

Taiwan judiciary needs reform, not KMT control

Written by Taiwan News Editorial
Wednesday, 21 July 2010 08:46

Last Wednesday's shocking arrest of three Taiwan High Court judges, a prosecutor and two intermediaries for allegedly taking bribes from former senior Chinese Nationalist Party (Kuomintang) legislator and ex-Miaoli County commissioner Ho Chih-hui to purchase a "not guilty" verdict in a major corruption case has gravely damaged the reputation of Taiwan's judicial system.

Judicial Yuan President Lai Ing-jao, who had been appointed by former president Chen Shui-bian, submitted his resignation to President and KMT chairman Ma Ying-jeou and also approved the resignation of Taiwan High Court President Huang Shui-tung.

Ma accepted Lai's resignation Sunday and appointed Judicial Yuan Vice President Hsieh Tsai-chuan as acting president of the judicial branch of government.

Lai merits respect for his decision to resign to display his overall political responsibility, but the resignation of the Judicial Yuan president will not solve the problem of corruption in Taiwan's judiciary or the myriad other ills of our justice system which have festered long before he took office in October 2007.

Indeed, what is needed is a comprehensive and systematic review of the problems in the judicial system in a politically impartial and professional manner with both democratic process and civic oversight.

The most pressing problem in the judicial system and the most relevant issue in the current flap is the need to establish an evaluation and discipline system to weed out unfit or incompetent judges and guarantee the right of competent judges to carry out their duty to issue independent judgements.

The establishment of such a system codified in revisions to the Law on Judges is the most important measure that President Ma could promote to both deal with the roots of corruption and incompetence in the judiciary, raise the morale of capable and ethical judges and restore public confidence in the judiciary.

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Unfortunately, major draft revisions to the Law on Judges remain mired in the KMT-controlled Legislative Yuan.

Moreover, since taking office in May 2008, the Ma government has failed to put forward any concrete measures of progressive judicial reform but has instead overseen the erosion of judicial quality and independence and the rollback of judicial human rights.

In this contest, it is absolutely necessary is for Ma to refrain from nominating any successor with obvious partisan coloring and thereby breed concern that the new chief of our judicial branch will be a "hired thug" who will implement the precept of former KMT secretary-general Hsu Shui-teh that "the courts are run by the KMT."

Unfortunately, judicial rumor mills are buzzing with speculation that Ma plans to appoint former National Communications Council chairman Su Yung-chin, the younger brother of his former National Security Council secretary-general Su Chi, to this critical post.

Contempt of court

Su, who is now a professor of law at National Chengchi University Professor and has a doctorate in law from Heidelberg University, is certainly erudite, but has repeatedly displayed his character as a KMT partisan.

Su has never served as a member of the Council of Grand Justices and is therefore legally ineligible to be appointed to the Judicial Yuan presidency unless Lai is forced to relinquish his status as a grand justice.

Ironically, Su showed contempt for the Judicial Yuan in July 2006 by refusing to resign from his position as chairman of the powerful National Communications Commission after the Council of Grand Justices, acting as the Constitutional Court, declared that the selection of the NCC commissioners had been "unconstitutional."

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Moreover, Su showed his lack of respect for the principle of conflict of interest and Taiwan's national security by accepting an adjunct teaching post at Zhejiang University last year despite his status as a former NCC chairman and his brother's current status as NSC secretary-general.

Even more worrisome are Su's political views.

On September 16, 2008, Su publically defended Ma's claim that cross-strait relations between Taiwan and "mainland China" were not "state to state relations" in an op-ed article in the United Daily News and even stated that the difference between Taiwan's 23 million residents and China's 1.3 billion people is not based on "citizenship" in distinct states but "household registration."

The appointment of such a person to head the Judicial Yuan would deliver a slap in the face of Taiwan's corps of diligent and capable judges and advocates of judicial reform.

Given his denial of Taiwan's statehood and the citizenship rights of the 23 million Taiwan people, Su's appointment could gravely affect the constitutional foundations of Taiwan's political community and the human rights of Taiwan residents from infringement by the PRC under the guise of "cross-strait judicial assistance" and raise concerns over the substantive restoration of KMT neo-authoritarian "ownership" over our judicial system.

Frankly speaking, the transparent extension of the KMT's "black and gold hand" into the judiciary through such an appointment would neither raise public trust in our judiciary or in Ma's leadership or be beneficial to the ruling party at the polls in the crucial Nov. 27 municipal mayoral elections.

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