stone for a stable and functioning rule of law. However, the power of police to enforce the law can break down the rule of law by selective and arbitrary enforcement based on the political goals of politicians and the ruling bloc. Building capable and accountable law enforcement agencies is a crucial requirement for democratic polity, not only to ensure public security but also for the justice and righteousness of the entire society.

However, new democracies tend to experience difficulties in building impartial law enforcement agencies, even when they have successfully accomplished the transition from authoritarianism to electoral democracy. Contrary to the rosy expectation that democratization will lead to the transformation of law enforcement agencies into capable and accountable enforcers, the trajectories of law enforcement in new democracies illustrate that democratization is not a cure-all.

By analyzing the causal effects of various factors at different levels on the continuity and change of law enforcement in new democracies, this dissertation shows that the divergent trajectories of law enforcement change taken by new democracies are based on complex interactions between institutional, agency, and structural factors. Such variations in law enforcement changes are neither end results triggered by politicians seeking to realize the norms and values of democracy, nor the manifestations of cultural values and behaviors that have endured the great waves of democratic transition. This dissertation's comparative case studies of Korea, Taiwan, and Mexico illustrate why divergent police transformation routes are taken by new democracies and how the timing and direction of the institutional and behavioral transformation of the police are dictated by complex interactions between various institutional, structural, and agency factors. Finally, an examination of the status of the rule of law and the stability of democratic governance in these three countries illustrates that, despite remarkable achievements in electoral democracy, without the stable functioning of impartial law enforcement, neither the rule of law nor democracy itself could take hold. Again, democratization is not omnipotent.

¹ For more detailed debates on the conceptual differences between “thick” and “thin” definitions of the rule of law, see, *The Economist*, March 13, 2008.

² The term “law enforcement agencies” refers to all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention (Moloeznik, 2013: 190).

³ In Polity IV, the operational indicators of democracy are the competitiveness of political participation, the openness and competitiveness of executive recruitment, and the level of constraints on the chief executive (Marshall, Jaggers, and Gurr, 2011: 771). The index of the rule of law (World Bank, 2011) is the percentile rank (0 to 100) divided by 10.

⁴ Input resources of the police include police budget, absolute number, ratio of police officers per 100,000 residents in the population, and so on (Ruddell and Thomas, 2009: 658).

⁵ High competition in politics further exerts a negative effect on police accountability in a more direct manner. When the president encounters a high degree of political competition among different political forces with a similar size, he has a strong incentive to reduce police accountability for the sake of convenient exploitation of the police to oppress and eliminate his political opponents.

⁶ No political party in Korea has retained its original name. The frequent change of party names in Korea has been caused by the heavy dependency of parties on their top leaders, or the boss-centered party system. The replacement of top leaders due to either their retirement from politics or defeat in the election soon leads to a change of party name (Lee, 2007: 119).

⁷ Comparison of different categories of crime statistics is more useful considering that the aggregate level of crime also depends on many circumstances outside police control (capacity), such as social, demographic, employment, and economic factors (Bayley, 1975: 331; Bayley, 1985: 74).

⁸ These different types of police are ideal types for the conceptual understanding of the various forms of police. It should be noted that there are many mixed zones of different types of police in the actual practice of policing. Each country has developed divergent forms of police through its own historical unfolding of state building processes. Concrete historical and cultural contexts should also be considered when the divergent forms and functions of the police are examined.

⁹ For example, Korea in 1998, Taiwan in 2000, and Mexico in 2000 each witnessed their first regime turnovers through free, fair, and competitive presidential elections, which were perceived as a certain indicator of successful democratic transition. These countries also experienced second regime turnovers in 2007, 2008, and 2012, respectively.

¹⁰ However, if the president can manage the delegation problem by distributing patronage jobs to his agents, he does not need to devise intensified measures of accountability (Baum, 2011: 14, 35).

¹¹ The term “white terror” was originally invented to describe the Russian civil war of 1918 to 1921, in which the Whites led by former Tsarist officers fought the Bolshevik Red Army. It has been adopted in Taiwan to portray the counter-revolutionary or anti-communist violence committed by the KMT during its authoritarian rule (Shih, 2011: 143). The white terror was triggered by the KMT’s urgent impulse to maintain regime security rather than national security. During the rule of Chiang Kai-Shek, thousands of people were arrested, tried, and sent to jail without due process. Some of them were secretly executed (Hsu, 2006: 31).

