### From Martial Law to Transitional Justice in Taiwan

Ian Rowen, Phd Associate Professor, National Taiwan Normal University

#### 台灣之光 Light of Taiwan

Performance at Inauguration of President Tsai Ing-wen, 20 May 2016 (40m)



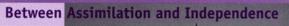
# Institutionalizing transitional justice: The beginning of the Tsai Ing-wen Administration

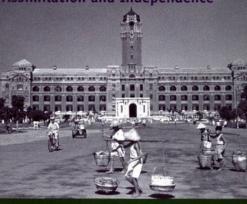
"The goal of transitional justice is to pursue true social reconciliation, so that all Taiwanese can take to heart the mistakes of that [authoritarian] era."

-President Tsai Ing-wen
Inauguration Speech, 20 March 2016



#### Context: 228 Incident and White Terror





The Taiwanese Encounter

Nationalist China,

1945-1950

Steven E. Phillips



#### Representing Atrocity in Taiwan: Three Periods

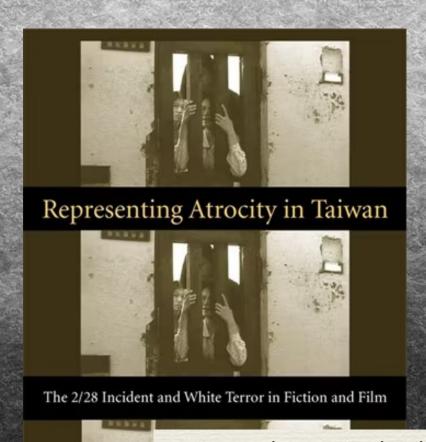
1st: Soon after the 228 Incident: Short stories, many buried for the most repressive years that followed.

2nd: Early 1980s, new stories arose together with democratic social movements

3rd: After end of martial law in 1987, writers gained confidence that they could publish without fear

4th? In the mid-2000s, perhaps a self-reflexive style more attuned to the "(im)possibility of recapturing the past and discovering the truth."

Still.. Truth-finding is a seductive endeavor for social scientists, story-tellers and activists alike



Representing Atrocity in Taiwan

The 2/28 Incident and White Terror in Fiction and Film

Sylvia Li-chun Lin

Columbia University Press

#### Landmark article and NGO

#### Transition without Justice, or Justice without History: Transitional Justice in Taiwan

Naiteh Wu

Taiwan Journal of Democracy 1, 1(July 2005):77-102



NGO Founded December 2007

International Journal of Transitional Justice, 2017, 11, 92–112

doi: 10.1093/ijtj/ijx001

Article

**OXFORD** 

## Taiwan's Truth and Reconciliation Committee: The Geopolitics of Transitional Justice in a Contested State

Ian Rowen\* and Jamie Rowen\*

Jamie Rowen

Professional Title: Associate Professor of Legal Studies and Political Science

Director Center for Justice, Law, and Societies

Office: Thompson 224

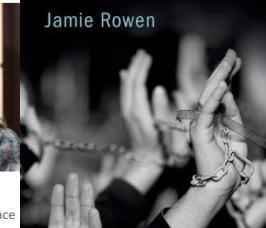
Email: jrowen@legal.umass.edu

Office Hours: Fall 2021: Mondays 1-2:30PM in the office

#### Degree:

PhD, Jurisprudence and Social Policy, University of California, Berkeley; JD, Berkeley School of Law; BA, Peace and Conflict Studies, University of California, Berkeley

SEARCHING FOR TRUTH IN THE TRANSITIONAL JUSTICE MOVEMENT



University of Massachusetts Amherst

College of Social & Behavioral Sciences
Department of Political Science



#### Conceptual Starting Points

- Transitional justice, in theory and practice, is a malleable and often ambiguous idea. This has made it attractive to a variety of actors pursuing often incompatible agendas.
- Truth and reconciliation commissions have been promoted for a variety of reasons—including demilitarization, democratization and have highly variable effects.
- \* There is no simple template, checklist, or universal and uncontested set of "best practices" for Transitional Justice.
- ♦ One approach is to theorize it as a strategy to achieve transregime legitimacy (Winter 2013)
  - ♦ This is a critical stance based on empirical and comparative study of Transitional Justice as it has unfolded; it is not rooted in normative political or legal philosophy

