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

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Abstract

Depending on their particular historical-political situations, new democratic regimes have adopted different strategies to tackle the problems of transitional justice, such as how to deal with the perpetrators of the former regime, how to compensate victims, and how to rectify the history of that traumatic past. This essay discusses how Taiwan’s unique approach to the problems—reparations for victims but no holding anyone accountable, much less prosecuting the perpetrators—has been affected by the mode of democratic transition, the ethnic situation, “the moment of repression,” and other factors. Moreover, in Taiwan, the historical records of atrocities received little attention. Contending that the historical memory of the authoritarian past has an important role to play in the civic education for a democratic citizenry, this essay also calls for rendering truth to history, but in a way that can bridge the ethnic divisions in the historical memory.

We are in an age of the victory of democracy. Many countries, having long been plagued by dictatorship and political repression, now have left their authoritarian pasts far behind them. Yet many new democracies, including Taiwan, have found it difficult to “close the books” on their traumatic pasts. How a new democracy should deal with the vestiges and legacies of the ancien régime—including its history, its rulers and collaborators in the repression, and their victims—is always contentious. With the emergence since the 1980s of democratic regimes in Latin America, Asia, Eastern Europe, and some parts of Africa, the problem of transitional justice has gained wide attention among both scholars and political practitioners. 1 Scholars from various disciplines—including political science, sociology, history, and law—have joined together to analyze the problem from legal, ethical, and political perspectives. All of the issues involved—the perpetrators, the victims, and the history—have two dimensions, ethical/moral and practical/political, each of which has its own problems, often without easy

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1 The problem of transitional justice is not limited to the modern era. For a discussion of transitional justice after the restoration of Athenian democracy, see Jon Elster, Closing the Books: Transitional Justice in Historical Perspective (Cambridge, UK: Cambridge University Press, 2004), chap. 1.
and definite answers. The thorny problem of transitional justice is further complicated by the frequent conflict of ethical principles and moral values, on the one hand, and political goals, such as democratic consolidation and ethnic harmony, on the other. The conflict between moral values and political goals has tempted many new democratic states to adopt a middle-of-the-road approach of a truth commission, i.e., exposing the violations of human rights, yet forsaking prosecution of the violators so as to help the new democracy consolidate and achieve political stability. But as some have argued, the justification of the sacrifice of justice on the grounds of well-intentioned political goals cannot be accepted prima facie, and needs some qualification. The conflict between moral values and political goals has tempted many new democratic states to adopt a middle-of-the-road approach of a truth commission, i.e., exposing the violations of human rights, yet forsaking prosecution of the violators so as to help the new democracy consolidate and achieve political stability. But as some have argued, the justification of the sacrifice of justice on the grounds of well-intentioned political goals cannot be accepted prima facie, and needs some qualification. 2 Those are the general problems new democratic states encounter in dealing with their authoritarian and violent pasts.

Instead of engaging in an analysis of those general problems, this essay discusses how Taiwan has dealt with transitional justice and was conditioned by the particular history of the country, including its history of authoritarian rule, its mode of democratic transition, and its situation of ethnic relations. It explains why transitional justice in Taiwan was pursued only by providing reparations to the victims but without tackling the greater issues of retributive justice against the perpetrators and of historical rectification. This approach to transitional justice makes Taiwan a case with ten thousand victims but not a single perpetrator. It also partly explains why the historical past is still greatly contentious among different ethnic groups and different political camps. In addition, this essay calls for the endeavor, which has been largely ignored, of making better use of each nation’s own history of its authoritarian rule as material for democratic education of ordinary citizens.

Among the problems of transitional justice, the most onerous issue, but also the one most laden with moral value, may be that of how to deal with the perpetrators of the former authoritarian regime. The perpetrators include the core ruling elite and those personnel, mostly in the military and security forces, who acted on the former’s direct and implicit orders, but sometimes on their own initiative. In some cases, such as that of South Africa, the perpetrators may also be in the opposition camp, conducting atrocities not only against the personnel and their families in the security forces but also on their own comrades, whom they believed had sold them out. Giving orders and receiving orders may have different degrees of moral accountability and legal liability. For those receiving orders, are they morally accountable, or even legally liable, for executing orders that violate human rights? What should one do when given by one’s superior an order that one deems illegal or immoral? No easy answer can be found to this difficult ethical problem, a problem not seriously attended in the current literature. 3 This problem, which may have a bearing even in the democratic state, should be one of the foci of civic education for democratic citizens. However, the ethical issue regarding those giving orders to violate human rights seems less controversial. Those having committed atrocities, even crimes against humanity, are morally responsible and legally liable for what they have done.

Although holding accountable the high-ranking officials who gave orders is a relatively

3 The only exception is Jon Elster’s intensive discussion in the chapter, “Wrongdoers,” in Closing the Books, 136–65. See also Herbert C. Kelman and V. Lee Hamilton, Crimes of Obedience: Toward a Social Psychology of Authority and Responsibility (New Haven, CT: Yale University Press, 1989), albeit this is not an ethical study analyzing the moral problems.
uncontroversial issue, its implementation often causes difficult political problems. While some new democratic states did prosecute their former rulers for violations of human rights, more found it too risky to undertake. Fearing the prosecution of former rulers and their collaborators might provoke military threats and hence destabilize the new democracy, many post-authoritarian regimes adopted different approaches. In some cases where the former authoritarian regimes had remained long enough in power to build up and retain strong political support among some segments of society, prosecution could deepen the social divisions and, hence, endanger the survival of the new democracy.

How new democratic states deal with perpetrators often varies with the individual nation’s particular political situation before, during, and after the democratic transition. The most extreme category of strategies is to punish the heads of state directly responsible for the crimes against humanity. Among those in this category are Romania’s Nicolae Ceausescu and his wife, who were executed by a firing squad; Bulgaria’s Todor Zhivkov and his subordinates, who were imprisoned; East Germany’s Erich Honecker, who was prosecuted, however, on charges related to the murder of policemen rather than on grounds of political repression and who escaped imprisonment because of ill health; Bolivia’s Luis García Meza Tejada; South Korea’s Chun Doo-Hwan and Roh Tae Woo, who were belatedly prosecuted and pardoned two years later; and Chile’s Augustus Pinochet, who is still in the process of a judicial tug-of-war. These high-profile cases of prosecuting the former heads of state, however, have been less common among the new democracies.

Most cases of dealing with perpetrators fall under the category of prosecution through the judicial court of high-ranking officials directly responsible for the atrocities and repression, as was the case in Argentina and Bolivia. In some cases, the targets of purges go beyond former high-ranking officials to include government officials, agents of secret services, and cadres of the ruling parties of the former regimes; and the means of purges are not limited to court trials. In East Germany, half of the former judges and prosecutors of the former German Democratic Republic lost their jobs; another 42,000 officials were dismissed. In 1991, Czechoslovakia adopted the controversial Lustration Law (from the Latin lustratio, meaning “purification by sacrifice”), which barred those who had been members of the security apparatus, agents and informants of the secret police, members of the former Communist Party above a certain rank, and the like, from serving above certain levels in the governmental, academic, and state-enterprise sectors for five years. The lustration law and the earlier commission set up to name names have been accused of being part of a witch hunt, with “political power struggles … being presented as a moral crusade.”

