

Transitional justice for all is a must

Written by Lin Chia-ho 林佳豪

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In nations that go through transitional justice, it is common to see criminal lawsuits brought against officials of the previous regime, who are held responsible for the wrongs that were done, as is relieving them of their positions and imposing sanctions on them. Another common practice is providing material compensation to victims and providing a reassessment of the old regime. In short, a rehabilitation of everyone who has suffered under the old regime takes place.

Today, when people talk about transitional justice, it encompasses what could perhaps be called the “millennium compensation movement,” which has been going on for the past few years.

The movement includes compensation demands for property losses from descendants of Jewish victims of the atrocities committed by Nazi Germany; demands for compensation related to human trafficking and slavery; compensation demands related to colonialism — in particular the driving out and slaughter of indigenous peoples; and demands for compensation following a transition of power related to an old regime’s abuse of criminal arrests.

Following developments over the past years, the main method of implementing transitional justice in such nations has been to advocate monetary compensation for losses that have resulted from illegal measures and requiring that all forcefully expropriated assets be returned in their entirety.

In Taiwan, the government used unjust methods to obtain privately owned assets during the White Terror era. Although such cases have not been completely ignored in practice, nothing has been done to address them, either by returning the assets or offering compensation.

The government has been unable to handle such cases, offer compensation, or restore private assets that were unjustly expropriated. Regardless of whether as a result of illegal confiscation or expropriation by the government, or as the result of other unfair practices, such cases remain unresolved.

However, a new method of transitional justice — although perhaps not directly connected to

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authoritarian governments, but addressing issues arising from illegal government actions — has been receiving attention.

For example, illegal indiscriminate expropriation of privately owned land for the purpose of fabricated public interests or for the benefit of certain big corporations has developed into a new form of state violence. This is an area where transitional justice would be required in Taiwan.

When asked in a private meeting in 1943 why his well-known book *The Concept of the Political* did not mention the public interest that lies at the core of politics, German political scientist Carl Schmitt said that anyone who mentions *bonum commune* — the public interest or the public good — is out to cheat and deceive.

Much harm has been done to public assets and the public spirit in the name of patriotism and the public interest. Taiwan could do with both the old and the new versions of transitional justice.

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Translated by Perry Svensson

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