

And so it goes on.

The Supreme Court, rightfully irritated by the arguments of the Taiwan High Court that have kept former president Chen Shui-bian (陳水扁) in detention while his appeal is prepared, returns the case to the lower court, demanding a better explanation.

The High Court, unperturbed, thumbs its nose at the order by recycling its arguments and embellishing them with some of the most intelligence-insulting lines of reasoning that one could hope to hear from senior judges. Worse, without a new appeal by Chen's counsel, the High Court's refusal to take the Supreme Court's concerns seriously will attract no penalty.

Among the High Court's baffling reasons were the contention that knowing foreigners and having rumored overseas sources of money in themselves constitute a flight risk, that a former president comes equipped with an escape manual and that Chen's alleged high crimes — in a country where criminals have routinely found shelter in the legislature — are so serious that bail was inconceivable. Short shrift was given to the procedural flaws and illegal conduct in the course of prosecuting the former president.

Either the High Court thinks ordinary people are incapable of seeing through such nonsense, or it is so removed from the reality of the world that it cannot distinguish fatuous argument from careful legal work.

The problem that is emerging extends well beyond the contention that the Chen case is being politically manipulated, however. The florid nature of the District and High Court decisions cannot simply be put down to political bias or interference — as much as Chen's supporters would like this to be the case — though it remains possible.

In the context of a series of high-profile cases over recent years, the public has every reason to doubt that justice is being served consistently throughout the system, which is to say that a large number of judges, prosecutors and lawyers may not meet remotely acceptable standards of professional rigor.

It is clear that a comprehensive review of the legal system is essential to restoring trust in it. A non-partisan body of legal experts is needed to review the entire system and the way prosecutors, defense counsel, judges and ministerial officials go about their business. The haunting question is: Is Taiwan remotely capable of forming such a group?

We have suggested Taiwan's legal fraternity refer this case to the International Council of Jurists for investigation. The qualified body's silence points to, at best, a distinct feeling of embarrassment on the part of even professional victims of such cant. If any competent collection of eminent jurists were to probe this farrago, the fear might be that the self-esteem of every lawyer, prosecutor and judge would be damaged to an unbearable degree as

international scorn rains down on the industry.

Taiwan's notoriously high prosecution rate, widespread flouting of the rights of the accused — no better illustrated than by police parading unconcealed, handcuffed suspects in police stations — the lack of an interface between the legal establishment and the education system, the utter incompetence of Minister of Justice Wang Ching-feng (王景弘) and the overall impotence of her predecessors (on both sides of politics), a litany of bizarre and corrosive court judgments, and the general sense of unaccountability to a professional standard has left the system reeling.

This is not to say that there are not conscientious individuals in the system, including judges who, in some cases, have fearful workloads.

Yet, as we have seen with the ludicrously protracted Hsichih Trio saga and several other abuses of judicial process, for too many in this world unto itself, justice delayed — and even denied — is justice indeed, and considerations of face reign supreme.

Source: [Taipei Times - Editorials 2009/10/10](#)