A anyone who cares about law and government has to be impressed by visiting Taiwan. Its democratically elected president and legislature, spurred by the interpretations of its independent Constitutional Court, have ended the power of the police to imprison people without affording them the full protections of the newly revised judicial process.

They have also incorporated the standards of the two major international human rights covenants into Taiwan’s domestic law. The government – in open court – is vigorously prosecuting the reportedly massive corruption of the previous administration.

The long moribund Control Yuan, whose function is to ferret out official misconduct, has come to life, and Taiwan’s lawyers’ associations and civic groups continue to press for further improvements in criminal justice. The island’s free and hyperactive media, essential to the development of the rule of law, enjoy a field day reporting all this.

Yet, surprisingly, a recent intense week in Taipei, spent mostly with legal scholars, left me a bit depressed. As usual in a healthy society, I heard many stimulating critiques of the current situation. Some friends claimed: that ex-president Chen Shui-bian, now a criminal defendant, is being unfairly confined to a miserable detention cell for many months, while others under investigation and indictment for corruption remain free; that the Kuomintang administration of President Ma Ying-jeou is zealously bringing corruption charges against politicians of the Democratic Progressive Party while ignoring the many instances of similar misconduct by KMT officials; that the judge who was ultimately put in charge of the trial of Chen and his family has repeatedly ruled arbitrarily against them; that the legislature failed to enact necessary criminal justice reforms; and so on.

These allegations are troubling, of course. Yet, when I asked my academic friends why none of them, or other distinguished exceptions – did not speak up, publish essays and document their concerns, all too often I heard: “What good would it do? We can’t change anything. We won’t win.” Besides, we don’t want to be controversial. People will accuse us of ‘being too Green’ or ‘sympathising with corruption.’ Some worry the bad publicity from entering the public arena might affect their health or family responsibilities. A few feared that to criticize a government appointment that might be controversial is to lose a cherished academic post.

It was difficult to achieve optimum solutions in many major law reform issues without the informed, objective contributions of the brightest of Taiwan’s minds. If they failed to take advantage of their hard-earned freedoms to speak out, they put their society’s precious accomplishments at risk.

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Silence of the lambs

If Taiwan’s legal scholars keep silent, they actually exercise fewer freedoms than counterparts on the repressive mainland.