

What follows is a summary and foreword to the arguments of Chen Shui-bian's defense team. It is presented to the people outside the court since Chen's team feel that the court was compromised long ago when it went "judge shopping" in order to find a judge that would imprison Chen though he was only indicted and the trial had not yet begun. Similarly by insisting that they be allowed to tape and listen in to all conversations with his lawyers and anyone else, the prosecutors denied him any chance to present a decent defense. We (Chen Shui-bian's defense team) firmly believe that:

1.

Concerning the state affairs fund: The total amount of the expenditures that former President Chen had spent for official purposes far exceeded the original amount allotted to expenses from that designated fund. Each of these expenses and its purpose has been recorded. Since Chen had to get extra money from elsewhere to cover those expenses, it would be impossible for him to pocket money from the already depleted fund. Though questions could be raised about Chen's accessing other sources to cover additional expenses, to charge Chen with corruption for his own benefit is nonsensical. Nevertheless the court has tried to label Chen as corrupt as regards the state affairs fund.

2.

Concerning the Longtan Science Park Land Deal case: All witnesses have testified that former President Chen had absolutely no idea that any transference of money had taken place with regard to the Longtan Science Park land deal. However, without any concrete evidence, the court is relying on mere speculation to conclude that Chen had received bribes. It is true that former First Lady Wu Shu-jen had received one involved corporation's political donation, but this has not been a quid pro quo donation. The laws of Taiwan on political donations are even more vague than those of the United States. In the United States for example, a person making large political donations can be rewarded with the position of ambassador to a desired and favorable country. Here, the court is speculating by circumstantial relationships that because one of the involved corporations made a separate political donation, it was, contrary to the testimony of witnesses, a bribe and that Chen accepted it as such.

3.

Concerning the money laundering case: None of the accounts in this case belonged to former President Chen, nor had he been a beneficiary of any of these accounts. There is no evidence whatsoever sufficient to prove that Chen had known, participated in, or handled any act of money laundering. Again the court is proceeding by circumstantial speculation. Money was transferred, but Taiwan's loose laws dating back to the one-party state, martial law days of the Chinese Nationalist Party (KMT) amply allow that large amounts of campaign funds can be

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transferred. This does not constitute money laundering. To selectively accuse Chen of such leads to the remaining three points.

4.

Former President Chen's collection, management, and employment of political donations, as well as his control of his family members, are indeed controversial. Chen should shoulder relevant political and moral responsibilities; culturally he is guilty of not controlling his family. However, cultural guilt is not the same as legal guilt. To receive political donations is not equivalent to receiving bribes nor does it make one automatically corrupt. If it did, most every politician in Taiwan could be labeled corrupt. From the legal perspective which should be the perspective of the court, Chen is not guilty.

5.

During the investigative process and court proceedings of Chen's case, numerous actions have taken place that are or border on being illegal and unconstitutional. Similarly flagrant abuses of power have been exercised to pillory and try to make a scapegoat of former President Chen. For example, President Ma Ying-jeou held a meeting in the Office of the President to give instructions to detain the former president; the Special Investigation Panel resorted to unconstitutional means like incommunicado detention, intimidation, and/or luring other interrogated detainees with gains in order to obtain useful testimonies or to force them to confess crimes they had not committed. The Taipei District Court openly violated the principle of "random assignment of cases" by illegally and unconstitutionally replacing the judge, to whom Chen's case had originally been assigned to by lot, with one particular judge favorable to the current government. That judge has since then been allowed to handle merged cases of Chen. All of these are evidence that the related judicial proceedings of Chen's case have their own taint of corruption and have just been a cover for the authorities to launch political attacks and persecutions on Chen in the name of "fighting corruption."

6.

Finally, it is the belief of President Chen's defense team that the assignment of Chen's case to Judge Tsai Shou-hsun's panel, if not illegal, certainly borders on illegality and is prejudiced. Moreover, Judge Tsai's three-judge panel has repeatedly made rulings that violated the law; it has abused and continued to abuse its power by using reasons unsanctioned by the law to continue the detention of the former president. Therefore, we do not recognize that Judge Tsai's panel is legitimate nor can it be fair-minded in the due process of law. For this reason and the others stated above, we refuse to conduct debates in that court. Instead, we have chosen to defend former President Chen outside the court and before the people of this country. We have consistently made and now make the plea of not guilty for former President Chen. A more detailed defense and explanation follows.

## Foreword

**Chen shui-bian, the former president is one who has labored tirelessly for Taiwan; his presidency has certainly symbolized that the Taiwanese people can be masters of their own country. It is for that reason that the man who was once an emblem of and a spokesman for a Taiwan-centric consciousness, has in the mere span of 15 months' time, from May 20, 2008 to the present, fallen from grace. He is now a suspect charged with the ugly crime of corruption, and has been detained for almost nine months. His legacy of the democratic progress, economic development, and strengthening people's consciousness of the nation's sovereignty achieved during his eight-year presidency has suffered a blow. The charge of corruption laid on him has also been a blow to each and every Taiwanese person who had worked so hard with him.**

But what is the truth of the Chen case? While the judiciary has gone out of its way to target him, and the media, bent on sensationalism, continue to distort the case, the Taiwanese people have not had a chance to fully know all that this former president had done during his eight years in office. What is behind this distorted treatment? With the verdict in the first instance scheduled to be passed down on September 11, we feel obligated to provide a comprehensive explanation of the Chen case, so that all citizens may know the truth behind this so called judicial case.

