

Ma is lying about the nuclear plant

Written by Taipei Times Editorial
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President Ma Ying-jeou (馬英九) has said, following a suggestion by Premier Jiang Yi-huah (江宜樺) last week that the government order an immediate halt to the construction of the Fourth Nuclear Power Plant in New Taipei City's (新北市) Gongliao District (公寮) without waiting for a referendum, that such a move would be unconstitutional and illegal. Either Ma, who holds a doctorate in juridical science from Harvard Law School, has misunderstood the Council of Grand Justices' constitutional interpretation, or he is willfully misleading the legislature and the public.

Ma's contention that halting construction would be unconstitutional could be referring to the Council of Grand Justices' 2000 constitutional interpretation No. 520, necessitated by the Democratic Progressive Party (DPP) government's decision to halt the plant's construction. After this interpretation was made, the government had to announce construction would continue. However, that is not to say that the interpretation deemed halting the construction unconstitutional in itself.

Constitutional interpretation No. 520 said the budget passed by the legislature was a massnahmegesetz ("law of measures"), and that if the government wanted to halt construction of the plant, it should have reported this to the legislature. Had the policy change secured majority support within the legislature, the budget could have been rescinded and the government could have proceeded. If a majority in the legislature opposed the move, or came to any other resolution, the government would have had to negotiate a solution or choose a way forward allowable within the constitutional framework.

The DPP government conceded back in 2000 not because the grand justices ruled that halting the construction was unconstitutional, but because the economy was weak and the government was facing a boycott by the Chinese Nationalist Party (KMT) opposition, which controlled a majority in the legislature. It felt it had to reverse its decision to avoid a political war. Therefore, any suggestion by Ma of unconstitutionality is uninformed and entirely without basis.

Second, there would be little chance of a repeat of the chaos of 2000 if the Executive Yuan announced a halt to construction of the plant now. The KMT controls both the executive and legislative branches, and if the Executive Yuan announced the halt and then arranged the budget and made the relevant amendments to the law, the KMT-controlled legislature could finish the required procedures. There would be nothing unconstitutional or illegal about this. Not only would the opposition parties not try to stand in their way, they would be positively overjoyed and give their wholehearted assistance. In fact, this would be a very rare case of

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legislature-wide unanimity and unity.

Ma is no political maverick: As a leader, he is very cautious. He is not going to expose himself to risk or take responsibility for more than he needs to. True, the Fukushima Dai-ichi nuclear disaster did shake his confidence in the safety of the Fourth Nuclear Power Plant, but he is still leaning toward having the plant's fate decided through a public referendum.

When Jiang responded to public opinion — the sheer force of which exceeded all expectations — expressed in the recent anti-nuclear demonstrations around the country, Ma immediately spoke up to qualify the words of his premier, saying that halting construction on the plant would be unconstitutional. His intention was to rein in KMT legislators, and to sway public opinion and the ongoing debate.

Ma is reluctant to take responsibility for what happens to the plant, and wants to hand its fate over to a referendum that has what many perceive as an overly high threshold requirement. However, his obvious attempts to manipulate the situation will only add to his legacy of inaction and incompetence.

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