

Synchronized elections fuel gap issue

Written by Taipei Times Editorial
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President Ma Ying-jeou (馬英九) called on the Democratic Progressive Party (DPP) to form a Cabinet before president-elect Tsai Ing-wen (蔡英文) takes office on May 20, “lest the government be left idling.”

The call might seem reasonable, but the important question is: What role would the outgoing president play in a new government formed by public opinion?

Ma reportedly telephoned Tsai on election day after her victory was confirmed to congratulate her and to bring up the issue of forming a Cabinet.

However, the DPP is not inclined to take over the executive branch four months ahead of the transfer of presidential power.

Ma said he is simply doing what he has been advocating, but the Constitution, after an amendment in 1997, states that the president’s appointment of a premier does not need the legislature’s approval, which means that it is only a convention, rather than an obligation, that the Cabinet resigns after a legislative election to make way for the new legislature.

When the idea of synchronizing presidential and legislative elections — the former used to take place in March — was discussed in 2011 ahead of the 2012 general elections and again early last year, a “longer than usual” caretaker period was mentioned, but did not constitute an objection to the Executive Yuan and the Central Election Commission’s decision to synchronize the elections.

The reasons put forward by former premier Jiang Yi-huah (江宜樺) in 2011 and commission Chairman Liu Yi-chou (劉宜周) last year to fend off doubts over the “long gap” were that the government’s power to make major decisions could be suspended by convention or a power transition act that could be introduced with the legislature’s help, and that the so-called gap is not a “precise term” as “the constitutional and political order is clear, with the outgoing president being in office until the new president takes over.”

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In 2012, when the KMT won both the presidency and a legislative majority, there was no gap problem in terms of the continuity of the ruling party's policymaking, but institutionally speaking, the gap still existed.

A power transition draft bill that laid down regulations to facilitate transitions could have been passed, but it was mothballed.

The public suspects that Ma's and the KMT's calls for a majority-formed Cabinet might be a political ploy. The issue of the caretaker period has existed for years and was caused by a decision to synchronize elections.

The gap issue needs to be dealt with first, while a question of whether the Cabinet should be formed by the majority party — especially when the president is from the opposition — requires a constitutional overhaul.

Following Ma's advice might result in a constitutional crisis, in which the outgoing president might — or, in this case, would certainly — not stand on the same side with the premier they appointed. Policymaking and implementation would lack legitimacy as political responsibility would not lie with a single body.

The president could establish a "political convention" by doing what the Constitution has not stipulated to achieve the spirit of a parliamentary system.

However, as more synchronized elections are to take place — starting in 2008, legislative elections have taken place every four years instead of three, which gave rise to a debate in 2011 and last year concerning the synchronization of presidential and legislative elections — the gap issue needs an institutionalized solution, rather than an expedient move.

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