¹² Its government system possessed common features of a parliamentary system rather than a presidential system, since the president was not allowed reserved (residual) powers at all (Rigger, 1999: 183).

¹³ The KMT was one of the oldest and richest ruling parties in the world vis-a-vis the PRI (Institutional Revolution Party) in Mexico.

¹⁴ Local factions in Taiwan are clientelist networks that are held together either by ties of blood, kinships, marriage, or personal relationships. Each of Taiwan’s counties and municipalities has at least two local factions that compete for political and economic resources at the local level (Göbel, 2012: 72).

¹⁵ Almost alone in the world, Mexico has a total ban on consecutive reelection that applies to anyone from the president to local mayors. President Calderón introduced a bill to allow reelection except for the president. However, it was blocked in Congress (*The Economist*, November 24, 2012b).

¹⁶ The mini-police state system in Korea was introduced by the Japanese during the colonial period to effectively monitor and control Korean people rather than to better serve the needs of citizens. Korean governments maintained and expanded the mini-police station system after the independence, and the rate of police officers assigned to mini-police stations reached 43.1 percent of total police personnel in 2001 (Moon, McCluskey, and Lee, 2005: 43).

¹⁷ In 1979, among 12,799 policemen on inside duty, 3,164 (24.7 percent) were deployed either in the post of political affairs (12.6 percent) or information (12.1 percent), which, in combination, matched posts of police affairs (22.1 percent) and criminal investigation (26.7 percent) (Korean National Police Agency, 1994: 94). During Chun's presidency, among 200 police stations, 120 (60 percent) police stations maintained department of political affair (*Daigongkwa*) (*Dong-A Ilbo*, December 3, 1988: 5).

¹⁸ Parliamentary inspection of the administration in 1988, which had been stopped for 16 years during Park and Chun's regimes, revealed that 50 people died in training camps of *Samchung-gyoudae* (*Dong-A Ilbo*, October 10, 1988: 3).

¹⁹ Two-thirds of all lawyers in Taiwan had come through various back doors and those attorneys, who had been screened by the authority according to informal and political criteria, controlled bar associations (Winn, 1994: 205-206).

²⁰ Hoodlum (*liumang*) in Taiwan refers to those who are members of secret societies; rely upon underground organizations, locally exert improper influence; committed illegal acts in the past but have not reformed, and so on.

²¹ As of 2010, about 33,000 police officers belong to a federal police force, while 430,000 belong to disparate state or municipal forces (Johnson, 2010).

²² Policing was seen as a municipal matter, while the job of the federal security services was to repress political dissent (The Economist, November 16, 2006a).

²³ However, it also had a negative impact on the stability of the administration. The president quickly became a lame-duck president due to the principle of no reelection.

²⁴ In a summit on May 28, 1988, Kim Dae-Jung, the chairman of the Democratic Peace Party asked President Roh to found a Police Public Security Committee in order to secure the independence of the police from political influence (*Kyunghyang Shinmun*, May 28, 1988: 1). Other plans suggested by the police and related professionals were the foundation of a local police system (or *Jachikyongchal*), promotion of the police to a ministry level institution, and mandatory approval for the appointment of a commissioner-general by the National Assembly (*Dong-A Ilbo*, January 28, 1988: 1; *Kyunghyang Shinmun*, August 26, 1988: 4).

²⁵ Immediately following the three-party merger, the Kim Young-Sam faction revealed political tension with the existing dominant faction in the ruling party with regard to the police reform plan. Kim's faction criticized the government's police reform plan for aiming to intensify the police force under presidential control and reflect the president's intention to use the police force in the forthcoming National Assembly election (*Hankyoreh Shinmun*, January 6, 1991: 1).

²⁶ President Kim's utilization of informal means, especially the mass media, for his anti-corruption campaigns originated from his limited trust of the existing institutions responsible for audit and inspection duties. The Blue House and the Prosecutors' Office, for example, were filled with high-ranking officials who were hesitant to investigate other high-ranking government officers because they had maintained close relationships with those people in past governments (*Dong-A Ilbo*, February 6, 1998: 7).

