

Control Yuan cannot excuse Mayor Ma on Neihu Line probe

Written by Taiwan News Editorial
Friday, 05 February 2010 07:55

The independence of the watchdog Control Yuan has come under renewed question in the wake of its impeachment of former chief public prosecutor Chen Tsung-ming Jan. 18 thanks to attendance of four commissioners in a "tea party" with President Ma Ying-jeou concerning charges of malfeasance concerning the Muzha-Neihu mass transit line during his eight years as Taipei City mayor.

Since its opening last July after seven years of construction, the Neihu Line has experienced repeated stoppages that have left hundreds of passengers stranded on its elevated track and numerous malfunctions that have caused delays for thousands of riders.

Moreover, the construction project was deeply flawed by the decision by the Taipei City government under Ma's stewardship to adopt a medium-volume elevated track design was misguided as well as being marred by huge budget overruns.

In response to overwhelming public criticism, the Control Yuan had little choice but to launch an official investigation into the failures of the Neihu Line and into the role played by Ma, who was then Taipei City mayor.

However, President Ma, who should be questioned by the Control Yuan about the actions of former Mayor Ma, turned around and invited four members of the Control Yuan to have tea with him at the Office of the President Wednesday on the condition that they left investigators assigned to the case at home and with the evident intention of putting this investigation to rest before the Lunar New Year holiday begins next Friday.

Due to the the passage of constitutional amendments in June 2005 that abolished the National Assembly which formerly had the power to impeach the president, the investigation of President Ma by the Control Yuan involved the constitutional questions of whether the Control Yuan had the power to investigate and possibly impeach a president over actions that he or she took in previous positions and whether Article 52, which grants the president immunity from criminal prosecution while in office, could be interpreted as covering administrative responsibility for past actions.

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Although the power to initiate an impeachment of a president has been transferred from the Control Yuan to the Legislative Yuan, the current case does not concern the impeachment of acting president for actions committed as president but concern only his previous behavior in public office and should be subject to investigation by the Control Yuan.

Therefore, the Control Yuan can be considered in dereliction of its own duty for failing thus far to question President Ma on the Neihu case.

The gravity of this dereliction of duty was worsened by the decision to accept Ma's invitation before Control Yuan President Wang Chien-hsuan clarified the question of whether the Control Yuan possesses the constitutional power to investigate the president.

If the Control Yuan possesses such investigative power, the four Control Yuan commissioners who met with Ma over tea Wednesday should have followed formal procedures to arrange an interrogation President Ma together with investigators.

If the Control Yuan does not have the power to investigate a serving president, then the Control Yuan should have waited until Ma has finished his term and left office before investigating "Mister Ma" for possible malfeasance as "Mayor Ma."

In any case, the Control Yuan should first have requested an interpretation on this issue from the Constitutional Court and absolutely should not have accepted Ma's invitation to a "tea party" to discuss the content of the investigation or prepare to rapidly conclude the probe.

The action by the four Control Yuan commissioners therefore sets an extremely bad precedent both for the purposes of justice and the integrity of Taiwan's constitutional system.

The all too transparent manoeuvring of the Control Yuan to let Ma off the hook for the huge problems in a project which he himself had cited as one of his most outstanding mayoral achievements will also stand as a violation of the independence of this toothless watchdog.

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The initiation of a recall motion against a president requires a two-thirds majority in the Legislature followed by approval by over 50 percent of eligible voters in a ratifying referendum, while an impeachment is normally carried out by the Control Yuan, with the exception of an impeachment motion against the president which is handled by the Legislative Yuan.

However, the question of possible malfeasance in the Neihu Line project does not concern actions taken by President Ma but by the former Mayor Ma and the resolution of former Taipei City mayor Ma Ying-jeou's responsibility is a prerequisite condition for the effective investigation and resolution of the administrative or criminal responsibility of other involved Taipei City public officials.

If the probe on possible malfeasance or corruption in the Neihu Line case is set aside merely because it impinges on President Ma, Control Yuan President Wang Chien-hsuan, as well as the four commissioners who accepted Ma's invitation for tea, have clearly violated their mandate to Taiwan's citizenry, especially to the residents of Taipei City, and should themselves resign to take political responsibility for their dereliction of duty.

Source: [Taiwan News Online - Editorial 2010/02/05](#)