

## ***Judiciary denies political bias***

**NONPARTISAN:** The Judicial Yuan said it would not require members of the judiciary to declare their political affiliations, but might ban party membership in the future

By Rich Chang and Jimmy Chuang

STAFF REPORTERS

*"The executive branch cannot give orders to the judicial branch and so the Judicial Yuan will not ask judges to reveal whether they are members of political parties." - Fan Kuang-chun, Judicial Yuan secretary-general*

The Judicial Yuan said yesterday it would not ask members of the judiciary to reveal their party affiliations, but added that a ban on judges and prosecutors joining political parties was in the works.

Judicial Yuan Secretary-General Fan Kuang-chun was responding to a call from Cabinet spokesman Shieh Jhy-wei on Monday for the Chinese Nationalist Party (KMT) to reveal how many members of the judiciary were registered members of the KMT during the martial law period, and how many are members today. Shieh also said that judges and prosecutors should reveal their party affiliations when handling cases involving politicians.

### BIAS

On Friday, President Chen Shui-bian said in a televised interview that between 70 percent and 80 percent of the judiciary are biased in favor of the KMT.

"The executive branch cannot give orders to the judicial branch and so the Judicial Yuan will not ask judges to reveal whether they are members of political parties," Fang told a news conference yesterday afternoon.

Judicial Yuan president Weng Yueh-sheng said judges were above political considerations and called on the public to maintain faith in the judiciary.

"Judges hear cases independently and in accordance with the nation's law -- politics cannot interfere in these cases," Weng said.

Weng said he had been a member of a political party in the past, but had canceled his membership.

He said judges were not permitted to attend political gatherings and that several judges had been disciplined for doing so.

Weng said the Ministry of Justice had drafted an amendment to the Law on Judges to prohibit judges and prosecutors from joining political parties. Those who had already joined political parties would be required to cancel their memberships. The proposed amendment had been sent to the Legislative Yuan for approval, he said.

### **CONFIDENCE**

The ministry issued a statement saying that it had full confidence in the ability of prosecutors to avoid political bias.

While visiting a temple in Wanli Township, Taipei County, Chen said yesterday that although members of the judiciary were under no legal obligation to declare their political affiliation, they should consider why they had attracted so much negative publicity.

Chen said it was vital for the judiciary to be independent, but that numerous legal cases had indicated this might not be the case.

"The judiciary must examine itself because finger-pointing is not the way to solve the problem," he said.

Despite coming under fire from the KMT, Shieh stood by his comments yesterday, saying that all members of the judiciary should cancel their party memberships and declare their neutrality.

"This would be the easiest way for our justice system to maintain neutrality and to avoid questions, doubts and speculations that our judges or prosecutors are acting out of favoritism or political affiliation," Shieh said.

Shieh said he hoped politics could be completely removed from the judiciary, but would be willing to apologize to any judges or prosecutors who had misunderstood his comments.

"This is not personal. [My comments] were merely offered as a solution to address public uncertainty about the independence of the judiciary," Shieh said.

Asked if his comments were authorized by Premier Chang Chun-hsiung, Shieh said he was speaking on behalf of the Cabinet and added that the government was working hard to champion transitional justice.

"In the past, the KMT government required anyone who passed the bar exam to join the party before they were allowed to practice," Shieh said.

"This was twisted. This was wrong. And we are about to make it right," he said.

KMT presidential candidate Ma Ying-jeou condemned Shieh and said the government was attempting to manipulate the judicial system.

"How can a democratic country allow its executive branch to manipulate the judicial system?" Ma, a former justice minister, said during a visit to Kaohsiung.

"Having the Executive Yuan control judges' party affiliations would be an international joke and the international community would think that Taiwan was returning to authoritarianism," Ma said.

Ma said Article 81 of the Law on Judges stated that judges and prosecutors are allowed to join political parties.