²⁷ It should be noted that the separation of the Coast Guard from the National Police Agency, which happened in 1996, exerted a negative impact on the growth of the police budget. However, its true impact was almost negligible because the Coast Guard's budget constituted only a very small portion of national budget. In 1996, its total budget constituted only 0.001 percent (100 billion won) of the national budget. In 2004, its portion increased to 0.002 percent (334 billion won) (Korean National Police Agency, 2006: 420-21; Korean Coast Guard, 2013: 311).

²⁸ Prevention organizations take preventive measures against crime, including patrolling and citizen education. Repression organizations conduct riot policing and law enforcement. Service organizations are responsible for addressing civil petitions, as well as juvenile and domestic care affairs. Support organizations are in charge of recruitment, promotion, education, personal administration, accounting, and various types of technical support (Chung, 2004: 204).

²⁹ The plan proposed a dual police system. The city mayors and governors would retain the power to recommend the local police chiefs to the central government and to appoint members of the local Police Committee, which would take charge of the personnel administration of the local police. The central government would retain the authority to appoint the local police chiefs and take charge of the investigation of crimes related to national security and those that have a significant impact across the country (*Hankyoreh Shinmun*, May 3, 1999: 1).

³⁰ At first, it was temporarily postponed for one year due to the need to combine the implementation of the local police with granting the police investigative authority (*Dong-A Ilbo*, June 24, 1999: 21). However, the temporary postponement became permanent following the cancellation of both the local police and the granting of investigative authority to the police.

³¹ The ruling party, *Saejungchi Gukmin Hoewi*, insisted that the hearing should be restricted to nominees for high-ranking office that required the consensus of the legislature. However, the opposition party, *Hannara Dang*, claimed that all of the “Big 4” (i.e., the director of the National Intelligence Service, the commissioner of the National Tax Service, the prosecutor-general, and the commissioner-general of NPA) should be added to the list for mandatory audition by the legislature. On the other hand, the third party, *Jaminryon*, which formed a coalition with the ruling party, proposed to apply the hearing process to the prosecutor-general and the commissioner-general of the NPA among the “Big 4,” although it later withdrew the proposal (*Chosun Ilbo*, March 6, 1999: 4).

³² The audition law, which stipulated the attendance of the nominee for commissioner-general of the NPA at the congressional hearing, passed on January 22, 2003, just one month prior to the end of Kim’s tenure (*Dong-A Ilbo*, January 24, 2003: 5).

³³ In 2003, the Roh Moo-Hyun government also introduced a two-year fixed tenure system for the commissioner-general in order to further promote the political neutrality of the police. However, in practice, the fixed tenure was seldom completed (Moon and Morash, 2009: 102, 107-114).

³⁴ The mini-police station system was later modified to better serve the intended goal of improving the relationship between citizens and the police. The numbers of mini-police stations and officers assigned to them were reduced, while the role of a mini-police station became limited to community service. In 2003, to better guarantee the rapid response to crime scenes and the effective use of manpower, police offices (*Gigudae*) were created to cover the large areas that several mini-police stations previously patrolled (Moon, McCluskey, and Lee, 2005: 448).

³⁵ The Japanese colonial law granted the prosecutors unlimited authority to investigate crime. They were given the power to seize and search without warrant and to detain suspects for up to 20 days (*Kyunghyang Shinmun*, January 10, 2015: 4). After the Second World War, the US military government in Korea tried to introduce the American model of a criminal investigation system based on the division of investigation and prosecution by granting investigative authority to the police. However, this plan was not implemented due to the resistance of lawyers with backgrounds as prosecutors. Since then, all of the efforts of the police to obtain investigative authority were frustrated under the authoritarian regimes (*Chosun Ilbo*, May 5, 1999: 21).

³⁶ It was claimed that prosecutors’ continued direction of investigations over the local police would violate the purpose of founding the local police under the local and provincial governments (*Hankyoreh Shinmun*, May 14, 1999: 15). All prosecutors in Korea are directed by the Prosecutor General according to the “single body” principle. If the Prosecutor General was to be appointed by the president, there is a high possibility that the president and ruling group would exert political influence over the prosecutors’ investigations through the Prosecutor General.