#### Our initial take on the Tsai administration goals

- Forge shared understandings about authoritarian state violence in the early years of the ROC. Domestic
- Perform cultural and political distinction from the irredentism and authoritarianism of PR China (and perhaps, in a subtler sense, from the RO China). Regional
- Demonstrate adherence to international norms of democracy and human rights and thereby boost global profile and consolidate alliances with (tacit) allies. **Global**

#### In other words.

Tsai's transitional justice agenda was not simply a domestic legitimation strategy. It served a broader geopolitical strategy.

However, it was compromised by promises to not change constitution, name of country, etc ("ie maintain cross-Strait status quo", even if that status quo is anything but static)

The agenda has been further challenged by perhaps insurmountable domestic political challenges

#### Legislative achievements

- 2016 Passage of 2016 Illicit Assets Act and establishment of related Commission
- 2017 Passage of Transitional Justice Act & establishment of Transitional Justice Commission
   (TJC) by the Executive Yuan

Compilation © 2018 Washington International Law Journal Association

#### TRANSITIONAL JUSTICE LEGISLATION IN TAIWAN BEFORE AND DURING THE TSAI ADMINISTRATION

Ernest Caldwell†



#### Scandals

- KMT claims Transitional Justice is "green terror", "fascism", "darkest hour of Taiwan's democracy"
- Chair and vice-chair of TJC resign after leaked recording of vice-chair flippantly suggesting that
   TJC manipulate public opinion against KMT New Taipei City mayoral candidate





AN IRONIC BANNER RELEASED BY THE KMT. PHOTO CREDIT: KMT/FACEBOOK

#### Indigenous Transitional Justice

- Tsai apologizes to indigenous people and establishes the Presidential Office Indigenous Historical Justice and Transitional Justice Committee (2017)
  - Splitting the TJC and Indigenous TJC is a highly consequential decision owed more to constrained political opportunities than coherent policy making
- Some indigenous activists, including former supporters, accuse Tsai of betraying autonomy and traditional land rights for currently-private property, and launch protest near Presidential Office





### Indigeneity and national sovereignty

#### Indigeneity enrolled into TJC exonerations

- December 2018: TJC exonerates 1505 people for wrongful convictions, including 27 indigenous people
- Exoneration marked by Atayal ceremony attended by vice-President Chen
- Ceremony timed to coincide with 70th Anniversary of the Universal Declaration of Human Rights

"A Sbalay ritual was held at the event, with Atayal Watan Tanaga singing a traditional song in the Atayal language and blessing the attendants. The ritual could be understood as the pursuit of truth, which is similar to the government's goal of achieving transitional justice, the commission said."

-Taipei Times





### Indigenous TJ Commissioners respond: Mr. Xi: You do not know us, so you do not know

We are the indigenous peoples of Taiwan, and we've lived in Taiwan, our motherland, for more than 6,000 years. We are not the so-called 'early what ties" within the "Chinese nation". The stories our ancestors tell... that Taiwan is — and has always been — the traditional territory of the indigenous peoples on this land. Taiwan is the sacred land where generations of our ancestors lived and protected with their lives. It doesn't belong to China... We the indigenous peoples of Taiwan have witnessed the deeds and words of those who came to this island, including the Spanish, the Dutch, the Koxinga Kingdom, the Qing Empire, the Japanese, and the Republic of China... We the indigenous peoples of Taiwan have pushed this nation forward towards respect for human rights, democracy, and freedom. After thousands of years, we are still here... The national future of Taiwan will be decided by self-determination of the Taiwanese indigenous peoples and all the people who live on our motherland. No government, political party, or organization has the right to negotiate with any foreign power in an attempt to surrender the control of the traditional territory of ours, the indigenous peoples of Taiwan. We have r

-Joint Declaration by the Representatives of the Inc Indigenous Historical Justice and Transitional Justi

sovereignty of Taiwan."

