

President Ma Ying-jeou (馬英九) has often spoken of his respect for the judiciary, pledged to never interfere in individual cases and lectured government officials on acting in accordance with the law. However, the recent brouhaha over former president Chen Shui-bian's (陳水扁) sudden transfer from Taipei Veterans General Hospital (TVGH) in Taipei to a prison hospital in Greater Taichung suggests otherwise.

Chen, serving a 20-year jail sentence for corruption, has been diagnosed with severe depression, sleep apnea, non-typical Parkinson's disease, speech disorder and mild cerebral atrophy. Yet, despite a professional evaluation by Chou Yuan-hua (周元華), Chen's attending physician at TVGH, who said the former president should be allowed to convalesce at home or at a hospital closer to home where he can benefit from family support, the Ministry of Justice early on Friday morning abruptly moved Chen to Taichung Prison's Pei Teh Hospital without notifying Chen's family.

Granted, the matter is within the ministry's mandate, but can judicial authorities truly say they had acted in accordance with the law as Ma has often instructed them to do so?

When it comes to providing medical treatment to prisoners, the Prison Act (監獄法) states that the ministry has the option of applying medical treatment in prison, transferring the patient to a prison hospital or receiving treatment outside prison and granting medical parole — all of which are aimed at the speedy recovery of the patient.

Taking into account that the first clause in Article 7 of the Administrative Procedure Act (行政程序法) states that the conduct and methods adopted by a government agency, in a bid to guarantee people's rights and enhance administrative efficiency, as well as public trust in the government, "should be helpful in achieving the purpose," one has to wonder whether relocating Chen to a prison hospital is the best way to achieve the purpose of treating Chen.

After all, TVGH clearly suggested in its report that convalescence at home or at a hospital closer to home that allows Chen to benefit from family support is better suited to treating Chen's ailments. However, by sending Chen to a prison hospital, judicial authorities have not only blatantly disregarded the hospital's professional assessment, but may have violated the Administrative Procedure Act.

The right to medical care

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Minister of Justice Tseng Yung-fu (曾榮光), in response to condemnation by angry pan-green lawmakers over Chen's sudden transfer, reminded the public that "Chen is not only a patient, but also an inmate."

Indeed, "do the crime, do the time" and Chen, convicted of corruption, should serve time in accordance with the law.

However, Chen's right to medical care should not be neglected just because he is a prisoner. As the first clause of Article 10 of the Covenant on Civil and Political Rights states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Quick to come to the ministry's defense, Ma said that Chen has already been accorded special treatment, as he will have access to an 800m² special convalescence area and be allowed unlimited visits by family members.

That may be true, but the issue is not how much space Chen is given to walk around, rather, it is the professional medical care and environment that can best help him recover.

As Chen's physical and mental state continues to deteriorate, prompting concern among human rights activists, one can only hope that the Ma government realizes that the sanctity of life — including that of a prisoner — is no laughing matter.

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