³⁷ The Office of Prosecutors decided to show their organizational resistance to the plan granting independent investigative power to the police. They utilized the media to foster favorable public opinion of themselves and revealed their intention to integrate the justice police into the Ministry of Justice and deprive the police of the right to ask for a summary trial (*Hankyoreh Shinmun*, May 8, 1999: 19). Prosecutors also intensified their inspection of corruption by police officers (*Dong-A Ilbo*, May 22, 1999: 23). The NPA also made a counterattack by ordering the return of all police officers who had been unofficially dispatched to the Office of Prosecutors in order to weaken the investigative ability of the prosecutors (*Dong-A Ilbo*, June 24, 1999: 1).

³⁸ In 1998, the total police budget declined by 3.4 percent compared to the previous year. In 1999, it declined again by 0.2 percent compared to the previous year (Korean National Police Agency, 2006: 443, 446).

³⁹ The increase in the crime rate signifies the deterioration of public security and the inability of the police to prevent and deter crime. For example, the increase in arrests for rape could be interpreted as an actual increase in the rate of rape over time. However, it can be also evidence of intensified police presence because more capable police are better

able to arrest suspects (Donnelly and Shirk, 2000: 5). Similarly, a low crime rate can be also interpreted in two different ways, if there is a significant gap between “known crime” and “reported crime.” A lower crime rate might demonstrate that the police are preventing crime. However, the low rate might also signify that the police have a weak capacity to monitor and record crime while victims tend to decide not to report crimes due to the citizens’ low trust in the capacity and integrity of the police (Morris, 2009: 119). In this way, the same crime rate statistics could be utilized as evidence of different and even conflicting interpretations of the police presence.

⁴⁰ Since 1985, police stations in large cities had been covered with wire netting because they were seen as oppressive state organs and often became targets of assault (*Kyunghyang Shinmun*, March 2, 1993: 3).

⁴¹ Roh and Choo’s study (2007) of citizen violence against the police illustrates Koreans’ antipathy to the police in everyday life. According to this study, many police assaults by citizens took place in an initially non-violent situation. Among the 189 total cases of verbal abuse by the police that occurred in the Busanjin police station in 2002, the number of police assaults that involved misdemeanors (33.3 percent) was almost as high as violent crime (39.7 percent). Moreover, 19 percent of the police assaults occurred in a situation in which no crime occurred (p. 9, 11).

⁴² In 2001, among 28 cases of complaints from citizens received by the OHI in a police station, the OHI admitted only three cases were the fault of police officers. The content of the complaints was not revealed to the public. The positions in the OHI were for high-ranking police officers who had lost their positions due to organizational integration (*Hankook Ilbo*, July 20, 2001: 25).

⁴³ On May 7, 1999, Prosecutor General Kim Tae-Jung commented that independent investigation authority should not be given to the police because it would violate people’s human rights. The Ministry of Justice also officially opposed granting independent investigation authority to the police (*Kyunghyang Shinmun*, May 8, 1999: 1).

⁴⁴ The police were criticized for being charge of much election fraud, including the infamous 3.15 rigged election in 1960 during Lee’s presidency and the 6.8 rigged election in 1967 during Park’s regime. Their involvement in election fraud and other political investigations gave them the name the “lady’s maid of [the] regime” (*Hankyoreh Shinmun*, May 7, 1999: 3).

⁴⁵ The HRP in Korea has been always the largest party except one and has produced four presidents since 1988. The DCP in Korea has never been pushed outside the second largest party since 1992 and was the largest party in 2004. It also produced two presidents.

⁴⁶ Approximately 90 local-level factions are estimated to have operated actively in Taiwan. These factions were loyal supporters of the KMT, contributing to the long-term rule of the party. Some faction leaders quickly shifted loyalties to the DPP when it ascended into central government power in 2000 (Lee, 2001: 17). However, the organizational capacity of the DPP in local societies is still weaker than that of the KMT. Due to the difference in organizational capacity, the former tends to exploit issue-based campaigning, while the latter chiefly relies on the networks of local factions or organization-based campaigning to secure support in elections (Göbel, 2012: 86).