But purges, whether limited to heads of state and their high-ranking officials or extended to the large body of collaborators, may not always be politically feasible. Some leaders of former regimes—such as in Chile, Poland, and Brazil—negotiated amnesty for themselves

4 Elster, Closing the Books, 68.

before they stepped down, with the emerging democratic regimes accepting the terms in order to ensure a smooth transition of power. But some new democratic regimes, such as Spain, Rhodesia, and Uruguay, deliberately adopted the approach of abstention from transitional justice, or, as the case of Spain is called, the approach of “disremembering.”

Lying between these two extremes of prosecution of the perpetrators of the ancien régime and the deliberate engagement in collective amnesia is a third-way approach to deal with the past, the truth commission. Following the model of and learning from the experience from Chile and Argentina, the Truth and Reconciliation Commission (TRC) of South Africa has gained much attention and captured the imagination of the world, and has been imitated by some twenty countries. As Alex Boraine, the deputy chairman of the commission, stated, the truth commission was a necessary compromise. There were only two other options: a general amnesty for the leaders of the former apartheid regime, or Nuremberg-style trials of those directly responsible for gross violations of human rights. If the former ruling elites had insisted on general amnesty, negotiations would have broken down. And if the African National Congress had insisted on prosecuting the perpetrators, there would have been no peaceful transition to democracy. The approach of the truth commission, therefore, was the only possible “bridge from the old to the new,” in Judge Richard Goldstone’s words.

As far as the case of Taiwan is concerned, no such negotiation or compromise was needed. The ruling elites of the previous Kuomintang (hereafter KMT) authoritarian regime continued to rule Taiwan for more than ten years after the end of decades of martial law. The mass media, which very much benefited from press monopolization during the martial law era, continued to lead public opinion as the mainstream media. Although some measures of Reparation for victims were provided, the issue of retributive justice was never brought into the political arena or public discourses. In 2000, thirteen years after the lifting of martial law as the first move toward democratization, the opposition gained power for the first time in Taiwan’s history. The new government, however, never raised the issue of retributive justice. As will be discussed below, the ethnic situation, which has largely deteriorated on the democratic stage with the rise of a new Taiwanese identity, partly contributed to the society-wide silence on retributive justice.

The second issue in dealing with the problem of transitional justice concerns the victims. It goes without saying that victims of the repression and atrocities should be rendered justice and reparation for their loss and suffering. But what kind of justice, and how great should reparations be? Do victims and their offspring deserve truth, even if they do not ask for it, as has been the case in Taiwan? And when they do ask for the truth, are we morally justified to ask them to forget, even to impose amnesia on them, for the benefit of the whole society? As for reparations, should we also compensate for intangible losses as well, such as opportunities lost in their professions and also in the higher education of their offspring? And if we should, how much should we compensate for the lost opportunity for a better life, and sometimes even a son’s resentment of his parents?

6 Elster, Closing the Books, 62.
8 Shortly after I left college, close to thirty years ago, I befriended a former political prisoner and his family. The political prisoner and his wife both had been famous activists in the movement against
The third issue of transitional justice intersects with the two aforementioned problems. It concerns the ethics and the use of historical justice. Scholars have been divisive in answering whether we should forget or remember the past. But we may have to ask first what exactly our goal is in forgetting or remembering. We can set our goal in the short-term problem of current politics: How are the victims and perpetrators to live together in the same political community? We can also have a different goal in mind: How is rendering justice to history made useful for the education of a democratic citizenry? Different goals may require different approaches to historical justice and historical memory.

This essay concentrates on two of the issues mentioned above—retributive justice to perpetrators and reparation for victims—with a special reference to the particular historical experience of Taiwan. The first part of the essay explains how Taiwan’s particular historical situation resulted in the phenomenon of “ten thousand victims without a single perpetrator.” It starts from a discussion of the first regime transition in Taiwan’s modern history, in which the Japanese colonial government ceded the island to the Chinese government after World War II. No justice whatsoever followed that transition, as was also the case after the second regime transition in the late 1980s. The second part of the essay discusses the ethics and use of historical justice. The discussion of transitional justice up to now has focused mostly on the short-term problem of how to deal with the perpetrators and how to create or maintain a situation in which victims can live together peacefully with perpetrators in the same society. Less attention has been paid to the long-term problem of how to make use of historical justice for the education of a democratic citizenry. The second part of this essay calls for more attention to this issue. It will also touch upon a problem that has been especially relevant to the case of Taiwan: the bearing of transitional justice with ethnic relations. As Chinese mainlanders tend to identify strongly with the KMT regime and its historical legacy, a reassessment of the latter’s performance on moral grounds is likely to worsen ethnic tension, which has been deteriorating in recent years. But there may be some way out.

Transition without Justice

The story of how Taiwan became a democracy is well known. However, there is little consensus on who should be credited for the democratic transition and the ending of political repression, and the question of who was responsible for the political repression and gross violations of human rights has seldom been posed. Thus, of the two most important political and moral questions of the age, one is not properly answered, while the other is never asked.

Japanese colonialism. Both were imprisoned by the new KMT regime, an experience shared by many activists who had opposed the Japanese colonial regime. Admiring very much the political prisoner, who was also a famous writer during the colonial period, I sometimes told myself how great it would have been if I had had the luck of growing up in this family. It was only very lately that I learned of his son’s resentment of him and his wife for their political involvement and, hence, I had to confront my own naïveté. Although both parents had college educations during the colonial period, which gave them tremendous cultural prestige in the society of the time, the son ended up working as a plumber. With his father in jail for twelve years and his mother dying at a young age shortly after being released from jail, the son lost the opportunity for higher education and also a better and more enlightened life.

Chinese mainlanders are those, or their ancestors, who moved to the island with the KMT regime around 1946 to 1949. Most of them were employed in the military or in the governmental organs. They now comprise about 15 percent of the whole population.
Taiwan is among those few cases in which the issue of transitional justice was not tackled after the democratic transition. As Samuel Huntington in his book on “third wave” democratization states, what determines if a new democratic government prosecutes the authoritarian crimes are not moral or legal considerations; rather, the situation is “shaped almost exclusively by politics, by the nature of the democratization process, and by the distribution of political power during and after the transition.” More specifically, when democratic reform is launched from above by, or negotiated with, an authoritarian ruler, the latter is likely to wield great political power, even to stay in power, as in the case of Taiwan, after the transition; in such cases, both the prosecution of crimes and historical justice are unlikely to occur. In addition to the type of democratization process that Huntington mentions, some other factors may also have a great impact on the dealing with transitional justice by new regimes. Comparing the case of South Korea with that of the Philippines in dealing with transitional justice, Nai Young Lee proposes a factor that also has some bearing on the case of Taiwan. Although in the Philippines the authoritarian regime was overthrown by mass revolution, contrary to Huntington’s scenario, the new regime did not tackle at all the issue of retributive justice. Conversely, while the democratization process in South Korea was to a great extent a peaceful reform process, the new regime has prosecuted the heads of the former regime. This difference in dealing with the authoritarian past is an effect of the different power structures in the post-transition politics.

