

Taiwan's Truth and Reconciliation Committee: The Geopolitics of Transitional Justice in a Contested State

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ABSTRACT[∞]

This article examines Taiwan's new president's 2016 proposal for a truth and reconciliation commission (TRC), and addresses the ways in which this TRC serves domestic, regional and international policy goals. For Taiwan as a contested state, the TRC is part of a legitimization strategy that includes consolidation of a collective memory about earlier authoritarian state violence, cultural and political distinction from the irredentism and authoritarianism of China, and demonstration of adherence to international norms of democracy and human rights. We argue that the Taiwan case reveals the instrumentality of a TRC as a geopolitical strategy, particularly for relatively stable democracies facing external existential threats from an authoritarian country. We further demonstrate the need for ongoing research on transitional justice in Asia, and emphasize that political transitions are not only situated within nation states, but also in regions where TRCs may have profound geopolitical effects.

KEYWORDS: Taiwan, China, legitimacy, truth and reconciliation commission, geopolitics

INTRODUCTION

On 20 May 2016, Tsai Ing-wen, the chair of the Democratic Progressive Party (DPP), was inaugurated as the president of the Republic of China (ROC) on Taiwan. During her inauguration speech, she announced that she planned to set up a truth and reconciliation commission (TRC) inside the presidential office. 'For the new democratic system to move forward,' she said, 'we must first find a way to face the past together.' She continued by remarking that, 'The goal of transitional justice (TJ) is to pursue true social reconciliation, so that all Taiwanese can take to heart the mistakes of that era.'¹

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1 Tsai Ing-wen, 'Full Text of President Tsai's Inaugural Address,' *Focus Taiwan*, 20 May 2016, <http://focus.taiwan.tw/news/aip/201605200008.aspx> (accessed 29 November 2016).

Tsai's speech was preceded by a nationally televised, bilingual Mandarin Chinese and English performance that condensed 400 years of Taiwanese history into a 30-minute song and dance routine called 'The Light of Taiwan.' Setting the cultural stage for the incoming administration, the show featured stylized reenactments of martial-law-era atrocities. The performance evoked the deepest scars in modern Taiwan's political history, the 228 Incident of 1947 and the subsequent White Terror, when thousands of Taiwanese were killed by the Chinese Nationalist Party (*Kuo Min Tang*, or KMT) regime that ruled Taiwan as a party-state under martial law until 1987. In the show, soldiers pointed bayonets at crouched figures that crumpled to the ground in slow motion.

This speech and performance present a puzzle for TJ scholars. Why has the new leadership in Taiwan only recently announced the intention to establish a TRC nearly three decades after the lifting of martial law? Moreover, what does this call for a TRC tell us about the ways that leaders use TJ interventions for political ends?

We argue that Tsai's rationale for calling a TRC does not belong exclusively to a single domestic, regional or international domain. Although her speech focused largely on domestic issues, we suggest that Tsai's interest in a TRC also reflects Taiwan's contested space in the global world order of nation states. Specifically, we read Taiwan's unsettled national definition and its fraught and dangerous relationship with the People's Republic of China (hereafter PRC or China), which threatens to take Taiwan by force, as the subtle geopolitical foil underlying many passages of her speech. Tsai's call for a TRC was in sharp contrast to the deafening quiet across the Taiwan Strait, where Chinese government officials and state media marked the 50th anniversary of the violence and depredations of the Cultural Revolution with muted, terse statements.

We examine the history behind Tsai's proposal and argue that a TRC can serve as a component of a legitimization strategy that addresses domestic, regional and international policy goals. This regional focus is particularly salient for TRCs created in Asia, where there is a long history of contested boundaries. Moreover, the analysis reveals that leaders may see the creation of a TRC as a useful strategy for a relatively stable democracy facing an external existential threat from an authoritarian country. For the specific case of Taiwan, the goals of creating a TRC include forging shared understandings about authoritarian state violence in the early years of the ROC, performing cultural and political distinction from the irredentism and authoritarianism of China, and demonstrating adherence to international norms of democracy and human rights. In other words, promoting a TRC is not simply a domestic legitimization strategy, but part of Tsai's broader geopolitical strategy.

To provide comparative context to understand Tsai's call for a TRC, we start by discussing how political leaders in Asia have used TRCs to legitimate new regimes when histories of violence implicate regional neighbors. We then provide an overview of Taiwan's history to situate the state violence of early ROC rule over Taiwan. We continue by unpacking the potential instrumentalities of and challenges to this proposed TRC in Taiwan, and distinguish between its domestic, regional and international functions. Overall, we ask what other case studies can tell us about Taiwan, and what Taiwan can tell us about the idea and practice of TJ more generally.