⁴⁷ The leaders of the KMT were criticized for exploiting their majority in the legislature for the purpose of engendering government paralysis, which, in turn, prevented control over social disorder. The KMT was also blamed for aiming to intimidate citizens to return to the safety of membership in the KMT, which once ruled Taiwan with an iron fist (Hsieh, 2001: 12). Since taking office in 2000, President Chen had attributed the failure of his administration and its inefficient operation to “irrational” boycotts by the opposition parties (Lin, 2002: 3).

⁴⁸ Less than 20 percent of the human resources of the MJB were dedicated to criminal investigations (Huang, 2000: 3).

⁴⁹ The KMT’s presidential candidate, Lien Chan, refused to concede defeat to President Chen in the bitterly contested presidential elections on March 20, 2004, with the former claiming voting irregularities. He also raised questions about the assassination attempt on Chen during which bullets grazed Chen’s stomach and claimed that it was an attempt to win sympathy votes. His supporters continued to hold radical demonstrations in front of the Presidential Office in Taipei City (Huang, 2004: 3).

⁵⁰ The impasse in the government’s 2007 budget exercises is a typical illustration of how the incompetence of the DPP government was aggravated by the paralysis of the legislature (Wang and Shih, 2007: 3).

⁵¹ On January 4, 2007, for example, six police officers from Taipei City and County were arrested on suspicion of taking bribes from illegal gambling operators (*The China Post*, January 6, 2007). On January 31, 2007, seven police

officers from five different units in Taipei County were arrested on corruption charges. They were suspected of regularly taking bribes from construction sites (*The China Post*, February 1, 2007).

⁵² In Beiyuan, the people had limited confidence in the police, especially because none of the police officials in that village were local residents or native Hakka. Most members of the community considered the police to be outsiders and evaded involvement with them (Moser, 1982: 45–46).

⁵³ During this period, the military maintained higher levels of confidence than the police. In 1994, 74.1 percent of respondents showed confidence in the armed forces, while 23.1 percent of respondents indicated distrust in the military. In 2006, 41.7 percent of respondents answered that they trusted the military, while 57.2 percent of the respondents answered that they did not trust the military (Values Surveys: 1994 and 2006).

⁵⁴ In the presidential election of 2004, Lien Chan, the KMT's presidential candidate, claimed that although "Black Gold" issues caused the KMT to lose the presidential election of 2000 to the DPP, President Chen and his DPP were now faced with the same charges in the election of 2004. He criticized the DPP government as being under the influence of "Black Gold" and stated that the Presidential Office had become the "center for trade in power, titles and special interests" by pointing out the controversy surrounding illicit political donations to the DPP from a "Black Gold" tycoon through first lady Wu Shu-Chen (*The China Post*, March 18, 2004).

⁵⁵ The judiciary, in practice, also reinforced the vote-buying activities. In almost every vote-buying case, the final Supreme Court verdict did not come until the vote-buyer's term in office had ended. Such late justice gave society the impression that the judiciary was, in practice, condoning vote-buying. Moreover, only a handful of those indicted were eventually found guilty by the Supreme Court (*Taipei Times*, September 27, 2003: 8).

⁵⁶ In 2003, for example, eight high-ranking police officers took a vow of loyalty to the DPP during an open ceremony (Cao, Huang, and Sun, 2014: 46).

⁵⁷ Chen started his political career when he defended the participants of the Kaohsiung Incident in a military court in 1980.

⁵⁸ In the presidential election of 1988, the PRI's candidate, Carlos Salinas de Gortari, was declared the winner, even though he won via an unfair campaign and election-day fraud that culminated in the mysterious "blackout" of vote-tallying computers. Pro-PRI votes surged when the lights went back on (Eisenstadt, 1999: 84).

⁵⁹ In Mexico City, for example, its budget to fight crime was doubled in this period (Grayson, 1996: 10).

⁶⁰ In the presidential election of 2006, Calderón, the candidate of the ruling party, the PAN, won 35.9 percent of the vote against López Obrador, the PRD's candidate, who obtained 35.3 percent. The PRI's Roberto Madrazo gained a meagre 22.2 percent. His victory against López Obrador with a razor-thin margin led to the post-election conflict. For seven weeks, supporters of López Obrador camped out in the center of Mexico City to cry electoral fraud. López Obrador proclaimed himself the "legitimate president" and refused to recognize Calderón as the new president (*The Economist*, November 16, 2006b).

