

For justice, truth must come out of hiding

Written by Wu Ching-chin 吳景欽
Monday, 02 March 2020 06:27

On Feb. 17, the Transitional Justice Commission released its report on the murders of the mother and twin daughters of democracy advocate Lin I-hsiung (林義雄) on Feb. 28, 1980.

The most important finding is that the commission has not ruled out the authoritarian government's involvement in the murders. Forty years after the killings, evidence has disappeared — either purposefully or unintentionally destroyed. Surprisingly, some documents remain classified, which only underscores the need to review current laws.

An amendment to Article 80 of the Criminal Code last year scrapped the statute of limitations for offenses that result in death. However, Article 8-2 of the Enforcement Act of the Criminal Code (刑事訴訟法) stipulates that if “the period of limitation of prosecution of punishment was in progress but not completed before [the amendment takes effect], the post-amended provision shall apply.”

In other words, the amendment applies to cases that have not yet passed the period of limitation, but not cases that have already done so.

In the Lin family murder case, the period of limitation — 30 years — has passed. Even if the murderer is found and is still alive, they cannot be held criminally liable, because the period of limitation has passed.

Due to the impossibility of pursuing criminal liability, transitional justice must now restore the truth as far as possible for later generations to learn from.

However, laws and regulations protecting classified information further aggravate the situation.

Since August 2018, the commission has asked the National Security Bureau for files on 21 cases, including the Lin family murders, the 1979 Kaohsiung Incident and the 1981 death of Carnegie Mellon University associate professor Chen Wen-chen (陳文成).

For justice, truth must come out of hiding

Written by Wu Ching-chin 吳景欽
Monday, 02 March 2020 06:27

The commission only gained access to the files on one case, the Lin family murders, and were denied access to the others because — in accordance with Article 12 of the Classified National Security Information Protection Act (保密國家安全資訊法) — “any national security information involving intelligence activities, sources or access shall remain classified permanently.”

If declassifying the files would expose the national security intelligence network, does that mean that Taiwan’s intelligence agencies have made no technical progress or advances in how they gather intelligence?

It is also impossible to imagine what kind of national security information could be listed as “permanently classified.”

The Legislative Yuan last year enacted the Political Archives Act (政治檔案法) specifically to clear obstacles created by the Classified National Security Information Protection Act.

Article 5 of the new law stipulates that “archives that have been classified for more than 30 years without any legal basis shall be declassified.”

This helps prevent illegal conduct from being covered up by classifying it.

Bewilderingly, the act also gives an exception for political archives when “there is a likelihood that their disclosure would seriously affect national security or foreign relations,” allowing them to remain classified for 50 years.

This vague and ambiguous wording means that key evidence in the Lin family murders is sealed up for another 10 years. Exceptions of this kind are not much different from the permanent classification stipulated in the Classified National Security Information Protection Act.

For justice, truth must come out of hiding

Written by Wu Ching-chin 吳景欽
Monday, 02 March 2020 06:27

These exceptions expose the absurdity of the regulations protecting classified information, and legislators should hurry to re-evaluate and abolish them.

Wu Ching-chin is an associate law professor at Aletheia University.

Translated by Chang Ho-ming

Source: [Taipei Times - Editorials 2020/03/02](#)