"The system is intact and the government should not abuse the justice system. The Democratic Progressive Party [DPP] should not mess with the judiciary," he said.

Shieh's remarks also drew criticism from pan-blue lawmakers, while DPP lawmakers came to his defense.

"[What Shieh said] was tantamount to slandering the judiciary. Although he is a government spokesman, Shieh acted like a DPP thug," KMT caucus whip Kuo Su-chun said.

KMT Legislator Shuai Hua-ming said "transitional justice" was just a pretext Shieh used to justify his meddling in the justice system.

People First Party Legislator Liu Wen-hsiung said Shieh had not only interfered with the judiciary, but also damaged the country's democratic achievements.

Defending Shieh, DPP Legislator Wang Shu-hui said it would be easier for the public to determine whether there was any bias in the judiciary if party affiliations were made public.

DPP Legislator Huang Wei-cher said disclosure would not be enough and that all judges and prosecutors should cancel their party memberships.



## ***Pro-Taiwan groups blast US comments***

**MEETING POINT: While activists differ on whether Taiwan is already an independent state, both groups agreed that the US should not interfere in the UN referendum plan**

By Ko Shu-ling

STAFF REPORTER

*"[The KMT] does not dare oppose plans for a referendum because they want to capitalize on the issue to help Ma Ying-jeou win." - President Chen Shui-bian*

Comments by US officials on Taiwan's international status received a mixed response from independence activists, with some staging a protest outside the American Institute in Taiwan (AIT) yesterday and others thanking the US government for telling the truth.

The Taiwan United Nations Alliance led a coalition of legislators and pro-independence groups in staging the demonstration in Taipei to protest against the US government's opposition to Taiwan's UN referendum plan.

Democratic Progressive Party Taipei City Councilor Yen Sheng-kuan, who doubles as the alliance's secretary-general, said that Taiwan is an independent country and the US must respect the will of its citizens.

Twu Shiing-jer, vice chairman of the alliance, said that comments by US officials ignored the right of Taiwanese and overlooked the fact that Taiwan is an independent, sovereign state.

"The referendum on UN membership is a giant step toward democracy and the United States must not bow to the unreasonable demands of China," he said.



An independence activist waves "UN for Taiwan" flags during a protest outside the American Institute in Taiwan yesterday.

Dennis Wilder, senior director for East Asian affairs at the National Security Council, told reporters last Thursday that the statehood of Taiwan, or the Republic of China (ROC), is an undecided issue, and as such it is not qualified to be a member of the UN.

US Deputy Secretary of State John Negroponte said on Aug. 27 that the US government opposes Taiwan's plan for a UN membership referendum because Washington views such activity as a move toward a declaration of independence for Taiwan.

In contrast to the protesters, the 908 Taiwan Republic Campaign "thanked" the US government for pointing out the fact that Taiwan is not a state, but also criticized its opposition to the referendum plan.

Peter Wang, head of the group, said at a press conference in Taipei that Taiwanese must wake up and realize that Taiwan and the ROC is not a state at the moment.

"The ROC was dead in 1949 when the Chinese Nationalist Party [KMT] lost the Chinese civil war and fled to Taiwan," Wang said.

"However, the Republic of Taiwan is yet to be born and Taiwan is not yet the name of the country. We must step up efforts to establish a Taiwan republic," Wang said.

Wang, however, said that the US government had no right to prevent Taiwanese from exercising their democratic rights.

To protest against US opposition to the UN referendum, Wang said his group would hold a rock concert on Friday evening at the 228 Peace Park.

On Saturday, the group will lead a march calling for the US to respect the right of Taiwanese for self-determination and to support the nation's UN bid.

The march will begin at 4pm at the intersection of Renai Road and Guangfu S Road near the Sun Yat-sen Memorial Hall and end at the AIT headquarters.

In related news, President Chen Shui-bian yesterday criticized the KMT's UN referendum plan as an election ploy.

