

# Legislative Oversight in Japan



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Prepared for **Taiwan's Legislative Yuan: Oversight or Overreach?**

The Brookings Institution  
Monday, June 23, 2014

# Oversight in a Parliamentary System

## No separation of powers

- The executive “branch” and the legislative “branch” are headed by the same people
- So legislative oversight of cabinet ministers is, essentially, backbench oversight of party leaders
- Best done at Party HQ, not in the public eye

# Oversight in a Parliamentary System

- Opposition parties would like to oversee ministers, but why should the ruling party institute rules to allow that?
- Complications (deviations from Westminster):
  1. Coalition government (keeping tabs on partners)
  2. Divided parliaments (twisted bicameralism)

# Oversight in a Parliamentary System

- Still, “executive” means more than ministers, and even the ruling party wants to oversee civil servants (bureaucrats)
- But again, why not let the ministers (who are good agents) do that in-house?

# Oversight in a Parliamentary System

- Hypothesis: As long as the ruling party has a long time horizon, effective formal procedures for oversight should be minimal.
- Even for “fire alarm oversight,” have the alarms ring in Party HQ, not in the courts.

# Legislative Oversight in Japan

- During LDP's long period of dominance (1955-1993), formal legislative procedures were moribund.
- Gave (false) impression that bureaucrats were un-checked. (“Bureaucratic dominance”)
- But then the LDP lost power in 1993...

# Legislative Oversight in Japan

- Nov 1993 – passage of an APA
- 1998 – Changes to Diet Law and HR/HC rules
- PM question time
- Changes to the Cabinet Law in 1999 (eff. 2001)
- Information Disclosure Law (FOIA) in 1999 (eff. 2001)

# Cabinet Law Changes (2001)

- “Planning and Drafting” instead of merely “coordinating”
- More resources, more Special Advisors for PM
- Ministers for “Special Missions” put above line ministries
- Councils reported to PM, drafted major bills
- New positions of State Secretary, Parliamentary Secretary



