

Judicial reform must come first

Written by Chang Kuo-tsai 張國燾

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Nine months ago, President Tsai Ing-wen (蔡英文) and her administration took office. During the election, Tsai was praised for her calls to reform the judicial, pension and party asset systems.

To this day, there has been either no progress or it is painfully slow. There are two reasons for this: The wrong people have been assigned to initiate the reforms, and the reforms are being carried out in the wrong order.

Reform is a matter of shaking up the personnel structure, as its success is intimately connected to who is in charge. Reform that is managed by conservative forces from an old system with old ideas is likely fail because of obstacles covertly placed by people opposed to reform.

Reform that is managed by more open-minded forces, but still from an old system, are likely to be half-baked because they are always concerned with this, that or the other.

Reform managed by a combination of external and internal forces will be smooth.

If it is impossible to find reform-minded people with backbone in the old system, it would be impossible to bring about reform unless the whole process is handled by external forces.

The Tsai administration looking to retired military personnel, civil servants and public-school teachers as the main counterpart to pension reform, and allowing accomplices of the former party-state framework to manage judicial reform, is a waste of time and money. It will only wear down the patience and confidence of those who have high hopes for reforms.

While the government seems to have found the right person to manage party asset reform, the timing is poor. Until judicial reform is finalized, the Ill-Gotten Party Assets Settlement Committee's research will not matter.

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The same is likely to hold true when it comes to the pension reform commission.

Without legal backing, there is certain to be interference on technical grounds because of a lack of proper legal procedure, as well as administrative lawsuits and a constitutional interpretation by the Council of Grand Justices.

When the committee's decision to freeze the Chinese Nationalist Party's (KMT) ill-gotten assets reaches patriotic judges with KMT loyalties at the Administrative Supreme Court (司法院), it is the settlement committee that will be frozen. If the committee is unhappy, it can appeal, but it will fail and will have no choice but to accept it.

The Tsai administration has opened too many battle fronts without first dealing with judicial reform.

In addition to judicial, pension and party asset reforms, there is the introduction of the five-day work week and the proposed marriage equality legislation. That might be why reform efforts seem to have lost steam.

Without judicial reform, party asset and pension reforms are likely to run into obstacles.

When Vice President Chen Chien-jen (陳建生) said on Wednesday that "as long as pension reform succeeds, all other reforms are certain to succeed as well," he likely underestimated the destructive powers of the "dinosaur judges."

For judicial reform to succeed, the most important thing is to reform the judicial personnel system and remove the people that disgrace their profession.

Should a judge justify a not-guilty verdict in a case of alleged misuse of special expense funds by comparing it with the way public funds were used in the Song Dynasty? Should prosecutors be allowed to encourage witnesses to perjure themselves to simplify matters?

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If this type of power abuse is not eliminated from the judicial system, then its reform is a ruse to deceive the public, and there is a good chance that party asset and pension reforms will be pushed through in a perfunctory manner.

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Translated by Perry Svensson

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