"The KMT's proposed referendum on UN membership is a false issue," Chen said.

"The KMT originally opposed holding a referendum concurrently with elections," Chen said.

"But now, it does not dare oppose plans for a referendum because they want to capitalize on the issue to help Ma Ying-jeou win the presidential election," Chen said.

The president said he believed the pressure the KMT had received from Beijing over the UN referendum was no less than what he received from the US.

Chen was referring to a recent report published by the Chinese-language China Times claiming that Beijing had expressed concern over the referendum initiated by the KMT on whether to "rejoin" the UN and join other international organizations under the name ROC, Taiwan or another practical title.

Ma has denied receiving a letter from China expressing its dissatisfaction with the referendum proposal, adding that he did not feel any pressure from Beijing over the issue.



***Truth will set Taiwan free***

On Aug. 30, Dennis Wilder, special assistant to US President George W. Bush and the top Asia specialist on the US National Security Council, said that "Taiwan, or the Republic of China, is not at this point a state in the international community. The position of the United States government is that the Republic of China (ROC), is an issue undecided, and it has been left undecided, as you know, for many, many years."

Wilder used the terms "Taiwan" and "the Republic of China" interchangeably.

Apparently, what he meant to say was that Taiwan "is an issue undecided."

He said this because of the simple fact that the ROC, which was once a state, has ceased to exist internationally while Taiwan has never existed as an internationally recognized state.

He also said that UN membership required "statehood," reinforcing Washington's concern that the Democratic Progressive Party's (DPP) UN bid using the name "Taiwan" is "a step towards the declaration of independence" as US Deputy Secretary of State John Negroponte warned earlier.

Through the words of these two officials, Washington has finally clarified Taiwan's status and driven the final nails into the ROC coffin.

Washington might have pushed all political parties in Taiwan into a corner where they can prosper only by advocating de jure independence or by joining the Taiwan independence movement. If Taiwan is not a state, the first priority of any self-respecting political party would be nation building. The "status quo" is no longer a viable option for Taiwan now that it is equated to statelessness.

The immediate casualty is the Chinese Nationalist Party (KMT) and its presidential candidate Ma Ying-jeou's ultimate goal of "unifying" the ROC with the People's Republic of China (PRC). Given the fact that the ROC doesn't exist, Ma and the company can at most advocate the "annexation" of Taiwan by China, a cyanide pill for the KMT. An even bigger victim is the *raison d'etre* of the KMT in Taiwan.

It has now been made clear now that Chiang Kai-shek and the KMT, after occupying Taiwan at the invitation of the US military at the end of World War II, became just an armed political group without a nation in 1971 when Chiang's representative abandoned the ROC seat in the UN. Washington formalized this when it severed

diplomatic ties with Chiang's ROC and established diplomatic relations with the PRC in 1979. In short, the ROC ceases to exist from that point on in the eyes of all major countries in the world.

Consequently, the legitimacy of the KMT's occupation of Taiwan, once on shaky grounds since it first set foot on Taiwan's soil in 1945, disappeared completely in 1979. Washington's latest clarification might have finally awakened Taiwanese -- especially those who still vote with the pan-blue camp in spite of the reality that Taiwan was ruled illegitimately from 1979 by a renegade armed gang from China: the KMT.

Compared to the KMT clinging to a shattered legitimacy in Taiwan, the DPP doctrines came out relatively unscathed. Washington and the DPP concur on the fate of the ROC and the need to deepen democracy in Taiwan. The only part of Taiwan's status they don't see eye to eye on seems to be whether or not Taiwan is an independent state.

Both President Chen Shui-bian and DPP presidential candidate Frank Hsieh made that assertion because Taiwan, if viewed internally, has de facto independence and they believe that Taiwan only needs to be "normalized."

Washington is pointing out that those "normalization" processes would need to be completed before Taiwan has de jure independence and can be called an independent state internationally. Washington is therefore faulting the DPP for jumping the gun.