In addition to the above two differences in the mode of democratic transition and the power balance after the transition, some factors concerning the mode of rule in the former regime may also have large impacts on the new regime’s approach to transitional justice. Admitting oversimplification, Tina Rosenberg points out the differences between Eastern European communist regimes and Latin American military regimes in the nature of domination and repression that account for the variance in their dealings with transitional justice. While the Eastern European regimes ruled through ideology and demanded active participation from their subjects, the Latin American military regimes repressed with guns and were satisfied with the silence of their subjects. The use of violence, and, hence, the numbers of victims and the nature of victimization, is also different in the two areas. In the former, the violence was much reduced but repressions were diffused among common citizens, while in the latter case the violence was deep and cruel—with killings, torture, and disappearances as common practices—but limited to only the regime’s enemies. The Eastern European dictatorships, hence, were “criminal regimes,” while the Latin American dictatorships were “regimes of criminals.” Therefore, separate approaches should be adopted by those governments following these different kinds of regimes. Furthermore, as “guns never go out of fashion,” the new regime’s ability to institute transitional justice in Latin America was often constrained by the sustained power of the military.

All these analyses throw some light on understanding Taiwan’s singular approach to transitional justice. But as far as the case of Taiwan is concerned, the most important factors explaining the particular approach to transitional justice may be the mode of democratic transition, the performance of the authoritarian regime in economic development, and the

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“repression moment.” All those factors will be discussed.

There have been two regime transitions in Taiwan’s modern history. In the first transition, as a result of the defeat of Japan in World War II, transitional justice was never tackled at all by the succeeding KMT regime. As the ruling elites of the KMT regime took over the island from Japan in 1945, they came face to face with two different groups of native socio-political elites on Taiwan. One group was the collaborators, composed of a small number of administrative elites appointed by the colonial government to mid-level administrative posts and of a larger number of elective elites in the representative organs at the grass-roots level with only very limited political power. The other native Taiwanese group was the activists in various anticolonial movements, who had suffered political harassment and imprisonment by the colonial regime. When Taiwan was ceded to Japan in 1895 by the Qing imperial state, the Republic of China had not yet been established. As the KMT ruling elites were groomed in the Republic, they had no connection with either native elite group. The new regime thus followed a policy of laissez faire after taking over the island, neither purging the collaborators nor granting special favor to the anticolonial movement leaders in the first few years of its rule. The native Taiwanese elites whom the new regime chose as ruling partners were mostly those who had gone to China during the period of colonial rule and had developed close ties to the KMT elites by working with the regime in China.

In order to create ruling legitimacy and popular support among its new subjects in the new territory, the new regime, as soon as it gained control of the island, implemented elective representative institutions at the local level—before it did so in many parts of China. In 1946, in the first local elections, the new regime did declare its attempt to deprive collaborators of the political right to be elected. The lustration, however, was limited to “those who have been in charge of the real works of the Association of the Royal Subject [an organization composed of native social and political elites to solicit political support from the native Taiwanese] and those who were suspected of being traitors and were so informed to the authorities.” Not only was the definition of “real work” never made clear, but also no one was ever identified as a traitor or collaborator. Without suffering any constraints on their political rights, the rank and file members of that organization joined the multitude of elective and administrative elites all over the island to compete in local elections in the first few years under the new KMT regime. They did impressively well in these elections. About 40 percent among the seven hundred elected to various levels of the local representative organs in the first local election were those who had been elective and administrative elites in the former colonial regime, as well as leaders in civil associations that were sponsored by the colonial government as subsidiary ruling apparatus. In the Taiwan Provincial Assembly, the highest local representative organ, they even constituted 75 percent of the total membership.13

As an émigré regime to the island, the new KMT regime had few reasons to purge the collaborators, or to deal with other issues of transitional justice. The new ruling elites had never had the experience of engaging in political struggle with the collaborators under colonial rule. Neither had they been the victims of colonialism. However, as stated above, since the new regime had chosen those native elites with China experience as its ruling partners, the anticolonial elites were very much marginalized by the new regime.14

14 The most prominent and respected leader of the anticolonial movement, Lin Xian-tang, later went into exile in Japan and has never returned to Taiwan.
no voice at all in the new regime, they could not push it to deal with transitional justice. Years later, they would suffer much harsher political repression than they had encountered under the colonial regime. Most of them were repressed, prosecuted, or silenced by the KMT regime during the February 28, 1947 uprising and the reign of “white terror” that followed. (Among those native Taiwanese who achieved political prominence under the KMT’s rule in the following decades, not a single one was connected to the anticolonial movements.) Besides, as an immigrant regime, the KMT government was desperately in need of the cooperation of native islanders. Purging those social and political elites, who were well respected by many people, would only hinder this urgent political objective. Furthermore, there was no strong demand in society at that time for the pursuit of transitional justice. This might be due to the fact that the colonial rule of the Japanese was only moderately repressive—other than in the first few years of taking over the island, when the colonial government had engaged in large-scale repressive military campaigns against rebellions, especially those by the aborigines. Given the situation that those collaborators had not caused much popular hostility, the best strategy was to secure their support rather than to prosecute them.

Five decades later, when the KMT regime was forced to transform its mode of rule from dictatorial authoritarianism to democracy, it, too, did not find any necessity to deal with the issue of transitional justice. Political liberalization was launched in the late 1980s, the last few years of rule and life of Chiang Ching-kuo, who had dictated over Taiwan’s politics for more than two decades, beginning even before he succeeded his father, Chiang Kai-shek, as the national leader. He not only personally declared the lifting of the ban on mass media and the end of martial law, which had been in place for four decades, but also tolerated in 1986 the founding of an opposition party, the Democratic Progressive Party, which would gain the ruling power in the 2000 presidential election. Many American and local scholars thus credited Chiang Ching-kuo as the initiator of Taiwan’s democracy, forgetting the political repression and gross violations of human rights during his rule; some of these scholarly works even fail to mention that no less than ten years before, in 1979, nearly all leaders, along with many activists, in the opposition were arrested and sentenced by martial court to imprisonment of fourteen years, and to a life sentence in one case.15 The opposition, however, was not silenced by this purge but grew even stronger to press for democratic reform. Also under pressure from the U.S. government, Chiang Ching-kuo launched political liberalization in the late 1980s that later was expanded into full democratization by his successor, Lee Teng-hui. Chiang deserves credit for the pragmatism he showed in yielding without too much resistance to pressure for political reform. With this so-called political reform from above and the following succession of the presidency to a native Taiwanese, the ruling KMT gained strong legitimacy and popular support.

It continued to rule for more than a decade after the democratic transition. Not only was the former dictator portrayed as the initiator of democracy, but also his followers, or, as some would put it, the collaborators with the repressive regime, stayed in power for that long period of time. The composition of the national ruling group did not change at all during this period after the transition. Chiang’s handpicked successor, Lee Teng-hui, was elected to the presidency in 1996 through a fair and open election with a landslide of popular votes. (Lee later would be proclaimed “the father of Taiwan’s democracy” by the Taiwan Solidarity

15 For a brief review of those works who credited the dictator Chiang Ching-kuo as motivator of Taiwan’s democracy, see Wu Naiteh, “The Role of Political Idealism in Historical Transformation: Explaining the Democratic Transition to Taiwan” (in Chinese), Taiwanese Political Science Review 4 (2000): 57–103.
Union (TSU), a political party Lee helped to found after his split with the KMT.) Under this historical situation, it is unimaginable that the ruling party would engage in any kind of self-denial by morally condemning its own past. The key person in this obstruction of historical justice is, of course, the dictator’s successor, former president Lee Teng-hui. This obstruction of historical justice, however, is not without a strong social base. The particular authoritarian situation in Taiwan also played a significant part.

