

Clash over draft transitional justice plan

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Academics and experts yesterday clashed over measures to promote transitional justice at a public hearing held by the Legislative Yuan's Judiciary and Organic Laws and Statutes Committee in Taipei.

The committee is deliberating a transitional justice promotion act, now that the Democratic Progressive Party (DPP) holds a legislative majority for the first time, following the January elections.

Hsieh Chen-yu (許雪姬), dean of Soochow University's School of Liberal Arts and Social Sciences, said that the "soft authoritarianism" of the Chinese Nationalist Party's (KMT) rule under martial law called for a different approach to transitional justice from other nations because the KMT itself had moved in the direction of democratization, including the passage of legislation such as the Act Governing the Recovery of Damage of Individual Rights During the Period of Martial Law (戒嚴時期個人權利受損之回復與救濟法), the Compensation Act for Wrongful Trials on Charges of Sedition and Espionage During the Martial Law Period (戒嚴時期叛亂及內亂案件無辜受審者之救濟法) and the February 28 Incident Disposition and Compensation Act (二二八事件處理及賠償法).

Other academics and victims of the White Terror era disagreed, saying that past moves toward transitional justice were partial at best.

"Efforts to reveal the true face of history, rehabilitate victims and open new judicial investigations to call to account offending persons and groups have proceeded like 'squeezing toothpaste': passive and partial, if they were done at all," said Li Fu-chung (李富榮), a professor at National Chengchi University's Graduate Institute of Taiwan History.

Representatives of White Terror victims said that previous legislation stopped short of providing them with full rehabilitation by denying them the right to file lawsuits to overturn unjust convictions in military courts.

"Even though we have received some compensation, this does not constitute true rehabilitation," Formosan Political Prisoner Association president Tsai Kuan-yu (蔡寬裕) said.

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“Given that the government has already ruled that we were unjustly convicted on false charges, it should give us justice,” Tsai said.

While only 96 of more than 7,000 martial law convictions reviewed by the Compensation Foundation for Improper Verdicts were found to be legally based, compensation provided under the Compensation Act for Wrongful Trials provided only administrative relief rather true reparations, which would explicitly acknowledge governmental wrongdoing, he said.

Articles of the National Security Act (國安法) passed shortly before the lifting of martial law explicitly denied victims the right to appeal military court verdicts after martial law was lifted, overriding provisions of the Martial Law Act (戒嚴法) itself and preventing victims from recovering property unjustly confiscated by the government, Tsai said.

“In beginning to pursue transitional justice, what is most important is preventing abuses,” said Lee Hsun-min (李軒民), a consultant to the KMT’s National Policy Foundation, who criticized the DPP’s proposal as infringing on judicial authority by proposing to invest a transitional justice promotion committee with broad investigative powers.

“This will be a quasi-judicial executive body, totally redundant and existing only for the purpose of violating property rights,” he said, referring to the possibility that such a committee might play a role in appropriating the KMT’s “ill-gotten assets.”

Ming Chuan University professor of public affairs Chi Chun-chen (齊俊臣) said the DPP’s draft should be revised to fully guarantee the transitional justice promotion committee’s independence.

“Because the committee’s investigative powers would turn it into a quasi-judicial body, it is inappropriate to place it under the Executive Yuan, where it could be influenced by the party background of the premier,” he said.

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