原轉會各民族代表:台灣原住民族致中國習 近平主席

#### What did this letter do or mean?

- ◇ This was not an official statement of the Commission, but of 26 out of 28 members + a few other signees, penned by the late Lin Shu-ya 林淑雅
- ♦ The statement received international press attention, including mentions in the New York Times
- \* This episode, along with Tsai's firm and well-publicized response to Xi, saw a rebound in her approval ratings following the DPP's 2018 election loss
- Still, some indigenous critics (ie Panai) said the letter might as well have been addressed to the Tsai administration, which has been less supportive of indigenous nation-to-nation relations than Chen Shui-bian admin

#### Transitional polysemy & ambiguity

- Meanwhile, transitional justice invoked for nearly any kind of indigenous claim within Taiwan
  - ♦ Often of the form: "If we want to realize TJ, we must do x". But what is TJ anyway?

Examples from 3 different speakers at a 2019 conference on indigenous land policy and environmental management at National Chengchi University in Taipei: "To realize TJ, we must:

- Observe certain articles in the 2005 indigenous basic law
- Restore farmland in Dulan spoiled by irresponsible agricultural policy
- ♦ Know the truth of the 1895 legal of Japanese dispossession of ancestral lands

## Transitional justice & transnational nation-building

#### TJ as nation-building: One diaspora voice

"... memories of what life was like during the White Terror still linger in the hearts and minds of those Taiwanese Americans who were impacted. Although they are no longer in Taiwan or may be several generations removed from Taiwan, they also hold on to hope that the historical truth about White Terror is revealed and never forgotten... The creation of a unified Taiwanese narrative will help galvanize the Taiwanese to confidently and unapologetically work towards building their nation together."

Watering the Roots: Overseas Taiwanese and Transitional Justice



### Another voice: TJ & "The Taiwanese : Revolution"?

"The Taiwanese Revolution has no single declaration of independence but rather dozens: President Tsai Ing-wen's resounding rejection of 'one country, two systems'; full-throated defense of democratic rights...the ubiquitous refrain of '建國' in Taiwanese commentary; vandalism of Chiang Kai-shek's statues... the establishment of a transitional justice commission; so-far-unfulfilled promises to indigenous communities... In all these ways and more, a Republic of Taiwan is being theorized and imagined into the border of existence."

Catherine Chou, "The 228 Inheritance: Taiwan's Revolution Is Here," *Taiwaneseamerican.Org*, 2019, http://www.taiwaneseamerican.org/2019/02/the-228-inheritance-taiwans-revolution-is-here/.

### TAIWANESE AMERICAN ORG

highlighting taiwanese america

### What transitioned?

#### Results?

- The Commission dissolved on 30 May 2022, and released a long report
- Overturned 5,983 sentences deemed in error
- ♦ Legislative Bill passed to compensate the family of each victim with ~ €380,000

Still, sort of a victims without perpetrators approach

Dictator imagery (Chiang Kai-shek and Chiang Ching-kuo) still prevalent—statues, street names and bank note. Commission identified 1,546 symbols of the Two Chiangs in statues and parks but fewer than 30% have been removed.

