

The KMT's Calculated Deflection: the Unjust and Unconstitutional Trial of Chen Shui-bian

Written by Jerome F. Keating Ph.D.
Sunday, 26 July 2009 13:19

The Chinese Nationalist Party (KMT) is seen by many as the proverbial beggar who came and took over Taiwan's Temple. They came as a colonial power, destroyed the island's economy to support their losing war effort in China, and finally retreated back to the island to grab the positions of power, property and wealth as their own. It is in this context and with this perspective that the charade of the corruption trial of Taiwan former president, Chen Shui-bian needs to be seen. In that trial, the evidence mounts and mounts not as regards Chen's guilt, which has yet to be proven but towards the double standard of justice in Taiwan. That double standard has always been a characteristic of the KMT from its Martial Law days on. Chen's greatest fault remains that he is Taiwanese and he stood up to the KMT; he not only stood up to them but worse than that he used the corrupt system that had been installed by the beggar in the temple for his own and not for their profit.

The 9/11 revelation factor Great funds of money have always been moved off shore from Taiwan into the overseas bank accounts of KMT government officials, but it was only with the happening of 9/11 that the United States, eager to track money used by terrorists, imposed on international banks to reveal such large transfers of funds. Many of the KMT were lucky that this happened after they had lost the presidency and central power in Taiwan in 2000. Since a large majority of KMT money had been moved in the fifty years prior to 2000, those funds were under the radar screen but similar funds moved by Chen quickly showed up. This new "objective" outside help is what has helped to pinpoint and focus on Chen's funds while ignoring untold past abuses.

Unprofessional from the start Unprofessional behavior was there from the beginning. First, the KMT prosecutors began the case not seeking the truth of what is there but by stating that they would resign if they did not find a guilty verdict for Chen. Why is that important? Though not wanting to expose the corrupt system that has allowed all levels of government officials to skim and pilfer for the past fifty years, they nevertheless knew that the system of discretionary and administrative funds was built for abuse. Therefore they felt they could selectively find tell-tale evidence as regards Chen. After all, James Soong one of their own had been found guilty three times in the past to teach him a lesson for breaking away. Bouyed with this confidence, the emboldened prosecutors and at least one judge later made it a point to publicly mock Chen at a recent party at the end of 2008.

The fishing expedition The corrupt system of discretionary and administrative funds however has proved to be a two-edged sword; so loose are the regulations and so frequently have they been abused that after three years, the KMT prosecution has yet to provide a substantial case. Although the formal pursuit and indictment had to be delayed until Chen left office, nevertheless the investigation began over three years ago and after three years of continued pursuit even

The KMT's Calculated Deflection: the Unjust and Unconstitutional Trial of Chen Shui-bian

Written by Jerome F. Keating Ph.D.
Sunday, 26 July 2009 13:19

without formal indictment, the prosecutors remain on a fishing expedition for solid evidence.

There is no question that millions of dollars have been moved by Chen, but the actual indictment total thus far lists only about a half a million dollars. Why? Again it is the corrupt system. Of the millions of dollars moved, only a half a million has some semblance of true illegality. Ironically this is little more than the amount that Ma Ying-jeou was indicted for. For this reason, the prosecutors are calling in numerous people from the Chen administration or with any related involvement, not because they have evidence, but because they still seek concrete evidence even after three years. For this end they are using threats, offers of leniency, plea-bargaining, intimidation etc. to try and get someone to provide the trumped up evidence they need.

Imprisonment and stacking the deck Not having a solid case, the prosecutors have resorted to other means to try to build one. One means has been to imprison Chen and not allow him the chance to properly prepare a defense. Chen was for a long time not allowed privacy with his lawyers and visitors. While the prosecutors could secretly indict, bully, bribe and/or try to intimidate witnesses to give them the answers they wanted, at the same time, they maintained Chen could see no one. With an attitude of lawyer/client privilege be damned, they demanded the right to listen in on any discussions between Chen and his lawyers. This was finally ruled unconstitutional, but prevented Chen making his defense while the ruling was in contention. Even now visitors can not have complete privacy.

Judge/prosecutor shopping and family abuse When the judge ruled against Chen's being in jail, the KMT went shopping till they found one who would support it. Similarly prosecutors were changed if they were thought too "sympathetic" to Chen. The prosecutors not only have used imprisonment to try and force a confession from Chen, but they also have used indictments to keep any of Chen family members from leaving the island and punish them as they fish for evidence.

The unfair balance sheet The real case should be against a corrupt system to keep and/or transfer money; that system still exists. Chen Shui-bian has already spent 200 plus days in jail based simply on accusations and indictment, not on guilt. Numerous KMT leaders who had been indicted and even found guilty of corruption never spent a day in jail. The high profile examples would be Ma Ying-jeou indicted for a similar amount as that of Chen; he never saw the inside of the jail. Though the money went into Ma's account, Ma's secretary is the one who did time for his involvement. James Soong was found guilty three times for sums larger than that Chen is indicted for, but Soong also never spent a minute in jail. In a different but related area, Diane Lee illegally gained three million dollars by falsely holding office as a legislator. She

The KMT's Calculated Deflection: the Unjust and Unconstitutional Trial of Chen Shui-bian

Written by Jerome F. Keating Ph.D.
Sunday, 26 July 2009 13:19

has not even been indicted. To this day, numbers of pre-2000 KMT money movers are walking the streets.

Media abuse Numerous leaks to the press have been made to vilify Chen before the trial and the media is used as a tool in the continued stacked deck approach. However, the prosecutors vigorously deny Chen the right to talk to the media because they know and fear that he will expose the corrupt system that exists.

The current Minister of Justice will say that the case is not political because Chen's judge was appointed during his presidency. What the Minister does not say is that the KMT dominated Legislative Yuan had held the Control Yuan, country's watchdog, Yuan hostage for three years. They consistently refused any appointments by Chen. Chen either had to appoint one of the KMT's own or leave the country with no judges etc. to handle the increasing case load. Similarly the Minister of Justice tries to excuse this unjust prosecution by saying that the prosecutors are by law free to be impartial; but being free to be impartial and being impartial are too different things. One does not follow the other.

Money has always been moved from Taiwan. Chen readily admits he moved millions but he did it by the system that has always been there. Chen's trial for this reason is not about justice. It remains an attempt to expunge the guilt of a half century of a corrupt system of money laundering from the past. It does that by deflection, by using an unjust and even unconstitutional prosecution of one man in the present to deflect attention to the real reality of the past. Chen's real guilt is that he as a Taiwanese had the audacity to utilize and expose the system installed by the beggar in the temple. The greater crime is that the system itself still remains.

Source: [Jerome F. Keating's writings](#)