

Transitional justice has just begun

Written by Thomas Shattuck
Sunday, 01 March 2020 04:03

Before the 73rd anniversary of the 228 Incident, the Transitional Justice Commission launched its database of people who went on trial during the White Terror era. The release of this database is a significant step in Taiwan's transitional justice journey — for the first time, people can view a victim's legal path through the Chinese Nationalist Party's (KMT) authoritarian judicial system all in one place.

The database's inclusion of judges and prosecutors puts names and faces to perpetrators of the corrupt system. Survivors, family members and researchers now have access to important data that show how the KMT's system of oppression functioned, because the database traces every step of the process.

While this development is important for Taiwan's continued democratic development and for peoples' healing, it also shows that the work of the commission must continue into President Tsai Ing-wen's (蔡英文) second term.

According to the Act on Promoting Transitional Justice (促進轉型正義法), the commission is supposed to wrap up its investigations and write a report with recommendations by May. The law states that it has two years to “submit a hardcopy mission conclusion report to the premier” and that it “shall include a complete investigation report, a planning proposal and concrete implementation measures.”

This database is not the legally mandated report, so the commission still has much work to do on that front before the deadline. Still, it does not look like its work can be completed in the remaining time.

The commission was established in May 2018, so it is reaching the legal end of its life. However, the law allows for an extension: “If there is a need to enact or amend any law or regulation, the commission shall also submit a proposed draft at that same time. If the commission is unable to complete its work within two years, it may report to the premier and request an extension; each extension shall be no longer than one year.”

The commission should seek an extension.

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The new database's shortcomings show why an extension is necessary: It does not include victims whose cases and lives did not make it to trial, the interrogation process, the monitoring and disappearance of individuals, and victims of the 228 Incident. Not everyone was "lucky" enough to have a trial.

Members of the commission openly acknowledge that the database does not include these aspects due to time and funding issues.

National Human Rights Museum director Chen Chun-hung (陳俊宏) said: "The establishment of the database is only the first step, and we hope that data on agents of the state and efforts to monitor the movements of the public will also be made public to catalogue historical facts."

An additional database would paint a more complete picture of the extent of the White Terror's reach.

The mission of the commission cannot be finished without a complete database of this information. Some information might never be found due to the destruction of documents, but judges and prosecutors were not the only perpetrators during the authoritarian period.

Taiwanese know some perpetrators now, but not the members of the intelligence and security services who took victims to trial or members of the military who staffed prisons or executed victims. Spies in the workplace and in universities and schools are still not known, either.

There are different levels of guilt for those involved in the White Terror, but like the judges and prosecutors, their roles and actions should be investigated and released. The all-encompassing security and monitoring apparatus of the KMT during the authoritarian period must be categorized.

The commission's recent report and investigation on the Feb. 28, 1980, murders of democracy advocate Lin I-hsiung's (林義雄) family shows the benefits of "fac[ing] the past and do[ing]

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everything possible to restore the truth to history,” as Tsai campaigned on in 2016. New facts that had not been made public are now known.

However, some records might never be found, but with more time and greater resources, new information could be discovered. Thanks to the passage of the Political Archives Act (政治檔案法), the commission was able to learn that Lin’s home was under constant surveillance before the murders took place and that someone made a telephone call from Lin’s home after the murders occurred.

This information points to the intelligence services having some role in the crime, because no one would have been able to enter the home without being seen.

The National Security Bureau has refused to turn over all of its files because they could harm the country’s “national security” — an excuse that has been used so frequently that it now rings hollow, and which is an attempt to stop a full accounting of what occurred during the authoritarian period.

Another similar example is the murder of Chen Wen-chen (陳文成). Recently released files allow the public to know what occurred during his interrogation on July 2, 1981, the same day he was murdered. Connections within the government and its culpability are slowly being drawn, but the people responsible for Chen’s murder are still not known.

Once again, the bureau has refused to allow all files to be declassified due to “national security” issues, which includes the possibility that individuals involved in the case could still be working in the government.

The longer that these files are kept from the public, the more damaging it becomes for Taiwan’s democracy, as it makes it seem like sections of the government are trying to hide something.

No matter how much one is needed, it is unlikely that a lustration law — which prevents individuals who served in an authoritarian government from holding certain government positions or running for elected office — would be passed in Taiwan due to previous

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controversies with the commission.

If such a law cannot be passed to prevent perpetrators from working in government, then identifying them publicly would have to suffice.

Without the commission, Taiwanese would never have learned facts about all sorts of cases. With more time, it could continue to uncover new information. An extension is warranted to give it more time to continue its investigations and to create new databases on perpetrators.

The law states that the commission “shall take the initiative to investigate the truth ... to uncover the facts surrounding human rights abuses and to ascertain the responsibility of perpetrators and participants in mechanisms of oppression.”

We now know some of the perpetrators, but not all of them. For true transitional justice to occur in Taiwan, the commission’s work must continue until all mechanisms of oppression are made public.

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Source: [Taipei Times - Editorials 2020/03/01](#)