We conclude that Taiwan's proposed TRC reveals the importance of ongoing attention to TJ in Asia, where the region's experience of multiple colonialisms, including those of China, lends it a particular contemporary geopolitical salience. We note the speculative nature of this argument, which is based on the historical background and focus on a TRC that has been proposed but not yet implemented. These caveats notwithstanding, we maintain that Taiwan's contested sovereignty and its complicated relationship with both China and the USA demand greater attention to the fact that political transitions are not only situated within nation states, but also in regions for which TRCs may have profound geopolitical effects.

HOW LEADERS USE TRCs TO LEGITIMATE NEW REGIMES

Taiwan's interest in a TRC reflects a broader trend of using TRCs to legitimate new regimes. We use the term 'legitimation' to refer to the reasons that leaders provide to assert political authority.² As Stephen Winter suggests, 'grievous wrongdoing by a state burdens its legitimacy' and 'transitional justice works to resolve that burden.'³ TRCs, in particular, work to resolve that burden in two ways. The first is historical. In both their creation and their published reports, TRCs tend to tell a linear narrative of progression towards democracy. The TRC itself produces and then becomes part of this narrative, representing the creation of a state-sponsored body that can analyze violence for which the state was responsible. Second, leaders can use TRCs to promote certain cultural values, particularly democratic values related to rule of law and human rights.

When leaders use TRCs to shape collective memory about political violence, they are engaged in a strategy of 'transregime legitimation,' which is an effort to show that the new government is shifting its foundational claims to legitimacy.⁴ Whereas communities defined by family ties or religion may generate collective memories through their daily interactions, nation states often foster collective memory through state institutions such as courts, education programs and TRCs.⁵ Referencing Benedict Anderson's theory of the nation as an imagined community, social theorists have suggested that the nation state is 'literally inconceivable without an imagined community' that collective memory serves to generate.⁶ Truth commissions, from this perspective, can produce information about past political violence in a way that will foster civic trust encompassing a liberal, democratic national identity predicated on

2 Stephen Winter, 'Towards a Unified Theory of Transitional Justice,' *International Journal of Transitional Justice* 7(2) (2013): 224–244.

3 *Ibid.*, 226.

4 *Ibid.*

5 Alexandra Barahona de Brito, Carmen González-Enríquez and Paloma Aguilar, eds., *The Politics of Memory: Transitional Justice in Democratizing Societies* (New York: Oxford University Press, 2001); Jeffrey K. Olick, *The Politics of Regret: On Collective Memory and Historical Responsibility* (New York: Routledge, 2007); Greg Grandin, 'The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala,' *American Historical Review* 110(1) (2005): 46–67.

6 Daniel Levy and Natan Sznaider, 'Memory Unbound: The Holocaust and the Formation of Cosmopolitan Memory,' *European Journal of Social Theory* 5(1) (2002): 91. See also, Duncan Bell, 'Mythscape: Memory, Mythology, and National Identity,' *British Journal of Sociology* 54(1) (2003): 63–81.

confidence in the state.⁷ For a contested state such as Taiwan, a national identity imbued with civic trust is fundamental to its continued autonomy.

Where state violence has a regional dimension, leaders have used TRCs for trans-regime legitimation by contrasting themselves with neighboring countries or building closer relationships with them. These geopolitical strategies are particularly useful to signal to foreign nations that the country creating the TRC is part of the international community of liberal states, and that it seeks to halt regional patterns of violence. Unlike leaders trying to redress domestic violence, leaders redressing regional violence must consider how their TJ efforts impact countries with which they share borders, culture, trade and other mutually dependent relationships. For Taiwan, these geopolitical considerations around regional violence and legitimacy are especially important because of ongoing threats to the country's sovereignty.

It is not coincidental that several TRCs with a regional focus have been in Asia. The region's history of violence, which TRCs address, stems from colonialism between the regional superpowers and their less powerful neighbors, and also involves the US and other major powers. The US commitment to support the KMT during the Cold War, for example, led it to look the other way during major episodes of state violence within Taiwan.⁸ Its current role as Taiwan's implicit security guarantor, in line with its overall strategy for projecting power over the Asia Pacific region, also partly determines the bounds of acceptable behavior and discourse for Taiwanese leaders to maintain relative stability.

