

Why Demand Transitional Justice?

WHY THE NEED for transitional justice in Taiwan, anyway? Is it not that Taiwan is already “post-authoritarian”? Certainly, that would be what much of western commentary regarding Taiwan assumes, that Taiwan is unequivocally “post-authoritarian”. But the paradoxes of so-called Taiwanese democracy are many and the crimes of the authoritarian period have not been settled. Taiwan is a country where, after all, the standing president, Ma Ying-Jeou, is an individual who actually opposed the opening up of direct elections for choosing the president of the nation during democratization in the 1990s. During past elections in January, no less than the former head of the Government Information Office responsible for government censorship during the martial law period, James Soong, would run as a presidential candidate. Indeed, in the case of notorious “White Wolf” Chang An-Lo, we even saw in elections in January 2016 actual murderers responsible for killing dissidents at the behest of the KMT running for legislature.

為什麼台灣需要轉型正義呢？難道台灣現在不是已經是“後權威政治”了嗎？沒錯，那就是大部份的西方評論家對於台灣的臆測，無庸置疑的是“後威權政治”。但是台灣民主過程中所留下許多的詭論還有政治犯的問題都還未被解決。畢竟，台灣現任的總統馬英九在 1990 年是表態反對直接公開民選總統的。在今年一月的大選時，不只是前新聞局局長對於戒嚴時期的審查要負責，連宋楚瑜都要角逐總統寶座。確實，還有惡名昭彰“白狼”張安樂的例子，我們甚至可以看到在 2016 一月的大選有一些殺害異己的殺人犯代表國民黨參選立委。

How, then, is Taiwan “post-authoritarian”? It actually seems at times that the claim that Taiwan is “post-authoritarian” is a way to smooth over the crimes of the authoritarian period and pretend that outstanding issues of injustice have already been resolved. So, then, does the claim that Taiwan is already “post-authoritarian” become a convenient excuse for the guilty parties of the authoritarian period to continue to participate in politics.

If “transitional justice” is the attempt to resolve past crimes of an authoritarian period during the transition from authoritarian period to a

post-authoritarian period, the idea would be that Taiwan is not truly post-authoritarian. Rather, the suggestion would be that Taiwan is still in its process of political transition and not out of that transition yet.

那為何台灣還能稱之為“後威權政治”呢？似乎將台灣宣稱是“後威權政治”就能夠平緩政府在威權時期所犯下的罪刑並假裝那些不公不義的問題都已經解決。所以，難道不是將台灣宣稱是“後威權政治”是個方便的藉口讓在威權時代作惡多端的政黨能夠繼續在現在參與政治嗎。

如果“轉型正義”是企圖要重新解決在從“威權政治”轉換成“後威權政治”的時間軸中所犯下的罪惡，那這將代表了台灣並非屬於“後威權政治”。反之，台灣還只是停留在政治轉型的過程中，且還未脫離過渡期。

Not Exactly Out of Political Transition?

FOLLOWING THE terms dictated by democratization theory, various attempts have been made to point out a specific moment in history after which Taiwan became “post-authoritarian” and achieved a stable, functioning democracy. Various historical points which have been offered up as historical moment in which Taiwan transitioned to a full democracy. This includes the first DPP presidency in which Chen Shui-Bian assumed presidency as the first non-KMT president and then the transition of power from DPP back to KMT with the defeat of the DPP in 2008 and 2012 presidential elections.

根據民主化理論的敘述，在台灣成為“後威權政治”並且達到穩定、正常運作的民主之後，各界已經進行各種嘗試來指出一個特定的歷史時刻。許多具歷史意義的點都曾被提出來當作台灣轉型成為真正民主的時刻。其中包括民進黨第一任總統陳水扁，他被認為是第一個非國民黨的總統然後在 2008 和 2012 年的總統大選又政黨輪替回國民黨。

Such peaceful transitions of power were seen as indicating that Taiwan had fulfilled the criteria for a democracy, having thrown weight of its authoritarian past. Now, the recent victory of Tsai Ing-Wen and the transition of presidential power from KMT back to DPP is asserted as being yet another benchmark for Taiwanese democracy, indicating something about the completion of Taiwanese democracy.

如此和平的權力輪轉被視為台灣已達成民主的規範，將獨裁拋開並留在歷史。現在，剛打贏選戰不久的蔡英文和再一次的政黨輪替被斷定是台灣民主的另一標竿，意味著台灣民主的最後一塊拼圖。

But how many transitions of power are needed exactly before Taiwan is to have achieved this longed for Platonic ideal, “post-authoritarian democracy”? To begin with, if it only were so easy that one could point to a specific moment in time and decide everything before it to have been “authoritarian” and everything after it to be “post-authoritarian.” Moreover, using transitions in presidency as indicator of a transition in political power privileges the office of the presidency above all other forms of political office.