Lee Teng-hui, after having served for several decades in the KMT’s government, was picked by Chiang Ching-kuo as his vice president in 1984. Lee succeeded to the presidency of the Republic of China and the chairmanship of the KMT when Chiang died in 1987. During his twelve-year tenure as president, Lee, by manipulating and utilizing the pressures from both the opposition and mass demonstrations, launched a series of democratic reforms and changed the political regime into a full-fledged democracy. After the KMT lost the presidential election to the Democratic Progressive Party in 2000, Lee left the party and formed a close political alliance with the new elites in power and continued to wield political influence. The Taiwan Solidarity Union, for which Lee continues to serve as its “spiritual leader,” is now the political party that most staunchly advocates Taiwan’s independence. Lee is an intriguing figure, and not just for the radical turnaround in his political partisanship and ideological position. How he defines his relationship with Chiang and his long political career in the KMT’s repressive authoritarian regime continues to engross observers.

In a book published in 1999, Lee expressed his gratitude to Chiang Ching-kuo for the political coaching he received during his six years as minister without portfolio under Chiang’s premiership. “It went without saying that to be present in the meetings chaired by Chiang Ching-kuo made one nervous. But it was also like studying in a ‘political school,’ which gave me a lot of opportunities to learn. If today I am not only a ‘theorist’ but also a ‘statesman,’ these six years in ‘Chiang Ching-kuo School’ should be the key factor.”

In 2004, Lee further published his working diary, a detailed record of his work during three years of his service as vice president to Chiang Ching-kuo. Although Lee claimed in the book that he succeeded Chiang as the national leader only by “historical accident,” meaning Chiang might not have decided to pick Lee as successor when he died, he also stated that Chiang “had a very special feeling to him,” and that Chiang “had deliberately and carefully, with a natural way, involved him in the important military and foreign affairs of the days.” The whole book is rightly a witness to this claim of close supervision and affectionate coaching by Chiang. Many analysts believe Lee published the book during the 2004 presidential campaign in order to preempt the utilization of Chiang Ching-kuo’s legacy by the Pan-Blue camp (the electoral coalition of the KMT and the People First Party) by claiming he was the true heir to Chiang Ching-kuo.

It is a rather strange phenomenon that Lee, widely claimed as “Mr. Democracy,” has branded himself as a good student of the School of Chiang Ching-kuo and true heir to a dictator. As Chiang’s protégé, Lee seems to still be wrestling with himself on how to settle accounts of

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16 Lee Teng-hui, Taiwan’s Stand (in Chinese) (Taipei: Yuan-liu, 1999), 268.
17 It is true that Lee was not accepted as the indisputable successor to Chiang by the old guard in the regime. It took a fierce power struggle within the party and a strong student protest movement for Lee to be able to be elected president of the country two years later in 1990.
the past—Taiwan’s as well as his own. Lee’s ambivalent relationship with Chiang, together with his long career in the repressive regime, has set the tone for the dealings of transitional justice. In the press conference of his inauguration as president in 1988, implicitly referring to the White Terror and particularly the slaughter associated with the February 28 Incident of 1947, he appealed to his fellow citizens to forget the past and to “look forward [xiàngqián kàn].” The memory of the February 28 massacre, although politically taboo during the KMT’s authoritarian rule, lay at the core of ethnic tension between native Taiwanese and Chinese mainlanders during the previous decades. It was also a trauma in history tormenting many native Taiwanese. Two years later, President Lee openly admitted that his appeal to forget the past had aroused many complaints from his friends. He then said he now found “a new way” other than forgetting the past to deal with the issue of the February 28 Incident, in which many believed more than twenty thousand native Taiwanese were massacred by the army. But Lee also added that, nevertheless, he still thought the same way: “There’s no need to dig into the past, creating disharmony and unpleasantness.” The new way he found was, first, to commission a research team to look into the event and to propose some suggestions on how the government should deal with it. The team, composed of historians and headed by retired KMT-affiliated politicians, did produce a very detailed and unbiased report on the political situation that had set off island-wide uprisings by native Taiwanese and the killings of native elites by the military. The report also raises the question of whether Chiang Kai-shek, who ordered the army to move to the island to carry out the repression, was accountable for the massacre. The report, however, avoids giving a clear answer by saying that Chiang was too busy in the civil war with the Chinese communists at that time to closely look into the problem. He was also too trusting of his subordinates, so that he accepted their request to dispatch more troops to the island. The report, however, also pointed out that, after the event, Chiang never punished his subordinates who enacted the slaughter and repression.

The publication of the report was followed by a series of actions from the government and President Lee. On February 28, 1991, all Cabinet members and legislators rose in silent tribute to the victims. The next year, Lee said during a memorial concert that “only by facing the truth bravely and frankly can the agony be dissolved and history become a lesson for reflection.” Between 1989 and 2002, twenty monuments were built in different cities of execution sites around the island. In 1995, the organization in charge of reparations for the victims of the February 28 Incident was set up. In 1998, another organization in charge of reparation for victims of political repression during the White Terror was established. The schemes for reparations were standardized as follows: NT$6 million (about US$181,000) for each case of execution and disappearance, and NT$500,000 (US$15,000) for each year of imprisonment, with a ceiling of NT$5 million. Restitution of property has a ceiling of NT$2 million. There is also a ceiling of NT$6 million for reparations for the losses of freedom, life, and property for each individual. Thus, if a person was imprisoned for ten years and consequently received NT$5 million in compensation for this, reparations for property losses could not exceed NT$1 million. But if a person was executed, disappeared, or imprisoned more than twelve years, the ceiling of NT$6 million for the case already would have been

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19 The real figure is not known. But the data in the discussion below show that the number killed was far smaller than popularly believed. The unintentional exaggeration of the death toll shows the event’s significant imprint on people minds.
reached, and there could be no additional reparations for property losses. Compared with the situation in Argentina, a country with a per capita GNP of only one-third that of Taiwan but which paid US$220,000 for each loss of human life, Taiwan’s reparation for victims is not very generous. The reparation for the property loss is also unjust. Under marital law, confiscation of personal property always came with imprisonment for the crime of subversion. Many political prisoners were either wealthy or from well-to-do families; their property losses were tremendous. The restitution of their property, however, was blocked by laws passed when the KMT was still in power. When martial law was lifted in 1987, the KMT-dominated legislature replaced it with article 9 of the National Security Law, which stated that no verdict rendered by the martial courts during the four decades when martial law was in effect could be appealed to the civil courts. Three former political prisoners soon applied to the Supreme Court for an interpretation of the article’s constitutionality; in 1991, the court ruled that the article was not unconstitutional. The restitution of property confiscated was thus blocked by the law.