The South Korean TRCs, one of which was inspired by Taiwan's experiments with TJ, highlight these dynamics and provide insights into how new leaders use TRCs to address regional violence as they try to legitimate themselves.⁹ Following decades of Japanese colonial and Korean authoritarian rule, South Korea created several commissions after the government transitioned into a liberal democracy with the establishment of the 'Sixth Republic' in 1987. The most comprehensive truth commission was the 2005 TRC of South Korea (TRCK). The TRCK was created during the final period of South Korea's 'Sunshine Policy,' which was geared at decreasing tensions with North Korea. This TRC was developed to analyze Japan's colonial rule on the Korean Peninsula from 1910 until 1945 (the end of World War II), as well as the legacy of authoritarian rule, supported by the US, that endured when South Korea and North Korea split after Japan ceded control of the peninsula. The TRCK traced ways that the colonial legacy influenced the later authoritarian regimes, and demonstrated how the Sixth Republic represented a break from the country's colonial, authoritarian past.

7 Pablo de Greiff, 'Theorizing Transitional Justice,' in *Transitional Justice: Nomos Li*, ed. Melissa Williams, Rosemary Nagy and Jon Elster (New York: New York University Press, 2012).

8 George Kerr, *Formosa Betrayed* (Boston, MA: Houghton Mifflin, 1965).

9 One of the country's truth commissions, known as the Jeju Commission, took inspiration from Taiwan's efforts to investigate the violence of its past. Taipei hosted the first international conference pertaining to the massacre in Jeju, South Korea, in which tens of thousands of individuals lost their lives during counter-insurgency campaigns against communists in the late 1940s and early 1950s. Hun Joon Kim, *The Massacres at Mt. Halla: Sixty Years of Truth Seeking in South Korea* (Ithaca, NY: Cornell University Press, 2014).

Much as a Taiwanese TRC will have to do, the TRCK had to consider the geopolitics of the region and walk the fine line of pointing out human rights violations while not exacerbating the existential threat posed by its authoritarian neighbor. The TRCK's mandate included analyzing political killings, torture, forced disappearances, unfair trials and other human rights abuses committed through the 'illegal exercise of state power.'¹⁰ By analyzing the past violence throughout the peninsula, the TRCK helped show that the new regime would not engage in similar 'illegal' exercises of state power. Additionally, this commission focused on national independence movements. In so doing, it celebrated South Korean efforts to fight colonizers, celebrate its sovereignty and signal that, unlike North Korea, long considered a 'rogue' nation by the US, South Korea could be counted among the democratic nations of the world.

Another example providing important insights into TRCs, regional violence and transregime legitimization is East Timor. Though by no means comparable to Taiwan in terms of political stability and economic development, East Timor is similarly a small country engaged in a geopolitical struggle with a powerful neighbor. East Timor's TRCs were created when the country became independent from Indonesia in 1999, after a 23-year occupation that implicated both Australia and the US.¹¹ The country's first TRC – the Commission for Reception, Truth and Reconciliation – was inward looking, focused on legitimating the existence of East Timor as an independent nation. It emphasized not only the distinct cultural identity of the East Timorese in relation to Indonesians, but also the country's right to self-determination. This TRC was developed to encourage East Timorese to return to their fractured communities, with the goal of 'people embracing each other as East Timorese, of coming back to ourselves, living under one roof, after many years of division and violence.'¹² Another goal was to develop 'an appreciation and celebration' of East Timor's 'rich cultural heritage' which was 'suppressed for so many years' under authoritarian rule.¹³

East Timor's other TRC, the Indonesia–Timor-Leste Commission of Truth and Friendship, was regional in scope and served a different purpose. Created in 2005, its goal was to 'ask the leadership of the two nations to accept events of the past with openness and sincerity and to work together to formulate real measures promoting

10 Jae-Jung Suh, 'Truth and Reconciliation in South Korea: Confronting War, Colonialism, and Intervention in the Asia Pacific,' *Critical Asian Studies* 42(4) (2010): 503–524.

11 In 1976, Indonesia annexed East Timor, a move that Australia, Indonesia's largest and most powerful neighbor, did not object to (neither did the US, one of Indonesia's major suppliers of arms for the invasion). After annexation, the Indonesian government under Suharto led a brutal campaign to thwart ongoing support for independence. When Suharto resigned in 1998, the new leadership allowed for a referendum on independence while also financing the referendum's opponents. After the successful vote for independence on 30 August 1999, paramilitary forces attacked cities and villages in a bid to thwart the outcome. They killed 1,500 people and forced hundreds of thousands to flee their homes. When Australia recognized East Timor's independence in 1999, the Indonesian government abrogated the two countries' 1995 security pact.

12 Commission for Reception, Truth and Reconciliation, 'Acolhimento (Reception) and Victim Support,' <https://www.etan.org/etanpdf/2006/CAVR/10-Acolhimento-and-Victim-Support.pdf> (accessed 29 November 2016), 3.