Taiwan's independence movement, on account of the fact that it shares exactly the same view with Washington regarding Taiwan's status, comes through this Washington barrage flying color. Paradoxically, so does the prospect of Taiwan's UN referendum -- an issue very much in Washington's cross-hairs.

The rival UN referendum promoted by the KMT as a way of confusing voters by asking them to opine whether or not the nation should "rejoin" the UN by using "realistic" names including "the Republic of China (ROC)" has its wings clipped by Washington's clarification, consequently brightening the fortune of the DPP's version considerably.

The lesson to be learned here might be that democratic causes can always benefit from truth -- any ulterior motives behind those bearing the message notwithstanding.



The old adage that "the truth will set us free" might be taking on extra meanings for both Washington and the people of Taiwan.

Huang Jei-hsuan

California



## *The DPP's resolution paves way for progress*

By Chai Trong-rong

*'Taiwan should use the Gregorian calendar, in line with the rest of the world.'*

Does the "normal country" resolution mean progress or recession? My answer is: Progress, for these three reasons.

First, holding a referendum is proactive. In 1986, when the Democratic Progressive Party (DPP) was established, it emphasized in its platform that it wanted to establish a sovereign, independent Republic of Taiwan and write a new constitution based on the principles of sovereignty of the people. The DPP strove for the holding of a referendum to establish the Republic of Taiwan. However, to adapt to diplomatic changes abroad, in 1999 the DPP adopted the "Resolution on Taiwan's Future," which stated that Taiwan is named "Republic of China" in the Constitution and any change to this must be decided by Taiwanese by means of a referendum. This is a passive approach to preventing any changes to the nation's status.

The new "normal country" resolution changes this passive referendum into a proactive one.

The first part of the resolution emphasizes that at an appropriate time, a referendum should be held to show that Taiwan is a sovereign, independent country.

When Taiwanese think the time is right, a referendum can be held to determine whether Taiwan is a sovereign, independent country.

Second, the resolution advocates discarding the name "Republic of China." The "Resolution on Taiwan's Future" respected the fact that Taiwan is officially named "Republic of China," but the "normal country" resolution wants to do away with this name.

The first part of this resolution states that the DPP intends to rectify the name and write a new constitution "as soon as possible." "Rectifying the name" means changing the name the "Republic of China."

But in order to change the name, Taiwan will have to go through a lengthy process of amending or rewriting the Constitution. But before doing so, Taiwan should first abandon the "Republic of China" or minguo calendar that begins with the fall of the Qing dynasty and instead adopt the Gregorian calendar.

This is what the second part of the new resolution advocates: Taiwan should use the Gregorian calendar, in line with the rest of the world.

Third, the resolution talks about listening to public opinion. For the drafting of past resolutions, the DPP rarely invited opinions from groups outside the DPP. But the third part of this resolution states that the government should promote identification with the country and the land. It continues by saying that the government should actively promote local culture and languages and implement the localization of education.

The fourth part of the resolution says national security, social justice and sustainable development should be prerequisites for economic development, and economic development should allow Taiwanese to live happy, dignified lives. Thus, the resolution advocates a government that listens to the people.

These three points of the "normal country" resolution are proof that the DPP is advancing with the times.

**Chai Trong-rong is a Democratic Progressive Party legislator and a member of the task force that drafted the "normal country" resolution.**





**SAY `NON'**

From left, Taiwan Solidarity Union Legislator David Huang, Democratic Progressive Party (DPP) Legislator Kao Chien-chih and DPP Taipei City councilors Chuang Jui-hsiung and Huang Hsiang-chun protest in front of the French Institute in Taipei yesterday, demanding the French government apologize for the way two Taiwanese were treated on a business trip. The pair were strip searched by airport security guards when they saw one of the traveler's passports had ``Taiwan" on the front cover while the other did not. The protesters are carrying signs that mean ``no Louis Vutton."