The numbers of cases approved by each organization for reparations are as follows:

Table 1. Numbers of Victims under Authoritarian Rule

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<td>Executed</td>
<td>Executed</td>
</tr>
<tr>
<td>681</td>
<td>699</td>
</tr>
<tr>
<td>Disappearance</td>
<td>Life imprisonment</td>
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<tr>
<td>177</td>
<td>53</td>
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<tr>
<td>Imprisonment</td>
<td>15–20 years</td>
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<tr>
<td>1,294</td>
<td>406</td>
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<tr>
<td>Total</td>
<td>10–14 years</td>
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<tr>
<td>2,152</td>
<td>1,247</td>
</tr>
<tr>
<td></td>
<td>5–9 years</td>
</tr>
<tr>
<td></td>
<td>1,075</td>
</tr>
<tr>
<td></td>
<td>Less than 5 years</td>
</tr>
<tr>
<td></td>
<td>579</td>
</tr>
<tr>
<td></td>
<td>Educational confinement</td>
</tr>
<tr>
<td></td>
<td>1,306</td>
</tr>
<tr>
<td></td>
<td>Other</td>
</tr>
<tr>
<td></td>
<td>657</td>
</tr>
<tr>
<td>Total</td>
<td>6,022</td>
</tr>
</tbody>
</table>

The figures in the above table do not represent the real numbers of victims. As Li Wang-tai, chief executive of the February 28 Incident Memorial Foundation, explained it, many people who were killed on the streets or who disappeared were young and unmarried. Close to five

22 Elster, *Closing the Books*, 63.
decades later, many of their parents already had died, so no one eligible was left to apply for reparations in their cases. Furthermore, some families of the victims escaped to foreign countries and were unable to return to apply for reparations. The number of cases of execution and imprisonment during the White Terror period are also much higher than the above figures. Some victims did not apply for reparations because they did not want to remind themselves of this traumatic experience. Many victims during the White Terror had died young and had no relative alive to apply for them, especially in the cases of those young mainlanders who had moved to the island with the KMT and were executed for allegedly working for the Chinese Communist Party. Some native Taiwanese political prisoners who were affiliated with the Chinese communists when they were arrested, refused to apply for compensation because, still maintaining a strong Chinese national identity, they preferred to settle the matter of their treatment by the KMT in the future after Taiwan had been liberated by China. Ni Tzu-hsiou, the chief executive of the Foundation for Compensating Improper Verdicts, estimated from the copies of written verdicts the foundation holds that as many as one thousand names that appeared in them as abettors did not show up to apply for reparations. Given this situation, the total number of victims during authoritarian rule should far exceed ten thousand. Another matter that needs to be highlighted is that the figures in the table do not represent the exact years of imprisonment. After having served their sentences, many prisoners continued to be imprisoned for “educational purposes,” sometimes even up to six years, if the authorities were not satisfied with their behavior in prison. This extra imprisonment, however, does not qualify for compensation.

Although compensation was made for losses of life and freedom, albeit stingily, the wrongdoers were never prosecuted or even named. This phenomenon of “ten thousand victims without a single perpetrator” is not without a social basis: there has been weak demand for transitional justice on the part of the people. Based on the experiences of post-communist countries, Stephen Holmes states that “quiescence and inaction in this domain [transitional justice] is rational, even commonsensical, or at least perfectly natural.” The factors he lists contributing to this silence on historical justice include ambivalence about moral questions among the people, the urgency of current problems, popular perception of transitional justice as a power game between opposing elites, a stronger desire for normalcy than for retributive justice, and the need for the experience of the elites in the former regime. Some of these factors may also explain the lack of desire for historical justice in Taiwan. I believe, however, that some other factors in the particular experience of Taiwan not mentioned above may also account for the weak desire among the masses for transitional justice.

The two most important factors among them may be the good performance of the KMT in Taiwan’s economic development and the ruling style of the dictator, Chiang Ching-kuo. It was during the years of White Terror when Taiwan experienced its most rapid economic growth. Further, the ruling style of Chiang Ching-kuo was unique among his counterparts in other areas of the world. Dictating over Taiwan’s politics for several decades, he nonetheless had kept himself and his subordinates from corruption and extravagancy. Additionally, “black and gold” (gangster and money power), which have plagued current democratic politics, were absent from the political scene. Chiang might have been feared and hated, but he was also

23 Interview by author, November 12, 2004.
very much respected, at least by a substantial portion of the people. There is no denying that the official propaganda of the authoritarian regime contributed greatly to the positive image Chiang had among the people. But after close to two decades of living with democratic politics, open society, and free mass media, the continuation of this positive image may not be simply a result of the legacy of authoritarianism. A nationwide telephone survey conducted in 2003 found that close to half (46 percent) of the respondents agreed with the statement, “The politics under martial law and the rule of Chiang Ching-kuo were better for Taiwan [than current democratic politics].” Even among college graduates, up to 30 percent agreed with the statement. With such a positive evaluation of Chiang and his rule, people are unlikely to demand a moral reevaluation of that history.

Aside from Chiang’s personal ruling style and the economic growth of that time, another factor may also contribute to the positive view of the dictatorship, namely the effect of the timing of the “repressive moment.” As one student of transitional justice asserts, if the transition is a process over an extended period in which the worst forms of political repression have ceased or subsided, it is easier for popular forgiveness to take place. However, as some other authors point out, “when the repressors are very much alive in the transition moments, the ‘freshness’ of the repressive experience proves more fraught for transitional government.” Many students of politics seem to acknowledge the effect of timing in the restrained demand for political retribution. “The passage of time may have blurred the memories of what happened.” Not only is memory likely to blur as time passes, but also the greater the interval between the wrongdoings and the democratic transition, the smaller the emotional intensity brought on by former political repression and atrocities and the fewer the demands for retribution. Preliminary statistics show that 90 percent of the violations of human rights in Taiwan occurred before 1970, almost two decades before the transition. Only around one percent happened in the 1980s. After the 1970s, as in the cases of communist regimes in Eastern Europe, physical repression was largely replaced by psychological repression. “The man instruments of control over society switched from terror and repression to primarily economic control, control of the media, control of association and of rights.” Thus, the remote moment of repression combined with the fresh memory of satisfactory economic performance have largely decreased the demand for transitional justice.

29 Elster, Closing the Books, chap. 8.
30 The author is very grateful to the competent and efficient staff in the Foundation for Compensating Improper Verdicts for the swift provision of these statistics.
Table 2. Number of Victims during the White Terror, by Decade

<table>
<thead>
<tr>
<th>Decade</th>
<th>Number</th>
<th>Percent of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1949–1950</td>
<td>1,261</td>
<td>20.9%</td>
</tr>
<tr>
<td>1951–1960</td>
<td>3,340</td>
<td>55.5%</td>
</tr>
<tr>
<td>1961–1970</td>
<td>798</td>
<td>13.3%</td>
</tr>
<tr>
<td>1971–1980</td>
<td>546</td>
<td>9.1%</td>
</tr>
<tr>
<td>1981–1987</td>
<td>77</td>
<td>1.3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>6,022</td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Despite all those factors unfavorable to the pursuit of historical justice, some voices still call for it. One example is the editor of a newly published pictorial anthology on human rights abuses in Taiwan. He poses the following pointed questions for society to mull over: How should we treat the innumerable people who have served in the Garrison Command, Investigation Bureau, Military Law Office, or have been security policemen, prison guards, security officers — those who were the instruments of authoritarian rulers and the executioners of state terrorism? Should they be targets of blanket prosecutions and punishments, or be treated with token condemnation? Or should they receive immunity, even without any condemnation, to save the social cost, pretending that “men repress men” never happened?

