

State violence cannot be forgiven

Written by Lin Tai-ho 林泰和

Friday, 21 December 2018 04:14

In a bid to redress injustices, the Transitional Justice Commission in October and this month exonerated 2,775 people who were wrongly convicted during the White Terror era — the commission's most prominent and substantial achievement since its establishment.

The exoneration addressed the injustice imposed upon their reputations and washed away the stain of guilt, but it can never repay them for the lives they lost or help survivors retrieve their youth, nor can it reverse society's unjust discrimination, and the nation's unlawful treatment of them and their families as they grew up.

These traumatic incidents caused by the Republic of China's (ROC) state terrorism bear profound significance. The state apparatus is responsible for protecting the public and upholding human rights, but the perpetrators of state terrorism abused the system, which was supported by the public, to trample on human rights. Facing the trauma inflicted by state terrorism, it is necessary to understand that to truly carry out transitional justice, state violence can never be forgiven.

Generally speaking, forgiveness can only be applied to cases that are redeemable and for which atonement can be made. Only in such cases will those who forgive be able to establish a foundation for reconciliation, redemption and atonement. However, if forgiveness is only possible if there is redemption and atonement, is it still "forgiveness"? Is a forgivable evil still "evil"? If so, in a political and judicial context, forgiveness is but an exercise in therapy through compromise, forgiveness for a particular goal and thus a political expedient and a matter of psychotherapy.

French philosopher Jacques Derrida believed that true forgiveness is only possible for something that cannot be forgiven.

"Forgiveness forgives only the unforgivable," he wrote.

For Derrida, evil intent and evil actions cannot be forgiven, because they are essentially evil. Moreover, such evil is "irreversible" and "capable of repeating itself, unforgivably, without transformation, without amelioration, without repentance or promise."

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In the past few months, the opposition has gone to every length to amplify former commission deputy chairman Chang Tien-chin's (張天欽) improper reference to the commission as Dong Chang (東廠), the Ming Dynasty-era secret police and spy agency. Ironically, opposition legislators staged a prolonged boycott of a legislative session on International Human Rights Day to question the legitimacy of the Cabinet's appointment of commission Acting Chairwoman Yang Tsui (楊蘇). They even pushed over a desk to express their discontent and disrupt the session, during which the commission's annual plan and budget was to be reviewed.

The protest showed the opposition's complete lack of self-reflection and remorse, just like the party that ruled during the White Terror era, and led the execution of state terror and violence. A successful opposition mayoral candidate in one of the six special municipalities who led a group of police officers who intended to arrest democracy advocate Deng Nan-jung (鄧南仲) said during his election campaign that after reflection, he has a clear conscience and feels no regret.

When asked whether he would make the same choice if he could turn back the clock, he said that if an arrest warrant were reissued, he would still follow orders as an entry-level police officer should do and attempt to arrest Deng. There was not the slightest regret.

In *Eichmann in Jerusalem: A Report on the Banality of Evil*, German philosopher Hannah Arendt wrote that when state crime is concerned, "the degree of responsibility increases as we draw further away from the man who uses the fatal instrument with his own hands."

In other words, the wrongdoing committed by an entry-level member of law enforcement is far less than that committed by higher authorities who issue direct orders.

However, Arendt also stressed that "politics is not like the nursery; in politics obedience and support are the same."

Germany is perhaps the best example of the unforgivable nature of state violence and the implementation of transitional justice. In February 1989, before the fall of the Berlin Wall,

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27-year-old East German soldier Ingo Heinrich shot and killed Chris Gueffroy as he tried to climb the wall, making him the last person killed trying to do so.

In February 1992, following the unification of East and West Germany, Heinrich was given a three-and-a-half-year prison sentence without parole by a Berlin court. Heinrich's defense insisted that he followed legitimate orders of a sovereign state, but Judge Theodor Seidel said that Heinrich followed orders, which was understandable, but he "did not just fire bad shots randomly. It was an aimed shot tantamount to an execution."

Seidel also said that in addition to the law, there is conscience, and that when the law and conscience conflict, conscience is the highest standard," and that while Heinrich and his codefendants were "at the end of a long chain of responsibility ... not everything that is legal is right."

In 2015, Oscar Groening, a former guard at Auschwitz, was sentenced to four years in prison by a German court for being an accessory to murder in 300,000 cases. Last year, the German Federal Constitutional Court ruled that Groening's age, 96, was not a valid reason for him not to be sent to prison.

To thoroughly carry out transitional justice following the end of World War II and the unification of Germany, the nation has not forgiven the criminals who executed state violence.

The positive significance of the unforgivable nature of the ROC's state terrorism is that the unforgivable nature of state violence can be used to avoid unforgivable evil. The unforgivable nature of state violence reaches beyond any political or judicial system and becomes a means to make politicians understand that an unforgivable state crime must not be forgiven and made part of political calculations, or trades, or the legal system.

While the law is a general principle, justice is a specific principle. Justice always overrides the law and transitional justice involves the life, circumstances and dignity of every person affected by the White Terror era. This is why carrying out transitional justice — especially in Taiwan — must not involve forgiving violence of the past.

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Tragically, according to the current political and social setting, it will not be possible to truly put authoritarianism in the past. The best proof that there is still a long and arduous way to go before transitional justice can be realized is the politicians who continue to pay their respects at the Cihu Mausoleum.

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