

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

Between Assimilation and Independence



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

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



台灣民間真相與和解促進會
Taiwan Association for Truth and Reconciliation

NGO Founded December 2007

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

Ian Rowen* and Jamie Rowen[†]

University of Massachusetts Amherst

College of Social & Behavioral Sciences
Department of Political Science

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

Jamie Rowen



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†

WASHINGTON INTERNATIONAL LAW JOURNAL



Journal Home
About This Journal
Membership Selection
Current Masthead
Submissions
Give
Contact Us

Most Popular Papers

Receive Email Notices or RSS

Select an issue:

All Issues

Search

Enter search terms:

in this journal

Advanced Search

I S S N : 2 3 7 7 - 0 8 7 2

Home > LAWREVS > WIJ > Vol. 28 > No. 3 (2019)

Washington International Law Journal

Table of Contents

Contents
anon

Foreword

Foreword
Kiri Yoshimura

Articles

Never Too Late—The Work of the Transitional Justice Commission in Taiwan
Hung-Ling Yeh and Ching-Hsuan Su

Transitional Justice in Taiwan: Changes and Challenges
Nien-Chung Chang-Liao and Yu-Jie Chen

The "Gaps" and Excesses of Transitional Justice in Taiwan—A Response to Caldwell
Ian Rowen

Conceptualizing Indigenous Historical Justice Toward a Mutual Recognition with State in Taiwan
Awí Mona

Whither Converging Narratives of Justice in Transition? Transitional Justice and Judicial Reform in Taiwan
Agnes S. Schick-Chen

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



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

真相 Presidential Office
還原真相 實現正義 **Indigenous Historical Justice**
和解 and Transitional Justice Committee



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



A composite image showing Xi Jinping at a podium in the center, with other officials seated at a long table in front of him. The background is a red wall with gold trim. The text is overlaid on the left side of the image.

Xi Jinping Jan 2019 speech: 'Taiwan is a part of China'

- ◆ Typical PRC stance— similar speech could have been delivered 20 years ago
- ◆ Gems: “Chinese people don’t attack Chinese people”, ‘reunification’ is a historical conclusion
- ◆ Yet still the insistent threat of force

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 “Taiwanese minorities” 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 never given up our sovereignty of Taiwan.”

-Joint Declaration by the Representatives of the Indigenous Peoples of Taiwan on Indigenous Historical Justice and Transitional Justice



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

by Jenny Wang | Jan 31, 2019 | Politics and Society

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, domestic/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

edited by
IAN ROWEN

TABLE OF CONTENTS

Foreword.....	vii
Note from Series Editor.....	ix
Introduction: Stories about the White Terror <i>Ian Rowen</i>	1
1: Long, Long Ago There was an Urashima Taro <i>Chu Tien-hsin (translated by Sylvia Li-chun Lin and Howard Goldblatt)</i>	17
2: The Taste of Apples <i>Huang Chun-ming (translated by Howard Goldblatt)</i>	51
3: Rice Diary <i>Sung Tse-lai (translated by Ian Rowen)</i>	79
4: Dixson's Idioms <i>Huang Chong-kai (translated by Brian Skerratt)</i>	165
5: Beef Noodles <i>Li Ang (translated by Sylvia Li-chun Lin)</i>	197
6: Disappearing Manhood <i>Wu Chin-fa (translated by Chris Wen-chao Li)</i>	215
7: My Second Brother, the Deserter <i>Wu He (translated by Terence Russell)</i>	245

This book is part of the [Cambria Literature from Taiwan Series](#), in collaboration with the [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 Taiwanese-ness?



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「囡仔人有耳無嘴」，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」。

-Li Ang, 2012

‘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.’

Untold Herstory (2022)



Film director: Zero CHOU

Year: 2022

Running time: 112'

Thank you! 謝謝!