How will one see oneself, if his family, friends, neighbors, or even he has been a member or accomplice of the repressive ruling group? How should people treat each other? These are serious questions. If the members or the accomplices of the ruling group never repent after they have committed such crimes, or if society never engages in reflection or discussion, then the history of the crimes will replay again.33

The editor’s voice, however, is a weak and lonely one that has not provoked a response in society. The lack of strong public demand to investigate the past and to punish the authoritarian abusers partly explains why even the opposition elites who took over the government in 2000 were loath to pursue the issue of transitional justice. On November 13, 2004, President Chen Shui-bian, while campaigning for members of his party running for the legislature, spoke about his plan to form a truth commission to reinvestigate those unsolved cases of political murders if his party won control of the legislative body. But if the president had the real intention to investigate those unsolved cases of political crimes, as president of the nation with command of all state apparatus, he would not have to wait for his party to

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32 This is only a rough and tentative calculation, provided by the Foundation for the Reparation for Improper Trials during the Martial Law Era.
have a majority in the legislature. Neither would he have to proclaim his intent during the election campaign, an act that only downgraded transitional justice from an important moral matter to the level of electioneering, as some politicians in post-communist countries did to reap the electoral profits by playing the card of historical justice. This proclamation, if unrealized, would only deprive historical justice of moral legitimacy among the people.

Rendering Justice to History

Although the public demand for transitional justice is weak, it still has to be provided because confronting the unresolved tensions of the past is essential for the future of democracy. Many people, scholars and politicians alike, have proclaimed “never again” as the main thrust of dealing with transitional justice. Historical justice has an important role to play in this regard. One can contend that transitional justice is heuristic to the political education of democratic citizenry. It can be argued that a citizenry that is historically conscious and appreciative of democratic values is important for a robust democracy. When citizens are conscious of what evil and crimes their rulers, equipped with political power and authority, were capable of committing in the past, they are more likely to watch for the abuse of political power in the future. This historical consciousness rising from the experiences of their society may also help them to reflect on the fundamental problem of obedience to an immoral political authority. A survey of the literature on transitional justice shows that opinions concerning whether historical truth should be pursued are quite divisive. As far as the function of truth-finding for democracy is concerned, there are two separate issues to be analyzed: whether truth-seeking helps to heal wounds and thus is good for the civic life that democracy requires, and whether truth-seeking is good for the future of democracy.

As some authors point out, only victims have the moral right to forget. Not only have victims a moral right to know who was responsible for their sufferings, but also they are the only people with the right to decide whether to forget, to forgive, or to remember. No one other than the victims themselves can answer if forgetting or remembering does them better. As one author commented, “Some have said it is enough of ‘opening the wounds.’ To whose wounds, I have wondered, are they referring? Surely not their own. And, what makes them think that the wounds of the victims have healed?” Admitting the moral right of the victims to historical truth, we can call for rendering truth and justice to history on another ground, i.e., its effects on society and democracy.

It is a popular belief that truth-telling can bring forgiveness and reconciliation to heal the wounds dividing a society and to cure the trauma that agonizes the victims and the perpetrators as well. No forgiving without knowing the truth, many would presume. As a South African woman whose father had been killed by the police said, “We do want to forgive but we don’t know whom to forgive.” With a reserved but optimistic mood, the emblem and mentor of the Truth and Reconciliation Commission in South Africa, Archbishop

36 Martha Minow, Between Vengeance and Forgiveness (Boston: Beacon Press, 1998), xii.
37 Desmond Mpilo Tutu, No Future without Forgiveness (New York: Doubleday, 1999), 149.
Desmond Tutu, concluded the mission with the following words:

True reconciliation exposes the awfulness, the abuse, the pain, the degradation, the truth. It could even sometimes make things worse. It is a risky undertaking but in the end it is worthwhile, because in the end dealing with the real situation helps to bring real healing … if the wrongdoer has come to the point of realizing his wrong, then one hopes there will be remorse, or at least some contrition or sorrow … The victims we hope would be moved to respond to an apology by forgiving the culprit.38

Not all observers of truth commissions subscribe to this optimistic picture. One of them questions the beneficial result of reconciling the warring tribes within the society, as well as its effect in transforming the wrongdoers. “There is very little evidence of remorse at these public confessionals …. Oh yes, given the same circumstances, I would do the same thing all over again.”39 As for the effect of truth-telling on the victims, the result is also dubious. It is widely assumed that letting the victims tell their stories to the public or to an official commission has an important effect on helping victims to regain their dignity and heal their wounds. As a practitioner in treating victim trauma observes, a belief in the restorative power of truth-telling is the fundamental premise of the psychotherapeutic work.40 There are many positive cases suggesting the healing power of truth-seeking, especially when it is done in the public domain. A South African victim, having been tortured at age sixteen, said after testifying at the TRC, “When I have told my stories of my life before, afterward, I am crying, crying, crying, and felt it was not finished. This time I know what they have done to me will be among these people and all over the country. I still have some sort of crying, but also joy inside.”41 Public testimony transformed the traumatic story from “a telling about shame and humiliation to a portrayal of dignity and virtue; by speaking of trauma, survivors regain lost worlds and lost selves.”42

But there are also worrisome cases showing that truth-seeking has the danger of retraumatizing victims, sometimes even bringing new hatred on the part of the victims. As one South African, whose wife and daughter were killed by a bomb from the security forces, said, “I never want to find out who sent or planted the bomb. I would prefer to hate the system rather than the people, and as far as I was concerned the security forces of the National Party government were responsible.” But twelve years later, from the network of the truth commission, he learned who was involved in that bombing. “Now it is personal. There is a good chance that perhaps I might actually shoot him.”43 The case has a very important implication for the social effect of truth-seeking. Revealing the truth and the identity of the perpetrators turned a victim’s hatred for a repressive system, which is good for democracy,

38 Minow, Between Vengeance and Forgiveness, 270–71.
41 Ibid.
42 Ibid.
into one toward individuals. This hatred for individuals certainly does not help overcome the social divisiveness which is needed for the consolidation of a new democracy. And the above case seems not to be a singular one. A national poll survey in South Africa found that two-thirds of the public believed that the truth commission process had made South Africans angrier and had led to the deterioration of racial relations.\textsuperscript{44} Margalit may be right in warning us not to hold too optimistic a view about truth-telling: “Memory breathes revenge as often as it breathes reconciliation, and the hope of reaching catharsis through liberated memories might turn out to be an illusion.”\textsuperscript{45} Admitting the positive effects of truth-telling on individual victims, we still have to answer if it has the same positive effects on the society as a whole. Up to now, empirical evidence for the answer is still lacking.\textsuperscript{46}

Scholars are also divided as to the second issue of the effect of truth-seeking on the viability of democracy. Some argue that digging into the past will only endanger the fragile new democracy. Some authors agree with Nietzsche that “The past has to be forgotten if it is not to become the gravedigger of the present,” and argue that the suppression of the Nazi past through amnesty and amnesia permitted West Germany to build a stable democracy in the 1950s.\textsuperscript{47} Samuel Huntington used similar logic as guidelines for democratizers: Prosecute the leaders of the authoritarian regime only when they have been successfully replaced by the new regime. But even in this case, do it promptly, preferably within one year of coming to power. But if the democratic transition is though a process of transformation or transplacement of ruling elites, “do not attempt to prosecute authoritarian officials for human rights violations. The political costs of such an effort will outweigh any moral gains.”\textsuperscript{48} To facilitate the democratic transition by providing amnesty to the rulers and their followers in the former regime was, indeed, one of the main reasons that many countries adopted the model of a truth commission rather than that of judicial prosecution.