⁶¹ Between 1989 and 2007, their share of the total national budget increased from about a fifth to nearly half. Most of the increased portion was budget transfer from the Federal Government (*The Economist*, November 24, 2012b).

⁶² As of 2012, the PRI controlled 20 of the 31 states (except the Federal District), 10 of which it had never lost an election in (Graham, 2012). However, considering that the PRI suffered its first ever defeat in a state election on July 2, 1989 when Ernesto Ruffo of the PAN was elected governor of Baja California, this indicates the significant decline of its power at state-level politics (Rama and Stargardter, 2012).

⁶³ The president was given full authority to dispatch troops without congressional approval. Considering Calderón was troubled with the non-cooperative legislature and had only 27,000 federal police officers available, the use of the military for the war on drugs was, in practice, the only viable option (Roig-Franzia, 2007: 15).

⁶⁴ The military's success in crime and drug-fighting was criticized as being short-lived. First, many soldiers were losing the will to fight: in 2007, more than 18,000 soldiers deserted, and reports of deserters joining the drug cartels grew. Second, the crime levels that had temporarily dropped after the dispatch of the soldiers rose again. Third, the military's war on drugs caused a great loss of life. In 2007, some 2,500 people were killed in organized crime-related violence across the country (*Newsweek*, April 15, 2008).

⁶⁵ The total number of killings linked to organized crime from 2001 to 2006 was 8,901. However, from December 2006 to June 2010, the total number of killings attributed to organized crime, such as drug trafficking, was 41,648 (Rios: 2013: 139).

⁶⁶ In Ciudad Juárez, the border city across from El Paso, Texas, about 2,650 people died in drug-related violence in 2009. The city became one of the world's most violent cities after President Calderón sent 10,000 soldiers and federal police to the city in March 2009 (*Reuters*, January 13, 2010).

⁶⁷ For example, in the four days following the arrest of a senior drug gang operative on July 11, 2009, police stations were strafed, and 16 police officers were killed (*The Economist*, July 23, 2009). City mayors are also the target of drug gang attacks. In 2010, at least 11 mayors were murdered across Mexico. In the same year, the candidate widely expected to be voted governor of Tamaulipas was murdered four days before elections (*The Economist*, October 14, 2010).

⁶⁸ The U.S. provided financial aid through the Merida Initiative to help improve the training and equipment of Mexico's police forces (Rosenberg and Cardona, 2011).

⁶⁹ Under Mexico's federal system, each of the 32 states (including the Federal District) has its own police force and justice department, and more than 1,600 municipal police forces exist (*The Economist*, March 5, 2009). The command patchwork also muddles operations. For example, in Monterrey, the metropolitan area alone has 11 different forces, each using different training, tactics, and even brands of radio (*The Economist*, October 14, 2010).

⁷⁰ In Juárez, for example, demonstrations by local police members against the military's presence and allegations of police corruption took place in the early period of Calderón's government, creating tensions between local and federal authorities (*Newsweek*, April 15, 2008).

⁷¹ Calderón's government captured or killed over 40 major cartel leaders (Bonner, 2012: 6).

⁷² President Calderón had expected the authorities to fill the vacuum left behind by eradicated drug cartels. However, his expectations proved wrong (*The Economist*, November 22, 2012). Powerful but relatively peaceful criminal monopolies have been replaced by volatile small gangs (*The Economist*, November 24, 2012). One Mexican academic even estimated that, in 2010, 114 organized crime groups were active in Mexico, whereas, in 2007, only 11 existed (*The Economist*, November 26, 2011).

⁷³ For example, the annual police tally of kidnappings in Jalisco increased rapidly from 5 in 2006 to 46 in 2011. The real figure is much higher because people are afraid to report incidents (Graham, 2012).

⁷⁴ In 2012, as president-elect, he announced he planned to pivot away from disrupting narcotics smuggling to concentrate on fighting the crimes that most affect Mexicans. He also said he would be judged by his ability to reduce the number of homicides, not the kilos of cocaine or marijuana seized (Booth, 2012: 11).

⁷⁵ The Chiapas police, for example, had 300 unfilled vacancies in 2009 due to the police's exposure to serious threats of drug gang attacks (*The Economist*, September 24, 2009).

⁷⁶ Seven out of 10 Mexicans said they had paid a bribe the last time they dealt with a traffic police officer (*The Economist*, November 24, 2012a).