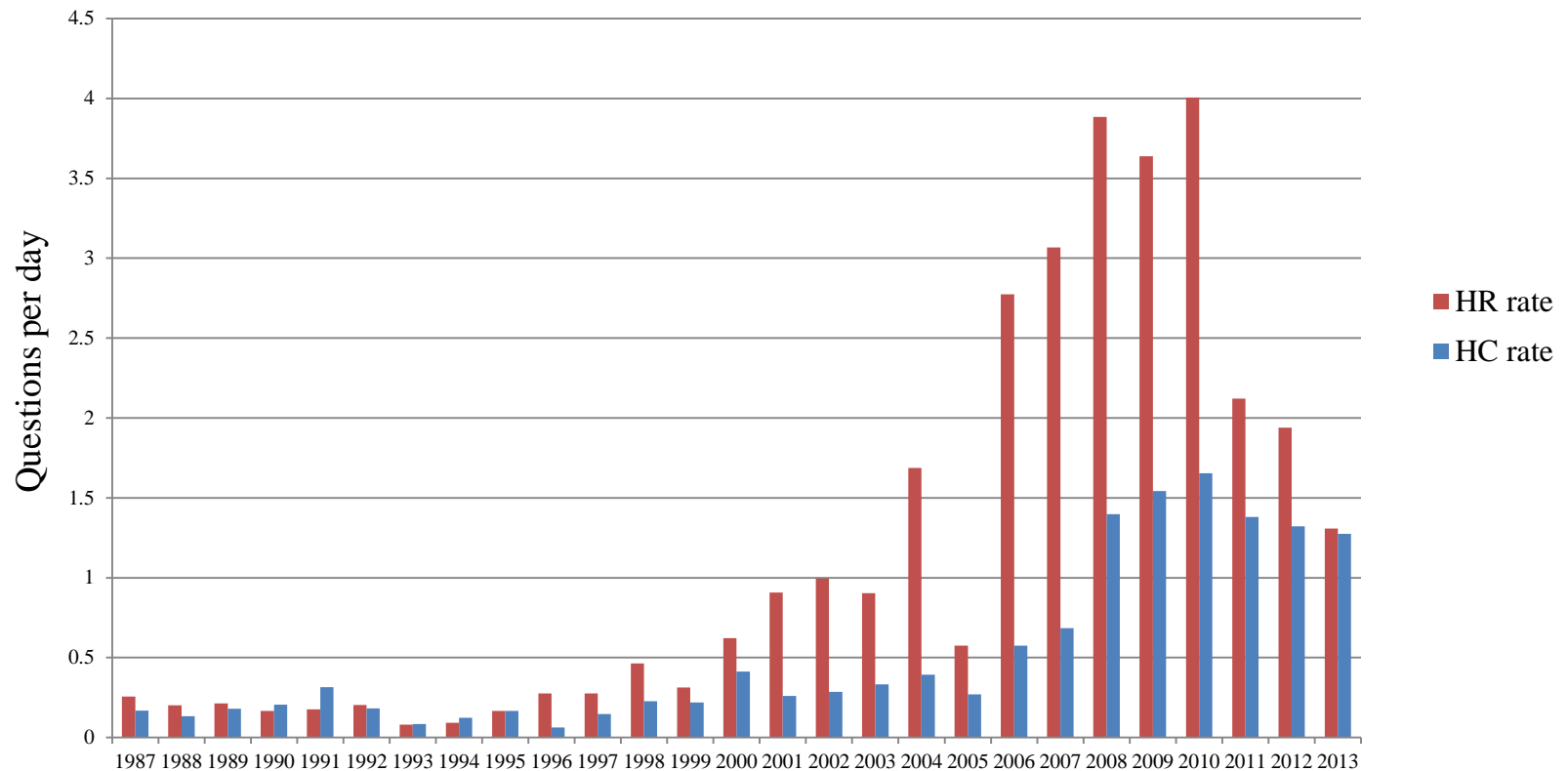
# Bureaucratic Reorganization

- Reduced ministries from 22 to 12
- Set up Independent Administrative Agencies to audit ministries
- Streamlining and shrinking to combat “sectionalism”
- Reduced and opened up “shingikai”
  - Encouraged use of public hearings
  - Limited membership, excluded officials
  - Term limits
  - Minority reports

# Changes in the Diet

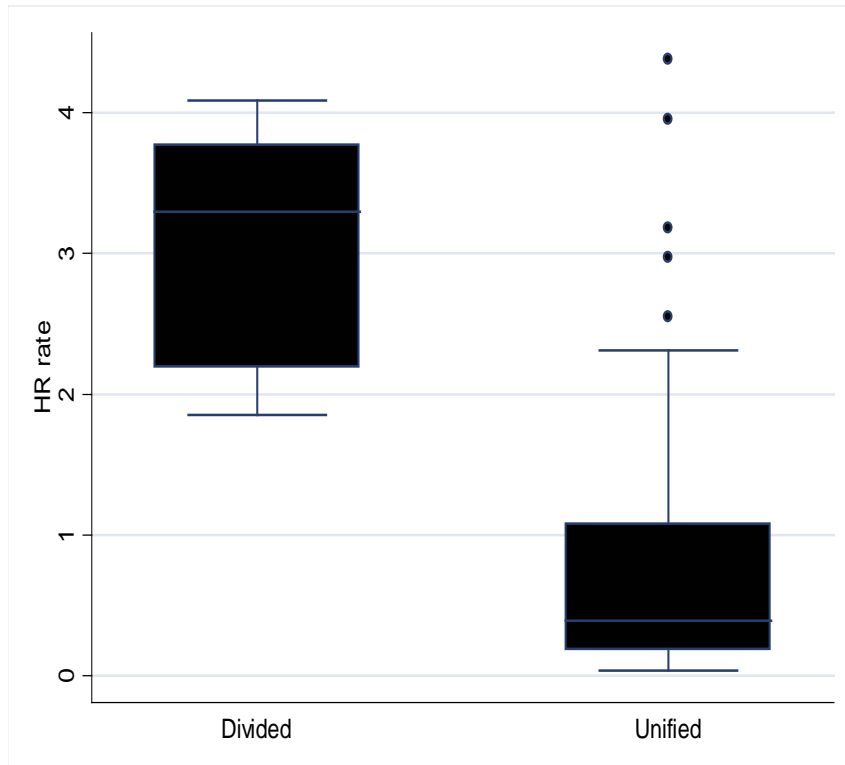
- From “government delegate system” to “government witness system”
- Establishment of Government Oversight Committees in both houses
- Increased used of committee investigations and questions by individual MPs
- QT introduced in late 1999
- Effective?