However, many have argued for the prosecution of the repressors and perpetrators to keep alive the historical memories of the repressive past as an important bedrock for building a sustainable democracy. As Tina Rosenberg rightly points out, “While trials may endanger democracy’s short-term prospects in Latin America, they are crucial for its long-term health.”\textsuperscript{49} She also asserts forcefully that a country emerging from dictatorship to democracy has two sets of obligations. One is to its victims, to those murdered, tortured, unjustly jailed, and denied the right to work in their professions; the other is the obligation to the nation’s

\textsuperscript{44} Ibid., 156.
\textsuperscript{45} Avishai Margalit, \textit{The Ethics of Memory} (Cambridge, MA: Harvard University Press, 2002), 5.
\textsuperscript{46} A study not identical but related to our concern here analyzed empirical data collected from a national survey conducted in 2001 and concluded that truth leads to reconciliation among South Africans. The indicator for “truth acceptance” in this research was constructed with statements mostly regarding moral judgment of apartheid, such as “Apartheid was a crime against humanity; the struggle to preserve apartheid was just; … the ideas behind apartheid were basically good ones.” It is not surprising that attitude toward reconciliation is significantly correlated with “knowledge of the past,” measured in this way. See James L. Gibson, “Does Truth Lead to Reconciliation?” \textit{American Political Science Review} 48, no.2 (April 2004): 201–17. But the “truth-finding” related to transitional justice is quite different. So the question of whether truth leads to reconciliation is not yet answered and needs further study.
\textsuperscript{48} Huntington, \textit{The Third Wave}, 231.
future: to ensure that dictatorship never returns.\textsuperscript{50} In Taiwan, the first obligation has been attended to, by way of providing the victims with reparations, but no perpetrators were ever named, not to mention tried. No one was held responsible for the crimes in the authoritarian era. By totally ignoring historical justice, Taiwan has yet to address the second obligation, the one to future generations.\textsuperscript{51}

Rendering justice to history, of course, is never simple and easy. First of all, rendering justice to history is a work of reshaping social memory, and the reshaping of social memories is always contested. As the struggle for the interpretation of memory is often rooted in the conflict and interplay among social, political, and cultural interests, it is difficult to build a shared memory among conflicting groups, whether racial, ethnic, or of class. Different groups in conflict often attach different emotions and even different interpretations to the same historical event, sometimes rendering a shared commemoration impossible.\textsuperscript{52} Even for the case of national identity, which is often less divided by ideological positions, different ethnic groups in America use different historical memories to articulate their versions of American identity.\textsuperscript{53} Thus, collective memory is often an area of conflict in a new democracy, where “memory entrepreneurs fiercely oppose one another with competing (and often irreconcilable) reconstructions of the past to further their contingent political objectives.”\textsuperscript{54} With quite different historical experiences, different ethnic groups in Taiwan have different moral evaluations of and different feelings toward the KMT regime. Due to their experiences in World War II, the Chinese civil war, and then immigration to the island, many Chinese mainlanders have a strong emotional attachment to the KMT regime and its national leaders, while most native Taiwanese had the experience and memory of living under the rule of terror by the KMT’s leaders. It is hard to arrive at a consensual historical memory, as illustrated by the controversy over how to assess the role of Chiang Ching-kuo in Taiwan’s democratization.

The “conventional wisdom” about the role of Chiang Ching-kuo is that he was an enlightened authoritarian ruler who escorted Taiwan through miraculous economic development in the prime of his life and permitted political liberalization in his twilight years. But his role in Taiwan’s democratization could also be reassessed in a more complicated, nuanced, and complete manner. His contribution to Taiwan’s modernization aside, Chiang, as the de facto dictator of Taiwan’s politics for more than two decades, should be held responsible for the White Terror, gross violations of human rights, abuses against human life, and repression of the opposition. But such a reassessment by scholars could easily invite and has, indeed,

\textsuperscript{50} Huntington, \textit{The Third Wave}, 397.
\textsuperscript{51} A book dealing seriously with the moral and political responsibility of the February 28 massacre will be published later in 2005. It provides a detailed account of the causes and process of the uprising, all the governmental authorities and apparatus involved in the massacre, and the names of those responsible for the massacre. The writing and publication are sponsored by the Peace Foundation of the February 28 Incident, an organization established and financed by the government and placed in charge of reparations for the victims of that incident. See Chang Yan-hsian et al., \textit{Investigation Report of the Responsibility for the February 28 Incident}. I am grateful to one of the authors, Professor Chen Yi-shen, for permitting me to read the manuscript.
\textsuperscript{54} Paola Cesarini, “Legacies of Injustice in Italy and Argentina,” 168.
triggered criticism, even personal assaults from leaders of conservative parties and mainstream newspapers.\textsuperscript{55}

Social memory of the February 28 Incident is also quite divisive. For many native Taiwanese, the massacre is seen as a historical lesson that shows the inevitable disaster and inhumanity that rule by an alien power brings. Thus, in the recent rise of Taiwanese identity, the February 28 Incident has become the core element of the agony of native Taiwanese and also a source of legitimation for self-rule. But for many Chinese mainlanders and those with Chinese identity, the event was very much an extension of the civil war between the KMT and the Chinese communists. There is no denying that many native Taiwanese had been recruited by the Chinese Communist Party and actively participated in the Incident. It is also a fact that many political prisoners during the White Terror reign were communists receiving orders from the CCP.\textsuperscript{56} According to Chen Ying-chen, a native Taiwanese and former political prisoner who is well known as a writer and as a Chinese nationalist, the conception of the massacre as a result of domination over Taiwanese by Chinese is “a dogma of ‘orthodox-ism’ of Taiwan’s anti-[Chinese] nationalist politics and historical discourses, and has become the basis of ideologies of ‘Taiwanese nationalism’ and ‘the KMT colonialism’ …. The angers [among native Taiwanese] caused by the February 28 Incident were the angers at the exploitation and repression between brothers, while still recognizing the love of compatriots shared by brothers between two sides of the Strait.”\textsuperscript{57} Thus, different nationalisms led to quite different interpretations and divisive memories of the past. Taiwan, of course, is not the only country in which historical memory is divided along political lines. In Chile, which also had impressive economic development under dictatorship, there is even no consensus about the basic facts of right and wrong about the nation’s past.\textsuperscript{58} And more than five decades after World War II, Japan’s society still has not achieved a consensus in recounting the country’s responsibility for war crimes.\textsuperscript{59}

But this divisiveness in historical memory does not have to continue. To form a consensual
historical memory, which both ethnic groups can share, to provide a shared lesson for the democratic education for the present and future generations is not impossible. After all, members of both ethnic groups have engaged in the heroic acts of fighting against the KMT dictatorship. The members of both groups have also suffered from the abuses of human rights under authoritarian rule. Of all the victims during the White Terror, Chinese mainlanders constituted around 40 percent, which was much higher than their proportion of less than 15 percent in the total population. The divisiveness in historical memory may partly result from our failure to render justice and truth to history. To render justice to history and from there to create a common historical memory both groups can share is certainly a delicate matter. It calls for our empathy and sincerity. But it is not impossible to achieve. For example, in tackling the issue of responsibility, we do not have to establish the discrediting of the former rulers as our main goal. We can also learn from the Guatemalan Report of the Commission for Historical Clarification, Memoria del Silencio, which presents the historical and structural situations in which the atrocities occurred, such as the Cold War, the interventions of Cuba and the United States, and the use of violence and military actions by the opposition. We may also want to focus our endeavor on reflecting on the dangers of political power, on how not to be a bystander when others are fighting for human dignity—theirs and ours—and on what to do when given an immoral order. These issues are very much alive, even in a democratic regime. We may not succeed in this effort. Yet, it is our obligation to the future.