⁷⁷ In 2009, a string of mayors in the state of Michoacán were arrested on drug trafficking charges. In 2010, the mayor of Cancun was arrested and charged with money laundering and drug-related crimes, as well as protection of drug gangs (Cortazar, 2010).

⁷⁸ Local police officers often fall prey to criminal organizations that promise to supplement their low wages or threaten to kill them or their families if they resist (Archibold, 2010: 9). In the state of Nuevo León, more than half the officers in the state were thought to have been bribed by organized crime (*The Economist*, October 14, 2010). Of the 74 people arrested in connection with a mass killing in Tamaulipas, in 2011, 17 were local police (*The Economist*, April 28, 2011). On 19 May, 2011, a local police chief was accused of collusion with a drug cartel. He received about 15,000 pesos (\$1,290) a month for alerting the drug cartel to army and federal police crackdowns (*Reuters*, May 19, 2011).

⁷⁹ An old Mexican joke says, "If you get mugged on the street, don't yell. You may attract the police!" (Oppenheimer, 2011: 11). Because the Mexican government has used the police as a means to control and oppress, rather than to defend its people, the first reaction of people to the police is fear that they will harm them (Schrader, 1995: 1).

⁸⁰ The deputy police chief announced that they were fired because they had failed to carry out duties established by federal police laws. Some of those fired had reportedly failed drug screenings, financial probes, and lie-detector tests (*Reuters*, August 30, 2010).

⁸¹ Moreover, civilian control over the military is getting more difficult because the military are endeavoring to increase their influence in the civilian realm (or in politics). They actively lobby in congress to defend their budget and to expand legislation on their new policing role of replacing civilian police forces (Bailey, 2014: 147).

⁸² In 2001, to cope with increasing human rights violations committed by the military, such as rapes and torture, Fox proposed judicial reforms that included trying military officers charged with crimes in civilian courts. However, legislators rejected those clauses (Hayward, 2004).

⁸³ In 2011, Humberto Moreira resigned as the PRI's president over a debt scandal. In 2012, right before the presidential election, Tomás Yarrington, a former governor of Tamaulipas, was accused of taking bribes from drug traffickers (*The Economist*, June 23, 2012). He denied wrongdoing, while his rival politicians claimed that the PRI might have made pacts with cartels rather than fight them (Grillo, 2012).

⁸⁴ Later, President Kim created his own party, the New Korean Party, which mainly consisted of politicians from his faction who followed and supported his political ideas, replacing the existing ruling party, the Democratic Liberal Party (Lee, 2007: 120).

⁸⁵ Huntington (1993) provides three different modes of democratic transition. First, "replacement" occurs when the opposition groups play a leading role in the process of democratization. This is a bottom-up method of democratization. Second, "transformation" takes place when the democratic transition is led by existing ruling groups. This is a top-down mode of democratization. Finally, "transplacement" occurs when democratic transition proceeds due to the combined efforts of ruling elites and opposition groups. This is a mixture of bottom-up and top-down democratization (pp. 121–123). The democratic transition in Korea is classified as "transplacement," while the democratic transition in Taiwan is grouped into the category of "transformation," because the leaders of the ruling party played a greater leadership role in Taiwan than in Korea (Shin, 2008: 100–102). Mexico's democratic transition was similar to that of Taiwan in terms of the leadership role of the ruling elites and could also be classified as a "transformation."

⁸⁶ At the initial phase of democratization, the DPP organizers tacitly agreed with the KMT to eschew the political issue of Taiwan's independence to which the KMT strongly objected. During the deepening phase of democratization, the DPP refrained from showing its resolute policy toward the independence of Taiwan to secure popular support during elections because their pro-independence platform defeated itself at the polls, as shown in the 1991 National Assembly elections. Therefore, in the presidential election of 2000, the DPP's candidate, Chen Shui-Bian, promised to eschew Taiwan's independence to console the cautious and conservative voters regarding the issue of Taiwan's relationship with China (Rigger, 2000: 138, 142).

⁸⁷ In 2008, the U.S. Government signed the Mérida Initiative, which promised a \$1.3 billion anti-drug aid effort for Mexico involving hardware and training (*The Economist*, March 25, 2010).

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