

As international SCHOLARS and writers who applauded the transition to democracy, that began in the late 1980s, we are deeply concerned about the backsliding of freedom, democracy and human rights under the current administration in Taiwan.

While an erosion of democracy and justice has been ongoing since this administration assumed office in 2008, recent events constitute a fundamental breach of the basic principles of separation of powers and checks and balances in a democracy.

We refer in particular to President Ma Ying-jeou's (馬英九) use of the Special Investigation Division (SID) of the Supreme Prosecutors' Office, set up in 2007 to deal with major corruption cases involving government officials, against his political opponents, to his interference in the judicial system for political purposes and to his attempt to remove Legislative Speaker Wang Jin-pyng (王金平).

### POLITICAL USE OF SID

During the past years, the SID under Prosecutor-General Huang Shih-ming (黃世明), has increasingly become a tool of the ruling Chinese Nationalist Party (KMT) to rid itself of its political opponents. It now turns out that SID has made extensive use of wiretaps against its opponents.

The SID relentlessly pursued former president Chen Shui-bian (陳水扁), as well as prosecuted about four dozen members of the democratic opposition and former Democratic Progressive Party (DPP) government officials. Many of those were later declared not guilty by the courts. Only when the evidence could not be ignored, did the SID go after officials in the KMT, such as Cabinet secretary-general Lin Yi-shih (林益世) and Taipei Legislator Lai Su-ju (賴素珠).

### JUDICIAL INTERFERENCE

In the present crisis, Ma is accusing Wang of "influence peddling" saying that Wang allegedly

called then-justice minister Tseng Yung-fu (曾榮豐) and Chief Prosecutor Chen Shou-huang (陳秀煌) to urge them not to appeal a not-guilty verdict by the High Court against DPP caucus whip Ker Chien-ming (柯建銘).

If Ma considers this “influence peddling,” then he needs to look in the mirror. In November 2010, when a court declared Chen not guilty on one of the charges against him, Ma publicly criticized the verdict in the strongest of terms, saying that the justice system should avoid “detaching itself from the outside world” and “departing from public expectations.”

A couple of days later, on Nov. 9, 2010, Ma invited the chief justice and the prosecutor-general for dinner and again fulminated against the not-guilty verdict. Two days later, on Nov. 11, 2010, the Supreme Court abruptly came down with a final “guilty” verdict in another case against the former president. If this was not influence peddling, then what is?

## SEPARATION OF POWERS

Ma has attempted to use the “influence peddling” case against Wang to remove him from his position. The president then used his position as chairman of the KMT to have Wang’s membership in the party revoked. As Wang is an at-large member of the legislature, this would also mean that he would lose his position as speaker. Ma’s convoluted use of his two positions harks back to Taiwan’s dark days of Martial Law, in which the party, the state and the judiciary were synonymous.

If Wang had committed any minor transgressions, this could certainly have been dealt with by a disciplinary committee within the legislature. If he had committed a violation of any law, then a due process of law would have been appropriate, rather than an attempt to evict Wang from the KMT. Ma’s actions against the speaker certainly constitute a violation of the principle of checks and balances in a democracy.

## CONCLUSIONS AND RECOMMENDATIONS

First and foremost, it is up to the people and political system of Taiwan to resolve the crisis. In

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our, view as foreign observers who care deeply for Taiwan and its future, it is clear that actions along the following lines would be most helpful and appropriate:

□ Abolition of the SID and an end to the powers that were vested in this office. A return to normalcy in the prosecutorial branch is long overdue.

□ Judicial reform with the goal of removal of political influence in the judiciary, ensuring a complete

independence from both the executive and legislative branches of government, leading to a clear separation of powers.

□ Legislative reform so that the legislative process becomes a true give-and-take of political negotiations, where all political opinions are respected and where decisions are made on the basis of rational discussion rather than physical threats and confrontation.

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