13 *Ibid.*

future change.¹⁴ The initial proposal was to create a TRC with neighboring Asian leaders as commissioners, but the commissioners ended up being East Timorese and Indonesian. Given that the two countries share a border and Indonesia is responsible for 50 percent of East Timor's trading economy, the commission had less to do with redressing the violence in East Timor than with absolving Indonesia's new regime of responsibility for the previous regime's violence. Commentators have compared this commission with earlier Indonesian commissions that provided a 'figleaf of legitimacy and neutrality for the Indonesian military's terror campaign.'¹⁵ Others have similarly noted that leaders in Indonesia and East Timor used this TRC to improve their political and economic relationship rather than ensure justice for the many victims.¹⁶ These two commissions highlight how regional geopolitics influences the design and implementation of TRCs, even when the countries creating them are independent states.

Like leaders in South Korea and East Timor, Tsai is hoping that a TRC might address a legacy of violence in part produced by the country's unsettled relationships with its neighbors. At the same time, Taiwan is in the unique position of inheriting its national constitution and iconography from an emigre regime, and not being a fully recognized independent state. Only 22 countries maintain official diplomatic relations with Taiwan (as the ROC), while its leadership continues implicitly redrawing its territory in order to maintain autonomy from China. Given China's military threat, Taiwan, unlike East Timor, is not able to pursue 'friendship' as such. Unlike any of the cases surveyed here or in standard cases within the TJ literature, Taiwan's leadership is calling on a TRC as part of its broader regional and international goals of sovereignty and recognition. In fact, the proposed TRC suggests that Tsai is hoping to legitimate her government partly by maintaining her support from a growing independence movement without actually declaring *de jure* independence, which would likely risk military action from China and prompt an international crisis.

To make further sense of these domestic, regional and international dynamics, it is necessary to review Taiwan's history of state violence, its relationship with China and its past and present efforts related to TJ.

**HISTORICAL BACKGROUND OF TAIWAN'S TRC: HOW THE
AUTHORITARIAN ROC IS STILL BECOMING DEMOCRATIC TAIWAN**

When Tsai suggested in her inauguration speech that 'the goal of transitional justice is to pursue true social reconciliation, so that all Taiwanese can take to heart the mistakes of that era,'¹⁷ she was implicitly referring to the early rule of the ROC on

14 Indonesia-Timor-Leste Commission of Truth and Friendship, 'Per Memoriam Ad Spem: Final Report of the Commission of Truth and Friendship (CTF) Indonesia-Timor-Leste,' www.ocf.berkeley.edu/~wscs/wp-content/uploads/East_Timor_and_Indonesia/Reports/PER%20MEMORIAM%20AD%20SPEM%20Eng_ver.pdf (accessed 29 November 2016), ii.

15 APSNet Policy Forum, 'Indonesia and East Timor: Against Impunity, for Justice,' 24 April 2008, nautilus.org/apsnet/indonesia-and-east-timor-against-impunity-for-justice/ (accessed 29 November 2016).

16 Rebecca Strating, 'The Indonesia-Timor-Leste Commission of Truth and Friendship: Enhancing Bilateral Relations at the Expense of Justice,' *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 36(2) (2014): 232-261.

17 Tsai, *supra* n 1.

Taiwan. However, Taiwan has a much longer history of violence that helps explain early ROC repression, Taiwan's contested sovereignty and Tsai's interest in a TRC.

Taiwan, 180 kilometers off the coast of southeast China, has been home for millennia to diverse Austronesian populations that have wrestled with waves of colonization for over 400 years. As European explorers arrived in the 17th century to claim land and develop trading posts, Chinese settlers arrived in search of economic opportunities, collaborating in a 'co-colonial' scenario of 'Chinese settlement under Dutch rule.'¹⁸ The European colonizers were ultimately thrown out by a Chinese warlord, Koxinga, who was fleeing the incoming Qing Empire, a conquest dynasty originating in Manchuria that expanded to rule all of present-day China as well as Mongolia and other territories. By 1683, the Chinese settlement had grown so large and Koxinga's fiefdom so unruly that the Qing conquered and claimed Taiwan as China's first overseas possession, largely in order to protect the mainland's coast from pirates. The Qing proceeded to rule it in a piecemeal fashion with an inconsistent immigration policy and extremely limited control over the mountainous central and eastern regions. Immigration and trade continued nonetheless, and the majority of Taiwan's population was soon composed of Chinese settlers and their often-mixed offspring.

