

Rollback of Democracy and Human Rights Opinion Poll Results and Exemplary Cases

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I. A Bird's Eye View of the Opinion Poll

The Taiwan Brain Trust opinion poll (see *infra*, p.19) contains three topics that pertain to democratic rule and human rights aspects, namely democratic freedom, human rights guarantees and judicial reform. I would like to tentatively draw three conclusions from the outcome of this just concluded opinion poll on the performance of President Ma Ying-jeou's Government:

- **Democratic Freedom:** In the 2008 presidential election, the Kuomintang (KMT) gained majority control of the Government. Since the Ma Government gained power based on the will of the people, it should be accountable to the people. But the opinion poll shows that 34 percent of the respondents feel that democratic freedom has been rolled back, while only about 9 percent feel that progress has been made.
- **Human Rights Guarantees:** While the Ma Government has widely trumpeted its ratification of two international conventions (International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights), only 15 percent of the respondents think that the quality of human rights in Taiwan has improved, whereas 24 percent think human rights standards have declined.
- **Judicial Reform:** As many as 44 percent of the respondents feel that Taiwan's judicial system is deteriorating, whereas only 22

percent think it is improving. This shows that public discontent with the judiciary is greater than discontent over the rollback of democracy and human rights.

II. Analysis and Interpretation

Taiwan once could pride itself on its political miracle for having gradually and peacefully wrestled away hard to win freedom, democracy and human rights from the hands of an authoritarian Government. Yet these achievements have been greatly reversed in just three years of the Ma Government rule for the whole world to see. The Freedom of the Press Report 2011, recently released by U.S. human rights organization Freedom House, shows that although Taiwan still is one of the freest countries in the Asia-Pacific region when it comes to press freedom, its global ranking has continuously slipped since 2008, falling 16 places to rank 48. At the same time Taiwan lost its No. 1 spot in Asia to Japan, sliding to rank two. The Taiwan Association for Human Rights spotted the same trend in its Taiwan Human Rights Report 2010 of March this year. In all fairness the results of this opinion poll should not come as a surprise given the gradual accumulation of negative incidents with regard to democratic freedom, human rights guarantees and the judiciary over the past three years. Let me elaborate further:

(1) Rollback of Democracy

The Ma Government has taken all sorts of antidemocratic moves: 108 second-tier local self Governments (rural/urban townships and cities), almost one third of the islandwide total, were eliminated in one stroke with the amendment of the Local Government Act in 2010. Although the Referendum Act was enacted eight years ago, many local Governments have not yet established autonomous regulations, but the central competent authority, the Ministry of the Interior, turns a blind eye to such procrastination. The Ma Government recklessly manipulates the fairness of the electoral system, suddenly pushing for the concurrent election of the president and legislators with less than one year to go before the vote, because it is bent on paving the road for Ma's reelection. That the handful of people sitting on the Executive Yuan's Referendum Review Committee can veto a proposal for a referendum on the Economic Cooperation Framework Agreement (ECFA) signed by tens of thousands of people has left an even deeper impression on voters. To sum up, it is dumbfounding how the KMT, which gained power via democratic elections, fully revealed its antidemocratic character after taking power.

(2) Rollback of Human rights

As for worsening press freedom cited in the Freedom House report, the following cases have left deep marks on top of the chilling effect from rampant placement of Government paid information in the guise of news as well as legal

action against media. As for the freedom of assembly and demonstration, the Ma Government did not only hinder and violently counter Taiwanese who protested against the visit of a Chinese envoy, but even threatened two Japanese women, who came to Taiwan to join an anti-nuclear street protest, chasing them out of the country. Regarding private property rights protection, the Government has made rampant use of expropriating agricultural land, depriving people of their right to livelihood. The freedom of residence is affected as urban property has become the target of capitalist speculators. In the area of labor rights, Premier Wu Den-yih drew a lot of apprehensive sideways glances when suggesting that the inventor of unpaid leave should be honored with the Nobel Prize. We should not forget to mention that Taiwan originally could pride itself on having achieved the important human right of tolerance and freedom for all religions. But a short while ago telecommunications provider Chunghwa Telecom used the abstruse argument that the replacement of a satellite had led to "narrower band with and insufficient frequencies," to thwart a contract extension for the New Tang Dynasty Asia TV channel, which is run by the Falun Gong movement. That was another negative human rights achievement of the Ma Government that stunned the international audience.

(3) Rollback of Judicial Independence

Finally, there are more negative incidents than one could mention with regard to the judiciary's declining respect for human rights, the area for

which the opinion poll registered the gravest deterioration. Aside from an atmosphere thick with political witch hunting that manifested itself in various unjust oddities during the trial of former President Chen Shui-bian (public exposure of the investigation, replacement of the judge in the midst of the trial, (new Judge) Tsai Shou-hsun's discrimination between the discretionary municipal fund scandal involving then Taipei Mayor Ma Ying-jeou) and the state affairs fund embezzlement case (involving Chen), it has become the norm since the Ma Government took office that the judiciary tends to zero in on certain groups when handling cases and to treat the blue and green camps differently.

In April, the Taiwan Association of University Professors published a booklet titled "A Regressing Judiciary, Weeping Human Rights: Deconstructing the Judiciary's Human Rights Policy under Ma Ying-jeou." Listed as examples are "The preemptive detention of leading members of the green camp ahead of highly charged elections," "Discretionary municipal funds used to crack down on green leaders," "The law-pervverting resentencing of Lee Wen-chung," "The quick investigation and retrial of the Wang Ding-yu case," "When the Red Shirts violate the Assembly and Parade Act, it's called justice, when university students violate it, it's a crime" and other incidents. These negative cases with regard to the protection of human rights by the judiciary provide evidence that under the Ma Government the judiciary has deteriorated into a tool for political purges.

Aside from concrete human rights infringements

by the judiciary, the fact that the Ma Government tends to change the judiciary to its worse deserves attention. The Fair and Speedy Criminal Trial Act is flaunted by the Ma Government as a judicial reform success. But instead of starting with the fundamental requirement of reforming and improving the quality of evidence collection by police and prosecutors to improve the current situation given that trials are drawn out over many years, the said Act actually puts the cart before the horse by requiring judges to speedily conclude pending lawsuits, which repeatedly received criticism in legal circles. And with KMT lawmakers taking the lead, the draft Judges Act, which failed to work its way through the legislative process for more than 20 years and was originally supposed to focus on the removal of incompetent judges, was turned into a super welfare law that enshrines in law fast track promotions, generous remuneration packages, and fat retirement pensions. No wonder that the outside world criticizes that under the leadership of the Ma Government the draft Judges Act has degenerated into a "Judges Welfare Act."

Generally speaking, in 2008 the people of Taiwan used their votes to hand the KMT majority control of the Government, an excellent opportunity for putting in great effort to improve the judiciary. But much to everyone's regret, three years later the Ma Government has not only ruined this opportunity, but even managed to hand over a report card that says "reformed judicial system for the worse." **BT**