

The justice chief's resignation has stirred the death-penalty debate in Taiwan, but it bodes ill for abolitionists, writes **Jerome A. Cohen**

# Tied to the cause

**W**as last week's sudden resignation of Taiwan's minister of justice, Wang Ching-feng, a stunning setback for those who wish to abolish the death penalty? Or might it prove a catalyst leading the island further along the worldwide path towards universal abolition?

Much will depend on how Taiwanese President Ma Ying-jeou concludes this drama, which has done more to stir up Taiwanese interest in criminal justice than even the ongoing prosecution of former president Chen Shui-bian.

Ma's initial reaction has not been encouraging to abolitionists.

The current brouhaha began to make headlines when Wang's deputy, Huang Shih-ming, told a legislative committee that was reviewing his suitability to become prosecutor-general that – although he would favour abolishing the death penalty by legislation – the punishment of the 44 prisoners awaiting execution after judicial condemnation should be delayed no longer.

This seemed like implicit criticism of Wang, who refused to sign any execution orders, and also of her predecessor, an appointee of the Chen administration, which favoured abolition if accompanied by sentences of life without parole. Her predecessor stopped signing death warrants after December 2005, starting the quiet, de facto moratorium on executions that has lasted for over four years.

Huang's testimony sent the media scurrying to Wang, whose penchant for politically incorrect public statements had often landed her in hot water.

She obliged again with a colourful vow never to approve any execution because of the reverence for life embodied in Taiwan's constitution. Wang, a Buddhist and long-term campaigner against the death penalty who had organised a ministry study group on abolition, dramatically pledged to resign, or even surrender her own life, if that was necessary to prevent an execution. She risked her career by predicting boldly that her government would never permit her to resign in protest against the death penalty since that would make Taiwan "an international laughing stock".

Yet her confidence was misplaced. Premier Wu Den-yih and Ma rejected her claim that the minister of justice has the legal power to suspend executions indefinitely in all cases, and accepted her

resignation. The premier announced that, once judicial remedies have been exhausted, a minister is obliged to approve every execution unless the judgment is "controversial".

This exception for controversial cases had to be recognised since Ma, when minister of justice in the mid-1990s, had courageously – for the first time ever – refused to approve executions in three cases because of apparent flaws in the judicial process, although he did approve over 70 other executions.

A presidential spokesman would not confirm that the government might commute the sentences of any of the 44 on death row. Whether to abolish the death penalty, he said, would have to depend on the outcome of "rational discussion" by a society that remains polarised on the issue.

In the meantime, he said, Taiwan should strive to limit the likelihood of future capital sentences by adopting stricter protection for defendants, winnowing the number of offences eligible for the death penalty and making alternative punishments to death more credible by increasing the length of prison sentences for major crimes and tightening

row prisoner. Yet, as opinion polls show, abolitionists will not be able to muster many votes in December's important municipal elections, and the Ma administration – despite some accomplishments in cross-strait relations, managing the economy and attacking corruption – is preoccupied with boosting sagging public support.

Prior to abolition, the death penalty is highly popular in virtually every society, despite little evidence that it deters heinous crimes.

A traditionally felt need to provide the maximum outlet for retaliation and for expressing society's abhorrence runs deep, overcoming doubts about the accuracy of the judicial process and the morality of official killing.

In such circumstances, as Europe's almost total abolition demonstrated, it takes committed, strong and imaginative political leadership to halt executions permanently.

Yet, in most European countries that abandoned capital punishment, public opinion has changed in favour of abolition.

I wish Wang well in her impending campaign to stir the conscience of Taiwan's people and politicians. Her success would accord with the spirit of two major international human rights covenants adopted recently by Taiwan, and reap the island a rich harvest in its "soft power" competition with mainland China.

But the more immediate consequence of her resignation is that official killing seems likely to resume.

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standards for granting parole to those sentenced to life terms.

This agenda, which sounds so similar to that of reformers on the mainland confronting a much greater challenge, was immediately criticised by abolitionists as too timid. Even though Taiwan's Council of Grand Justices has previously affirmed the death penalty's constitutionality, many death-row prisoners and civic organisations, alleging new grounds, are seeking another council interpretation, and the question of the scope of the minister's discretion surely deserves the council's attention.

Ma could still use the need for a council interpretation as reason for a further moratorium, and he could submit a bill seeking legislative continuation of the current moratorium, explicit authorisation of the minister's discretion or even abolition. He could also seek legislative appointment of an independent committee to review the file of each death-