In the late 19th century, a modern 'Taiwanese' identity, distinct both from Chinese and indigenous identities, began to congeal, spurred by and in retaliation to Japanese colonial cultural policies.¹⁹ In 1895, beset by domestic instability and external threats, the Qing lost a war with Japan and ceded Taiwan in perpetuity as a war spoil. In contrast to the Qing's uneven and incomplete administration of Taiwan, Japan aggressively developed Taiwan as a showcase colony useful not only for resource extraction but also to demonstrate Japan's parity with European imperial powers. Taiwan's transportation, education and sanitation infrastructure quickly surpassed that of China.

Given tense relations between China and Japan, the political status of Taiwan, like Korea, depended on its more powerful neighbors. In China, after multiple uprisings, the Qing dynasty ultimately collapsed with the establishment of the ROC in 1911 and the abdication of the six-year-old 'Last Emperor' in 1912. The ROC ultimately staked most of its territorial claims on those of the Qing.²⁰ The KMT was founded in 1912 by Sun Yat-sen, a long-time revolutionary and the first president of the ROC. Sun was unable to assert control over a China divided by warlords and factions. After Sun's death in 1925, authority over the KMT eventually passed into the hands of military strongman Chiang Kai-shek. Although Chiang eventually became famous for his anticommunist stance, he and the KMT received early training from the Soviet Union and reorganized the KMT along Leninist lines. To rule the ROC,

18 Tonio Andrade, *How Taiwan Became Chinese: Dutch, Spanish, and Han Colonization in the Seventeenth Century* (New York: Columbia University Press, 2008), 2.

19 Mau-kuei Chang, 'On the Origins and Transformation of Taiwanese National Identity,' in *Religion and the Formation of Taiwanese Identities*, ed. Paul R. Katz and Murray A. Rubinstein (New York: Palgrave Macmillan, 2003).

20 Both the ROC and PRC claims to Taiwan are based on their competing claim to be the rightful inheritors of Qing territory. For a nuanced discussion of Taiwan's 'deferred postcoloniality' in light of this imperial history, see, Emma Jinhua Teng, *Taiwan's Imagined Geography: Chinese Colonial Travel Writing and Pictures, 1683–1895* (Cambridge, MA: Harvard University Asia Center, 2004).

Chiang not only had to overcome warlords and Japanese invasion of mainland China during World War II, but also faced the emergence of the rival Chinese Communist Party (CCP), led by Mao Zedong. While the ROC eventually asserted control over much of China, its administration was notoriously corrupt and unstable. The KMT and CCP cooperated at times throughout this chaotic period, but ultimately fought each other viciously in what became known as the Chinese Civil War, in which the US initially backed the KMT and the Soviet Union backed the CCP.

It was in such a wartime context that the ROC, led by the KMT, occupied Taiwan with US support after Japan surrendered at the close of World War II in 1945. Some Taiwanese elites were cautiously optimistic that the ROC's takeover of Taiwan, euphemistically referred to as 'retrocession,' would lead to some kind of conational self-rule after the generally efficient but unquestionably colonial Japanese police state. However, KMT rule alienated the Taiwanese by centralizing power under a brutal and corrupt authority, dismissing the Taiwanese as a colonized and 'enslaved' people and pillaging resources to support its failing war effort in China.²¹ Feelings of cultural difference were also accentuated by the fact that the first KMT arrivals included many desperate, battle-weary soldiers who had never seen streetcars, railroads or indoor plumbing, and whose lack of discipline and self-control shocked the relatively prosperous and peaceful Taiwanese. As put by historian Steven Phillips, 'the Taiwanese considered both the Chinese and Japanese regimes exploitative, but deemed the new government particularly dishonest, incompetent, unpredictable and inefficient.'²²

The 228 Incident and the White Terror

Calls for TJ in Taiwan usually focus on the 228 Incident and the White Terror because they signify the bloodiest instances of KMT repression. The 228 Incident is named for 28 February 1947, the day after policemen struck a female cigarette vendor and killed a bystander in a crowd that had formed to defend her. On the 28th, the KMT authority declared martial law as Taiwanese formed loosely organized brigades, occupied government buildings and articulated increasingly ambitious demands for self-rule. Some mainlanders were also beaten up by small groups of Taiwanese. Early indications that the local KMT leadership might compromise were dashed when military reinforcements arrived from China on 8 March and crushed the uprising with an overwhelming show of force. In the following weeks, KMT forces killed approximately 10,000 people and wounded perhaps another 30,000, many of them educated elites. In the following years the KMT consolidated its rule with 'a mixture of anti-Communist ideology and [a] police state' later called the White Terror, in which thousands more were killed or imprisoned until the lifting of martial law in 1987.²³ The violence of the 228 Incident and White Terror period was

21 Steven E. Phillips, *Between Assimilation and Independence: The Taiwanese Encounter Nationalist China, 1945-1950* (Stanford, CA: Stanford University Press, 2003), 57.