但台灣還需要多少次的輪替才能夠達成“後威權民主”如此柏拉圖式的理想呢？如果這麼簡單可以在時間軸中點名一個時刻，然後決定在這時刻之前都稱之為“威權政治”而且之後都稱之為“後威權政治”就好了。此外，用總統權的輪替做為政權轉換的指標賦予了總統比其他所有行政首長還高的權力。

After all, there was never any point at which the DPP controlled the legislature up until 2016 legislative elections. It also remains that the KMT has unofficial strongholds within branches of government, from the central government to local schools, by way of informal, personalist networks based on personal relation as well as interest-based networks founded upon the ability of the KMT to reward supporters.

畢竟，民進黨在 2016 年的立委選舉之前從來沒有真的控制立法院的權利，且國民黨在許多政府機關支部內持續擁有非官方的政治堡壘，從中央政府到地方學校建立在非正式的、人脈關係的網路之上以及那些對於國民黨能夠給予支持者多少好處感到有興趣的群體。

We also find that political transitions in power are not as stable as they appear retrospectively. Tensions have been raised recently by the possibility of sudden shifts in foreign policy Ma may undertake in the last months of his term, as we see in his sudden Itu Aba island visit. Ma has openly declared that he refuses to be a “caretaker” up until the time Tsai Ing-Wen takes office, seeing himself as an active president who still has several months remaining in his term. This has led some to even call for Ma being removed from office through impeachment procedures to ensure a smooth transition to power to Tsai, though among those who call for Ma’s impeachment, there is also an element of hoping that this would be political retribution against Ma.

現在回頭看，我們也發現政權的輪替並不像它所表現出來的這麼穩定，馬總統在最後幾個月的任期內所做出對外政策的突然改變使得緊張局勢拉升，例如他突然登上太平島。馬總統也公開表示，他不願意被當作是“保母”等待蔡英文來接管政府，而視己為只剩幾個月任期的活躍總統。這樣的宣稱導致有些輿論甚至希望透過彈劾程序來使馬提早下台，來確保蔡英文可以平順的接管政府，在那些輿論之中，有些聲音期待著馬英九會得到他所應有的政治報應。

What Would Transitional Justice in Taiwan Mean?

WHAT WOULD transitional justice in Taiwan mean, then? Transitional justice is a term which has been used in other post-authoritarian contexts in which large-scale violations of human rights took place, such as in cases of ethnic cleansing. Transitional justice has been used as a guiding concept for justice proceedings in post-Nazi Germany and post-authoritarian Argentina, for example.

那台灣的轉型正義將意味著什麼呢？轉型正義是被用在其他“後威權政治”環境的詞彙，這些環境曾受到大規模的違反人權暴力，例如種族淨化。這樣的概念被用於納粹之後的德國還有“後威權時期”的阿根廷。

Those who advocate transitional justice in Taiwan likely do so in part to raise Taiwan's profile as a context in which large-scale violations of human rights took place. This would be by placing Taiwan alongside more famous nations as Germany or Argentina in which past crimes during an authoritarian period were addressed through the framework of transitional justice. The past crimes of the KMT during 38 years of martial law in Taiwan, the longest in world history, in need of redress would be the 228 Massacre that occurred after the KMT came to Taiwan, the mass killing of political dissidents during the White Terror, which left 20,000 to 30,000 dead, and other incidents of the KMT's persecution, torture, and murder of dissidents through use of secret police.

那些提倡轉型正義的人有意思要在某種程度上將曾經發生的大規模違反人性的暴力加進台灣的個人檔案之中，這使得台灣將被較知名的德國與阿根廷放在一起相提並論，透過轉型正義的框架處理在威權時代所造成的各種罪行。國民黨過去

的罪惡在台灣實行了長達 38 年的戒嚴，也是世界歷史上最常，在國民黨來台後的 228 大屠殺、白色恐怖時期大量殺害異議人士造成 20000 到 30000 人死亡還有其他與國民政府持不同意見者遭到秘密警察的迫害、虐待和謀殺的受害家屬還等待著平反。

In many ways, it remains to be worked out in more concrete terms what transitional justice would mean in Taiwan. As it is a characteristic of transitional justice proceedings to call for truth tribunals and the payment of reparations, this would likely be a part of what transitional justice would entail in Taiwan.