# More MPs demanding answers from the Cabinet (質問主意書)

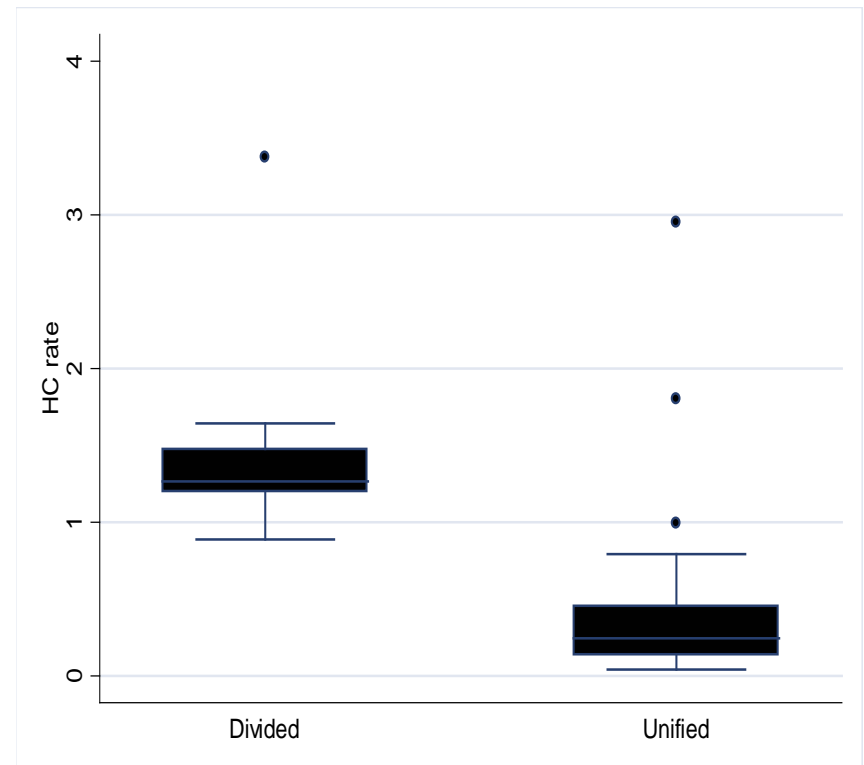


# More questioning during Twisted Diets

Lower House



Upper House



# Enhanced Fire Alarm Oversight?

## Administrative Procedure Act (1993)

- Agencies must establish and publicize standards for reviews that are “as concrete as possible”
- Includes times for administrative review
- Agencies must “give reasons” when applications are denied
- Notice and comment
- But many exemptions, and much discretion for officials
- 3<sup>rd</sup> party intervention at discretion of officials

# Enhanced Fire Alarm Oversight?

Information Disclosure Act passed 1999, effective 2001.

- All agencies must adopt written standards for disclosure
- But much more restrictive than U.S. FOIA, with more exemptions and more discretion for officials
- No sanction for an agency's improper denial of an information request