Routledge Research on Taiwan Series

### TAIWAN DURING THE FIRST ADMINISTRATION OF TSAI ING-WEN

NAVIGATING IN STORMY WATERS

Edited by Gunter Schubert and Chun-yi Lee

#### 10 A noble dream undelivered

The quest for transitional justice during Tsai Ing-wen's first term

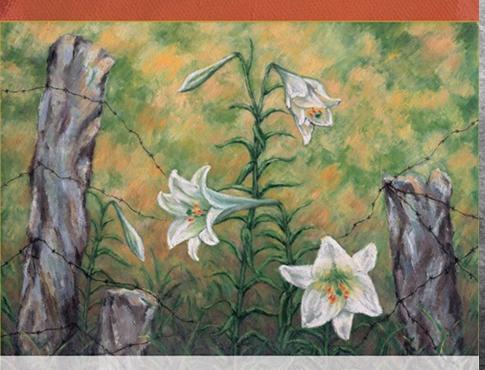
Cheng-Yi Huang

#### Reflections

- Commission uncovered new information; Some people were compensated
- Indigenous, domestie/nativist & diasporic advocates formed some alliances
- Cultures of Transitional justice—first championed by scholar-advocates affected narratives of Taiwan's history—precisely because culture is malleable, ambiguous, and creative..

...Let's look at a literary example

## TRANSITIONS IN TAIWAN



STORIES OF THE WHITE TERROR

IAN ROWEN

#### TABLE OF CONTENTS

	Forewordvii
	Note from Series Editor ix
	Introduction: Stories about the White Terror  **Ian Rowen** 1
	1: Long, Long Ago There was an Urashima Taro  Chu Tien-hsin (translated by Sylvia Li-chun Lin and  Howard Goldblatt)
	2: The Taste of Apples  Huang Chun-ming (translated by Howard Goldblatt) 51
	3: Rice Diary Sung Tse-lai (translated by Ian Rowen)
	4: Dixson's Idioms  Huang Chong-kai (translated by Brian Skerratt)
	5: Beef Noodles  Li Ang (translated by Sylvia Li-chun Lin)
	6: Disappearing Manhood  Wu Chin-fa (translated by Chris Wen-chao Li)
This book is part of the Cambria Litera	7: My Second Brother, the Deserter  Wu He (translated by Terence Russell)

National Museum of Taiwan Literature, the National Human Rights Museum, and National

Taiwan Normal University.

#### Li Ang

- Pioneering feminist
- Author of *The Butcher's Wife, The Lost Garden*, and much more. More translated than any other living Taiwanese author
- Studied theatre at U Oregon, taught at Chinese Culture University
- Youngest of several daughters from a prominent family in Lukang, Changhua



#### Beef Noodles': A walkthrough

- An unnamed prisoner feels regret for not buying a bowl of beef noodles for a soon-to-be-executed prisoner
- Prisoner thinks that beef noodles are a dish brought by mainlanders (from China), specifically Sichuan
- Very vivid, bloody descriptions of food prep and prison life

Some inspirations?
Shih Ming-te, political prisoner
Jingmei Prison





#### 'Beef Noodles': A walkthrough pt 2

- After he is released, he travels to China and can't find the original dish
- He discovers that beef noodles are in fact a hybrid dish, uniquely Taiwanese, made by mainlanders who moved to southern Taiwan...
- But what composes this Taiwaneseness?



#### Li Ang's Wu San Lien award acceptance speech

'我們一直知道有警備總部等等情治單位。 小時候我們被教導成「囝仔人有耳無嘴」, 更可怕的是,長期以來,我們因而在自己心 中樹立一個無形的「警總」。我們自以為知 道紅線的所在,無需外在約束,我們就知道 自我設限。

文化上我們被教導一套傳統的中國文化,固定的道德、標準,形成另種心中的「警總」。'

'We have always known about intelligence units such as the Garrison Command. When we were young, we were taught to "have ears but no mouths." What's more terrifying is that for a long time, we established an invisible "Garrison Command" in our hearts. We think we know where the red line is, and then we set our constraints accordingly.

Culturally, we are taught a set of traditional Chinese culture, with fixed morals and standards. This forms another kind of "Garrison Command" in our hearts.'

-Li Ang, 2012

#### Untold Herstory (2022)





Film director: Zero CHOU

Year: 2022

Running time: 112'

Thank you! 謝謝!