許多方面看來，我們必須制定出台灣轉型正義更具體的意義，因為這是轉型正義程序的特點，能夠交付真相法庭或是給予賠償，這會是台灣轉型正義一部分比較可能賦予的意義。

Certainly, there have already been reparations paid to 228 victims, but part of the continued call for transitional justice in Taiwan is because there still remains much which is opaque about the past crimes of the KMT during the martial law period. To use two famous examples, no explanation has yet emerged for the death of dissidents as Chen Wen-chen, for example, whose bruised and beaten corpse was discovered on the campus of National Taiwan University. Or in regards to the unsolved killing of Lin Yi-Hsiung's mother and two daughters in the Lin family home when the Lin family home was under 24/7 surveillance by police at that time.

當然，228 受難者已經拿到了賠償的金額，但是一部分的人持續呼籲台灣需要轉型正義，因為在戒嚴時期，國民黨還是有許多不透明骯髒罪行未被公開。兩個著名的例子；第一，陳文成命案還是沒有解釋，屍體發現於台大校園時被打得慘不忍睹。或是持續未解的林義雄家滅門案，在林家受到警察的監控下，林媽與兩個女兒遭到殺害。

Of course, in these cases, the secret police of the Taiwan Garrison Command is the obvious culprit. But no official explanation has been given. There are many other, less publicized cases in which there is even less known. As we see with the plethora of KMT politicians culpable of past misdeeds that are still running around, it remains that few of the culprits of past crimes committed in Taiwan have not been held to account and many remain politically active.

當然，在這些案子看來，台灣警備總司令部的秘密警察很顯然是罪魁禍首，但是官方還是沒有給出明確的說明，還有其他許多比較不為大眾所知類似的案件。我們還是可以看見，多如牛毛應該被判罪的國民黨政客還在外頭活躍著，情況還停留在少數致力於台灣過去罪行的罪犯都還未被追究責任，且許多人仍然積極的參與政治活動。

Potential Roadblocks for Transitional Justice?

NEW THIRD parties that emerged from post-Sunflower movement civil society have been among those calling most proactively asserting the need for transitional justice in Taiwan, in particular, the New Power Party which now holds five seats in legislature. Yet there are roadblocks which would probably impede future calls for transitional justice.

從太陽花運動之後崛起的第三勢力政黨積極的主張轉型正義的必要性，特別是在立法院佔有五個席次的時代力量。沒錯，在未來台灣轉型正義的路途上，可能會遇到一些阻礙。

In light of that much of the international world and, indeed, much of Taiwanese society does truly believe Taiwan to be post-authoritarian and democratic, trying to hold to task politically active KMT politicians who were responsible for crimes during the authoritarian period may be seen as political retribution.

有鑑於此，許多的國際社會還有，確實，大部份的台灣社會真心相信台灣會成為“後威權政治”和“民主政治”，試著將那些必須為過去威權時代罪刑負責的國民黨政客認罪，也許看來像政治報復。

Attempting to bring about legal proceedings against KMT politicians, for example, would be seen as political revenge against the KMT by the DPP or pan-Green political actors. This would be seen as continuing the cycle of hatred between political parties in Taiwan by which, for example, the KMT could jail former DPP president Chen Shui-Bian on charges of corruption but the DPP would do no different than the KMT in seeking revenge upon the KMT once in office.

假如企圖用法律訴訟程序來對付國民黨政客，很容易被看作是民進黨或是泛綠政治人物對於國民黨的復仇。如此一來將會被視為兩黨惡鬥無線迴圈的其中一環，例如，國民黨將被指控貪汙的民進黨總統陳水扁關進監牢，但民進黨將會用一樣的手段一次性的對國民黨進行報復。

Actually, this may be a future source of division between new, third parties and the DPP, seeing as new parties may push for transitional justice quite assertively but, wary of the accusation that it just desires political revenge against the KMT, the DPP may take a more cautious line. We see this already in the divided reactions regarding Chiang Kai-Shek and Sun Yat-Sen statues and portraits across Taiwan.

實際上，這可能會是新的第三勢力與民進黨的分水嶺，第三勢力比較可能果斷的推動轉型正義，但民進黨可能會對此較保守，因為擔心掉入所謂政治復仇的指控。我們可以看到兩個勢力的分裂在對於台灣各地蔣介石和孫中山的銅像還有畫像所持的應對。

In this way, Taiwan is caught between the uneven overlap of its present and the authoritarian past that it has not quite overcome. How, then, will the crimes of the authoritarian period find resolution? What will it take for Taiwan to truly transition to a post-authoritarian democracy? This is what remains to be worked out. And ultimately, it may take more than electoral politics for there to be any satisfactory solution.

如此看來，台灣被夾在現在和還未克服威權歷史的層層皺摺之中。那如何才能讓威權時期的罪刑得到解答呢？需要付出什麼才能讓台灣真正的轉型成為威權之後的民主呢？這些還是未解的難題，還有最後，為了要得到任何令人滿意的結局，可能不只是單單選舉所能解決的。