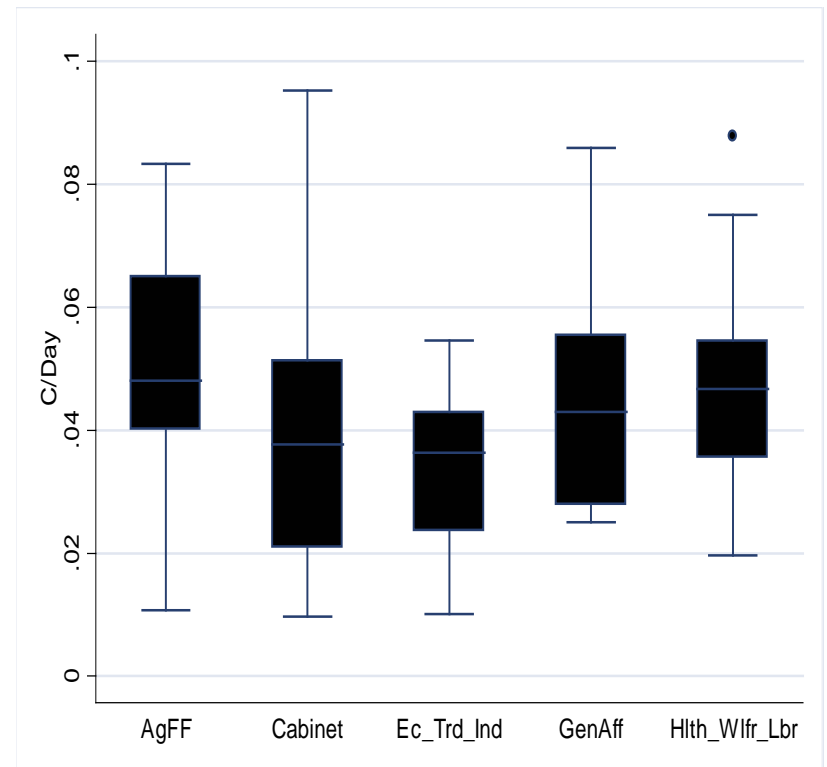
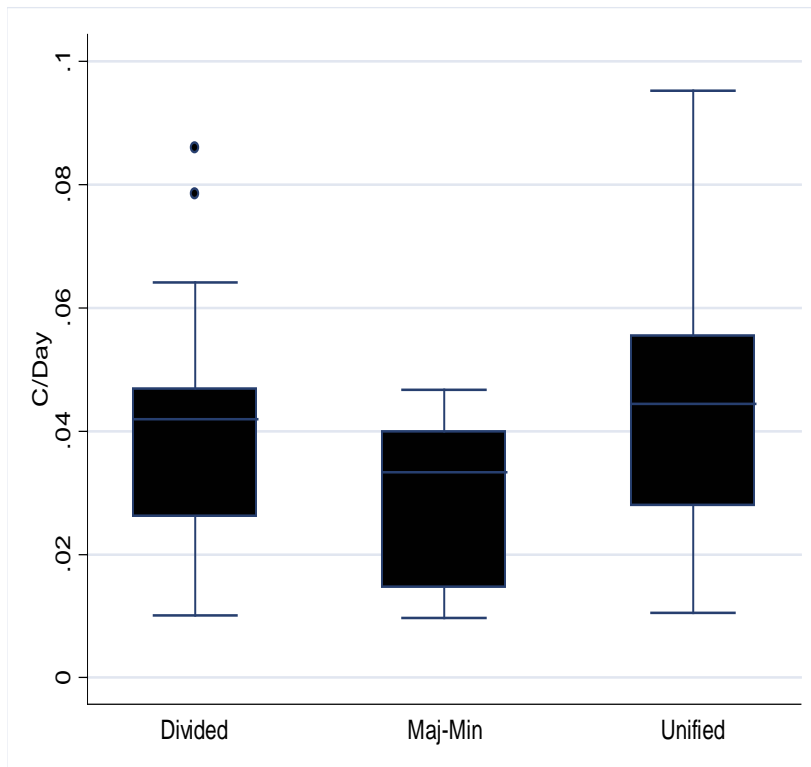
# Assessment

- The quantity of oversight activity seems to have increased in the last decade
- Perhaps there is a different attitude, some recognition of popular desire for transparency
- The laws do give some room for judicial enforcement, but they don't guarantee it
- Oversight is still largely channeled through the ruling party

# Extra slides



# But no differences for committee investigations



Data for Lower House Committees Only