

## Taiwan's justice reform must be civic driven

Written by Taiwan News Editorial  
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The scandal over the bribery of Taiwan High Court judges by a former ruling Chinese Nationalist Party (Kuomintang) politician and a series of unreasonable verdicts has sparked renewed awareness of the urgency of the comprehensive and thorough reform of Taiwan's judicial system.

Most of Taiwan society was stunned and incensed by the apparent success of former KMT legislator and ex-Miaoli County commissioner Ho Chih-hui, now a fugitive, to bribe three High Court judges to deliver an innocent verdict on second appeal.

However, KMT lawmakers were evidently more upset with a Taiwan High Court judgement that sliced a nine-year sentence meted to former deputy presidential secretary-general Chen Cheh-han for accepting bribes from a business tycoon in return for agreeing to use his influence to settle two court cases to seven months on the grounds that Chen was guilty of fraud rather than corruption since he had no power to influence court judgements.

In response to outcries for reform, President and ruling KMT Chairman Ma Ying-jeou, who has yet to implement his own campaign promise to set up a judicial reform commission, has instructed related agencies to study whether to convene a second National Conference for Judicial Reform to be convened by the replacement, whom Ma has yet to nominate, for outgoing Judicial Yuan President Lai Ing-jaw.

While such a conference will be welcome if it can produce new momentum for progressive judicial reform, it should be noted that most of over 30 major recommendations of the first National Conference for Judicial Reform held in July 1999 have yet to be implemented.

Hence, the KMT government and the KMT-controlled Legislative Yuan might be better advised to manifest the political will and administrative competence to first realize the recommendations of the 1999 conference before holding another NCJR that ends up in producing only more volumes of empty talk.

In the 11 years since the National Conference on Judicial Reform, only a handful of its recommendations have been realized, including the notable completion of a legal aid system

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and various revisions to the Code of Criminal Procedures.

Ironically, the main logjam blocking most important proposed reforms, including the passage of comprehensive revisions to the Judicial Yuan Organization Law and the draft judges law, has been located in the KMT-controlled Legislative Yuan.

Such inefficiency is by no means inevitable, as can be seen in case of Japan, which also held a similar Justice Reform Conference in July 1999 but realized major structure reforms, including the introduction last year of a new judgement system in which court verdicts will be made by joint judgement of mixed panels of lay assessors and professional judges in a major departure from the continental law based system.

Compared to this achievement, Taiwan's achievements in judicial reform can be described as pitiful compared to the urgent need for a thorough revamping of our justice system.

No 'black box'

The priorities of judicial reform in Taiwan are by no means secret and include the improvement of the professional quality and integrity of court justices at all levels and there is no need whatsoever for the KMT government and legislature to wait on a new NCJR before approving and implementing the long-delayed draft Judges's Act which is aimed precisely at this problem.

Naturally, the new Judicial Yuan president nominated by Ma should launch a new national judicial reform conference to review the problems in our justice system and propose recommendations for improvement.

There are undoubtedly divergent views in our society on how Taiwan's judicial system should be reformed, but what is absolutely essential is that the task of revamping our justice system must not be simply handed over to judges, prosecutors and lawyers and legislators and the KMT government to redesign.

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Instead, any future national judicial reform conference should be conducted in a transparent manner, open to input from all circles of society and decide on its recommendations through consensus and not be simply another exercise in KMT "black box" and top-down decision making.

Moreover, Ma should follow Japan's example and establish a presidential-level judicial reform commission, which should also integrate legislative and civic judicial reform and human rights as well as relevant government agencies.

Last but not least, President Ma should also take the initiative to open the "black box" of court judgements.

If the introduction of a mixed jury system is not yet feasible in Taiwan, Ma should at least fulfill the commitment embodied in the promulgation into domestic law of the International Covenant for Civic and Political Rights to establish an independent National Human Rights Commission which can monitor abuses of human rights by judges along with other government agencies or officials.

The motive force of today's judicial reform campaign in Taiwan derives from deep dissatisfaction among our citizenry over the reality that "the judiciary is alienated from society."

Any successful judicial reform therefore must include abundant civic participation and match the expectations of the citizenry and not simply the desires of justice professionals or the interests of the ruling party.

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