22 *Ibid.*, 65. This and the following subsection are based on analysis of this period from a variety of accounts written from Taiwanese, KMT and outside perspectives. For a first-hand account from an American witness, see Kerr, *supra* n 8. See also, Lai Tse-han, Ramon H. Myers and Wei Wou, *A Tragic Beginning: The Taiwan Uprising of February 28, 1947* (Stanford, CA: Stanford University Press, 1991).

23 Phillips, *supra* n 21 at 11. The exact number of deaths is unknown.

aimed both at alleged proponents of Taiwanese independence as well as at possible communist collaborators, and wiped out an entire generation of intellectuals. Both native-born Taiwanese and mainland Chinese exiles were subject to imprisonment, torture and execution.

In 1949, the KMT was finally forced out of mainland China by the CCP, which established the PRC. Led by Chiang, the ROC retreated to Taiwan along with 1.5 million refugees. To consolidate its rule as an emigre regime while maintaining the ultimate ambition of retaking China, the KMT institutionally favored mainland Chinese over native-born Taiwanese and reserved most military, educational and police positions for the former. Native-born Taiwanese, who had been under Japanese rule for 50 years, were forcibly 'reeducated' as Chinese subjects. China-centric national history curricula, forced Mandarin pedagogy and media, and the renaming of streets and public spaces after places in China further enforced a representational regime of Chineseness, which was implemented to legitimize the authority of the 'Republic of China.'

For nascent Taiwanese nationalists, this period definitively established the KMT's identity as an illegitimate 'alien regime.' Along with institutional discrimination against native-born Taiwanese, who officially constituted roughly 80 percent of the population, this set the stage for decades of ethnic tension and helped fuel an initially illegal but increasingly vigorous independence movement.

Taiwan's Early Efforts at TJ: 'Forget the Past'

Tsai's call for a TRC builds upon longstanding efforts to address the violence of the KMT regime. These have persisted despite the lack of political opportunities for a thorough effort to investigate, document and publicize information about the 228 Incident and the White Terror, let alone name perpetrators or provide reparations. The KMT's initial approach to redressing Japanese colonialism notwithstanding, Taiwan's earliest efforts towards what later became known as TJ occurred under the leadership of Lee Teng-hui, who became ROC president in 1988 and retained his seat during Taiwan's first open presidential elections in 1996. His rise to power followed major changes in Taiwan's domestic rule and international status. In the 1980s, grassroots democratic activism and changes in Taiwan's diplomatic position, including official US and UN recognition of the PRC instead of the ROC, forced the KMT, then led by Chiang Ching-kuo, to relax its grip on Taiwanese civil society.²⁴ Chiang officially ended the 38 years of martial law in 1987 and passed away soon after, which led to Lee's presidency.

Lee, as the first Taiwan-born president of the ROC, inherited his position from an exiled authoritarian regime that still claimed itself as the rightful ruler of all of China and that had not made any official amends for its past. Facing grassroots pressure to accelerate the pace of democratic reforms, one of Lee's early challenges was addressing the longstanding tensions between Taiwanese and mainlanders that were produced by the 228 Incident and the White Terror. While Lee's 1988 inaugural

24 The UN was willing to retain a seat for the ROC as representative of Taiwan, but the KMT leadership clung to its claims of sovereignty over all of China, and refused. Taiwan's subsequent efforts to join the UN have been stymied by the PRC.

address 'appealed to his fellow citizens to forget the past and to "look forward";'²⁵ simmering social tensions soon forced him to find a 'new way' to forge ahead by facing the past. This included commissioning a research report on the history of state violence, which was prepared by a team of academics and retired KMT-affiliated officials. Following this report and subsequent legislation, the government established and endowed several foundations to provide financial compensation to victims and their families. However, rather than squarely face the complicated legacy of the KMT, from which Lee's administration inherited its legitimacy, these official reports and institutional solutions did not directly name any perpetrators. Importantly, no one was ever charged for any crimes.

In a sign of growing acknowledgement of early KMT violence, both official and private 228 Incident memorials soon proliferated across Taiwan. However, further calls to create a TRC languished apart from their sporadic tactical deployment during election seasons. Scholar-activist Wu Naiteh has attributed the lack of public demand both to the passing of the 'repressive moment' as well as to nostalgia for the image of economic growth and 'law and order' projected over Taiwan during the boom years of later KMT rule.²⁶ Even Lee, who upon retirement from the presidency enigmatically transformed into one of Taiwan's most outspoken independence activists and anti-KMT critics, did not actively revisit the need for a formal TRC.