But why bother to use the experiences of one’s own country for democratic education? That is, why not forge the whole of humanity into a common moral community? Why not make use of relevant examples from other societies for that purpose and hence avoid further division within our own society? As the twentieth century is the most violent and atrocious one in human history, we certainly do not lack related material. Margalit has discussed, albeit in a different context, the practical problems of turning the whole of humanity into a moral community. First, it is difficult to form effective institutions to store those memories shared by the whole of humanity and diffuse them. Second, memories, in order to be remembered and to make sense, have to belong to some coherent networks instead of being only isolated and unconnected events and people; families, geological communities, classes, and nations are those networks. Last, but no less important, there is the danger of “biased silence”: some memories, which are closer or more related to one’s social network, are more likely to be selected for remembering. But one can also argue more positively that memories and stories in our own countries, happening to our own people, have stronger impacts on us. A political community is also a moral community. Visiting a concentration camp and standing in front of the crematoriums used for human bodies is certainly a shocking experience for any human being. But it shocks us more and imposes greater reflective power if the crimes were committed by our co-nationals, or done to our co-nationals, just as we are more seduced by our own national heroes and martyrs than by foreign ones. Why are our countrymen so special? It is not from a rude and naive particularism. Neither is it blind nationalism. It is because a national community is also a moral community, in which co-nationals are related to

60 The first democratic movement challenging the KMT’s authoritarianism was led by mainland intellectuals in cooperation with native Taiwanese politicians in the late 1950s. It is the one of the most precious historical memories the two ethnic groups can share. Nonetheless, among the abundant writings and research on this movement, little has been done from this perspective.


each other and bound by affectionate and moral sentiments. I believe, although I cannot prove, that for a historical memory to function well as material for lessons that foster democracy, it should be a national memory.

However, simply telling the truth does not help much toward that end. As a journalist having closely observed the process of the TRC in South Africa commented, the TRC has succeeded in establishing the truth, in uncovering what really happened, and, to some extent, in healing the wounds of the individual victims. But in regard to helping prevent future atrocities, its effect was not conclusive at all. “If the idea of the TRC process in South Africa was to prevent violations of human rights from ever happening again, the commission has failed. There is no debate or discussion on its recommendations whatsoever.”

Open trials have been recommended for the purpose of democratic education. Trials can “serve as a general deterrent, warning would-be murderers and torturers that such actions carry a price.” It is also argued that an open trial not only presents the truth in a much more dramatic way, but also upgrades the quality of narration and the quality of public discourse. “The spectacles of the two former rulers, dressed in prison uniforms like common criminals and standing powerless before the three judges, riveted the nation …. The trial has been viewed by many South Koreans … as a pivotal step toward the establishment of the rule of law by a country trying to cleanse itself of its brutal and corrupt past.”

Still, because the violations in Taiwan were mostly “administrative atrocities,” conducted by institutions through state authority with clear rules and records, trials may not be needed, except for those unsolved cases of political murders. After all, those responsible for these repressive institutions have long been dead. What we need may be the creation of historical memory through truth-seeking and truth-telling reflection, in the forms of academic research, historical writings, novels, films, and drama. After the democratic force took over the government in 2000, it proclaimed the need to “build the nation with human rights.” A commission on human rights was soon established by the government and headed by the vice president. Yet, up to now, nothing has been done to uncover the truth and render justice to history. It is hoped that an effort will soon be made in this regard with an aim to lay a cultural foundation for the future of Taiwan’s democracy. It is also hoped that the historical memory thus created can be shared by all ethnic groups and contribute to a better common future.

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63 Antjie Krog, *County of My Skull*, 385.
66 Recent release of those files concerning political trials revealed that, after political prisoners were executed, files with their photos before and after the executions had to be sent to the president.
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Allan J. Shackleton, Formosa Calling: An Eyewitness Account of the February 28th, 1947 Incident (Camphor Press, 1998), pp. 68-71. Transitional Justice Theories is the rst volume to approach the politically sensitive subject of post-conict or post-authoritarian justice from a theoretical perspective. It combines contributions from distinguished scholars and practitioners as well as from emerging academics from different disciplines, and provides an overview of conceptual approaches to the eld. The study of justice in transition has emerged as one of the most diverse and intellectually exciting developments in the social sciences. From its ori-gins in human rights activism and comparative political science, the eld is increasingly characterised by its geographic and disciplinary breadth. A short survey of transitional justice mechanisms demonstrates that lustration was indeed the most salient form, though countries varied signi cantly in the strength of their lustration legislation. To explain this variance, it looks at both structure and agency theories. Along these lines, the pursuit of transitional justice in these countries was exceptionally complicated by the need to determine criteria for exactly how much of their populations ought to be liable for the charge of collaboration. The long duration of the communist regimes additionally suppressed demands for robust transitional justice. With the exception of Romania, the revolutions of Eastern Europe occurred without the widespread violence typical in authoritarian regime collapse. Huntington writes that transitional justice in third wave countries is little affected by legal and moral considerations. It was shaped almost exclusively by politics by the nature of the democra-tization process! and by the distribution of political power both during and after the transition. # 2u! 4aiteh. Transition with -ustice! or -ustice without HistoryD Transition -ustice in Taiwan. # 3aper presented at International 5onference on 3olitical Challenges and Democratic Institutions! 4ational Taiwan =niversity! Transitional justice consists of judicial and non-judicial measures implemented in order to redress legacies of human rights abuses. Such measures "include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms". Transitional justice is enacted at a point of political transition from violence and repression to societal stability (or at times years later) and it is informed by a society’s desire to rebuild social trust, reestablish what is right from
Transitional justice consists of judicial and non-judicial measures implemented in order to redress legacies of human rights abuses. Such measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms. Transitional justice is enacted at a point of political transition from violence and repression to societal stability (or at times years later) and it is informed by a society’s desire to rebuild social trust, reestablish what is right from... Huntington writes that transitional justice in third wave countries is little affected by legal and moral considerations. It was shaped almost exclusively by politics by the nature of the democratization process and by the distribution of political power both during and after the transition. Transition without justice or justice without History: Transitional Justice in Taiwan, Nai-Teh Wu, Taiwan Journal of Democracy Vol. 1, No.1: 77-102. Another sources. 1. http://www.freedomhouse.org/country/taiwan (Freedom House).