The state affairs fund is similar in nature to the special allowances fund provided for administrative heads of government. The regulations governing both are loose and resemble guidelines more than strict laws. The application and reimbursement procedures of the state affairs fund have always been conducted in accordance with established practices. No one, from former President Chen and his aides to accountants in the Accounting Department of the Office of the President, has had any intention to commit crimes or corruption or to take money for their own pockets. They simply had inherited imperfect application and reimbursement procedures, which were the established practice left by the previous governments. This imperfect procedure can and should be reformed, but no one should be selectively charged with corruption simply because he or she had followed the previous governments' practice.

**President Chen had, on his own initiative, cut his monthly salary by half, which means that his annual income was reduced by NT\$5 million per year resulting in a reduction of**

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**his salaries by NT\$40 million over his eight-year presidency. He had also, on his own discretion, terminated the Fongtian project and the Dangyang project, two secret National Security Bureau funds totaling NT\$3.6 billion that used to be called "the President's private money." Moreover, he had donated all of his presidential election subsidies of more than NT\$340 million. How then could such a president have any motive for embezzling any part of or even all of the NT\$104 million from the state affairs fund? Further, in that fund, Chen has listed all fund expenses to prove that the total amount of expenditures from that fund had far exceeded the original amount allotted to it. For that reason, the accusation in the bill of indictment that " [\[Chen\]](#) had raised funds from other sources to pay for the expenses he listed, but he still put the state affairs fund into his private pocket" is more than absurd!**

The Longtan Science Park land deal was part of the "Two Trillion, Twin Star" plan. This plan highlighted the Chen government's flagship economic achievement which had focused on the semiconductor and flat panel display industries. The only role that Chen had played in this was his intent "to retain industries in Taiwan and to work hard for the economy." If he had profited any, it would be in the development of Taiwan's high technology industries, for this sector had benefited most from the economic plan. But the Special Investigation Panel (SIP) had gone so far as to use the testimony of Jeffery Koo Jr., a man who profited by the sale of a plot of land in Longtan, to distort this case into one of corruption. Koo, a man still on the wanted list, had returned to Taiwan to be a witness to this case under the questionable terms of benefit exchange with prosecutors on the panel. Till today the SIP still cannot find and list any specific amounts of the so-called "bribes" or "brokerage fees" in this case. How much profit did Koo himself make from this land deal? Having been unable to clarify these points, the panel has been bent on implicating Chen, who had never known that there were other so-called transactions regarding this land deal being carried out behind the scenes of the Longtan development project. Has the SIP really cared about the truth? Or does the panel think that it has "completed its mission" once it has "incriminated former President Chen?"

The large amounts of the deposits in Chen's family members' overseas accounts have certainly shocked Taiwan's society. Members of the public have been astonished at the savings equivalent to millions of NT dollars in these accounts. Such numbers are rather incongruous with the common impression of Chen's simple and frugal lifestyle. While these numbers are large, one has to remember that the Democratic Progressive Party (DPP) has neither party assets nor party-run enterprises, and so all DPP politicians must rely almost entirely on political donations to have sufficient financial strength to run elections. As the President and/or the DPP chairman, Chen had been one major subject to whom political donations were contributed. With expenses in one presidential election reaching as high as billions of NT dollars, therefore, it is not unimaginable that there can be unused campaign funds or political donations from one such election reaching as high as hundreds of millions of NT dollars. These funds or donations should not and cannot be viewed as illegal gains simply because of their huge numbers.

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Nevertheless, the Taiwanese people cannot put behind them the obvious fact that Chen's family members had remitted huge amounts of money abroad. Thus, the former president has repeatedly apologized in public for failing to govern his family members' behavior and has said that they are willing to transfer all the deposits back to Taiwan for appropriate donations. To remit such large amounts abroad does breach the public trust, but the mere transference of such overseas deposits does not constitute "corrupt gains." The reality is that political donations to all parties are a secret that all Taiwanese politicians have kept and are unwilling to disclose. Such donations are also a reality in party politics in any country as capitalism develops.

A related but different shocking reality, which may help Taiwanese and media gain perspective is to realize how Chen's and the DPP's figures pale in comparison to the totally disproportionate size and power of assets possessed by the KMT versus Taiwan's other political parties. In answer to a voluntary questionnaire put out in 2007 by the Ministry of the Interior (MOI) the KMT admitted to assets of US\$769.7 million, the DPP had US\$7.68 million, the Taiwan Solidarity Union (TSU) had US\$440 thousands and the People's First Party claimed a debt of US\$4 million. In essence the political playing field in Taiwan is not level to the extent that the KMT had 100 times greater assets than the DPP and all other parties. One can only guess how this translates into political donations.

**It would be truly beneficial in the development of Taiwan's democracy that the country should make comprehensive and pragmatic regulations on the management of political donations. It is time for all politicians to not cover up the fact that these contributions do exist. What has been worse however is the double standard that the judiciary has used in handling this problem. While looking idly at the KMT's possession of ill-gotten party assets worth tens of billions of NT dollars, as well as the consistent pocketing of political donations in all political parties, it has detained former President Chen on the same grounds. The KMT has always enjoyed the advantages of an unlevel playing field in assets and political donations in Taiwan politics.**

Chen's case is not a legal but a political one. The judiciary has been on a political witch-hunt in the name of prosecuting corruption. It has used a double standard and selective prosecution to pursue a man whose main fault is that he represents the Taiwanese identity to the world. Truth is not being pursued in this case; nor is sincere political reform. Taiwan deserves better.

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