Not Quite TJ: 'Taiwanization' in the Shadow of China

The next period of TJ activity came after Lee's administration when Taiwanese activists sought to assert self-rule and promote Taiwanese cultural identity within the confines of the ROC. During this period, they faced opposition less from China and more from pro-Chinese-identified forces within Taiwan. Revisiting TJ in this fraught context proved politically impossible due to the KMT's entrenchment in Taiwan's legislature and other state institutions, and the systemic and personal weakness of the opposition party and leadership.

Lee was succeeded by the DPP's Chen Shui-bian, the first president from a non-KMT party in ROC history, who proved unable to pursue a comprehensive TJ agenda. Chen began his first term with high approval ratings but was stymied by a recalcitrant KMT legislative majority, infighting within his own party and a Chinese leadership that refused to speak with his administration. After both the KMT and China rebuffed his initial conciliatory overtures, Chen took an increasingly assertive pro-independence and pro-Taiwan line, including redressing the KMT's cultural and political legacy. Though he did not promote a TRC, Chen promoted 'Taiwanization,' which included strengthening non-Mandarin 'mother tongue' languages and revising school history curricula to place greater emphasis on Taiwan, which had been neglected under the KMT's earlier programs.²⁷ He championed a number of highly symbolic name changes, including renaming the plaza around the

25 Naiteh Wu, 'Transition without Justice, or Justice without History: Transitional Justice in Taiwan,' *Taiwan Journal of Democracy* 1(1) (2005): 87.

26 *Ibid.*, 90.

27 John Makeham and A-chin Hsiao, eds., *Cultural, Ethnic, and Political Nationalism in Contemporary Taiwan: Bentuhua* (New York: Palgrave Macmillan, 2005).

Chiang Kai-Shek Memorial Hall as Liberty Square in honor of Taiwan's democratization.

These initiatives reveal an inconsistent and scattershot effort rather than the implementation of a comprehensive TJ agenda. Chen's approach did not gain wide traction and fomented more activism around TJ interventions. Activists and scholars, including Wu, complained that their early calls for TJ had been hijacked as election stunts. In 2006, Wu and colleagues set up the Taiwan Association for Truth and Reconciliation as a civil society organization to conduct and publish independent reports on the past. While it provided a gathering place for significant research and lobbying, its status as a nongovernmental organization, with limited funding and no judicial privilege and therefore no power to subpoena or interview suspects, foreclosed its capacity to identify perpetrators or make reparations. Meanwhile, Chen's KMT critics accused him of staging a cynical distraction from Taiwan's economic performance. While still strong by international standards, the economy had slowed after the boom years that coincided with martial law. Chen ended his second term in a cloud of corruption accusations and was sentenced to prison after a controversial and protracted prosecution.

Chen's failures led to the KMT's recapture of the executive branch in 2008 with the landslide election of Ma Ying-jeou, who campaigned on a platform of economic growth based on closer cultural, economic and political ties with China. While Ma participated in annual commemorations of the 228 Incident, a full revisiting of historical wounds was incompatible with this agenda. In line with longstanding KMT ideology and his China-focused economic platform, Ma frequently promoted Taiwan as 'the standard-bearer at the leading edge of Chinese culture'²⁸ and attempted to reverse many of Chen's cultural policies. The KMT, which he continued to chair for most of his time in office, held a strong majority in the legislature throughout both his terms. He used this dual executive-legislative role to push a number of controversial trade deals with China, including the Economic Cooperation Framework Agreement and the Cross-Strait Services Trade Agreement. Relations with China were conducted under the rhetorical basis of the so-called 1992 Consensus, the reconstructed outcome of a series of meetings in 1992 during which KMT and Chinese negotiators supposedly agreed that there is 'One China' but did not define what that One China meant.²⁹ Activists argued that these arrangements were 'selling out' Taiwan through the ideological, personal and financial convergence of the KMT with the CCP, which is generally reviled in Taiwan, providing a further reminder of unsettled martial-law-era wounds, persistent KMT corruption and Taiwan's tenuous place in the international order.

The opportunities for TJ changed, however, after Taiwan's students took to the streets to protest these pro-China policies. The botched near-passage of the Services

28 See, e.g., his 2011 New Year presidential address in 'Building up Taiwan, Invigorating Chinese Heritage,' in Mainland Affairs Council, *Important Documents on the Government's Mainland Policy* (March 2011).

29 Gunter Schubert, 'Taiwan's Political Parties and National Identity: The Rise of an Overarching Consensus,' *Asian Survey* 44(4) (2004): 534–554. For more on the impact of Taiwan's identity politics on its cross-strait economic policy, see, Syaru Shirley Lin, *Taiwan's China Dilemma: Contested Identities and Multiple Interests in Taiwan's Cross-Strait Economic Policy* (Stanford, CA: Stanford University Press, 2016).

Trade Agreement, which activists argued would threaten Taiwan's sovereignty, sparked the 2014 Sunflower Movement, 'the greatest episode of collective contention in Taiwanese history,' in which activists occupied the legislature for 24 days of protest.³⁰ The Sunflower Movement gained the support of a majority of Taiwanese and climaxed with a street protest of between 350,000 and 500,000 people, a blow from which the Ma administration never recovered. Its aftermath also left the KMT, which lost many of its strongholds in the November 2014 local elections, in tatters.

Following the Sunflower Movement, efforts to revisit Taiwan's history gained momentum. The next major youth movement, in the summer of 2015, was a student-led campaign against the Ma administration's 'China-centric' revision to national history and social studies textbooks. Students first stormed the Ministry of Education and then settled into a sit-in in the courtyard outside the building. The protest reached a climax of sorts with the tragic suicide of a student leader. Ultimately, the Ministry partially capitulated and allowed individual schools to decide whether or not to adopt the new textbooks. While the protests did not galvanize as broad a swath of society as did the Sunflower Movement, they further demonstrated the continuing influence of collective memory on contemporary politics. Indeed, one of the Tsai cabinet's first moves was to rescind the curriculum changes.³¹

The Inauguration of TJ under Tsai

In January 2016, Tsai rose to power with the support of a new generation of youth and civic activists. Not only was she elected president by a wide margin, but her party, the DPP, gained a legislative majority for the first time in its history. Tsai therefore began her term with a much clearer mandate and more legislative influence than had past DPP president Chen. In order to assuage domestic and international concerns about geopolitical stability vis-à-vis China, she promised during the election to 'maintain the status quo,' and in her inauguration speech stated that

The new government will conduct cross-Strait affairs in accordance with the Republic of China Constitution, the Act Governing Relations between the People of Taiwan Area and the Mainland Area, and other relevant legislation.³²

She acknowledged the 'historical fact' that meetings had taken place between the ROC and the PRC in 1992, but refused to accept the 1992 Consensus promoted by Ma and demanded by China. Instead, she stated that, 'The two governing parties across the Strait must set aside the baggage of history, and engage in positive dialogue, for the benefit of the people on both sides.'³³

30 Ming-sho Ho, 'Occupy Congress in Taiwan: Political Opportunity, Threat, and the Sunflower Movement,' *Journal of East Asian Studies* 15(1) (2015): 91. For a fuller account of the movement, see, Ian Rowen, 'Inside Taiwan's Sunflower Movement: Twenty-Four Days in a Student-Occupied Parliament, and the Future of the Region,' *Journal of Asian Studies* 74(1) (2015): 5–21.

31 Sean Lin, 'Guideline Changes to Be Undone,' *Taipei Times*, 22 May 2016.

32 Tsai, *supra* n 1.

33 *Ibid.*

While Tsai and the DPP's rise is not attributable solely to questions of cultural shift, the wider electoral shift did correspond to the rise in Taiwanese national identity and independence sentiment, particularly among younger generations. Public opinion polls show that a strong and growing majority favors either outright independence or maintenance of the (de facto independent) status quo. Likewise, a strong and growing majority identifies as Taiwanese, not Chinese. Both of these changes have accelerated in recent years.³⁴ This shift plays to the favor of the DPP, which has traditionally been pro-independence and pro-Taiwan. While Tsai, like Ma, was inaugurated as the president of the ROC, unlike Ma, she emphasized 'Taiwan' throughout her inauguration speech, mentioned the 'Republic of China' only in the context of her title and constitutional responsibility, made little reference to Chinese culture and history and continually evoked ideals of democracy, freedom and social justice. For activists still committed to rectifying KMT repression if not replacing the ROC outright with a de jure independent Taiwan, Tsai's election provided a new political opportunity for TJ. However, given the regional nature of the country's past violence, addressing the past implicates more than the particular interests of Taiwan's politicians or parties.

DOMESTIC, REGIONAL AND INTERNATIONAL DIMENSIONS OF TAIWAN'S PROPOSED TRC

The above account demonstrates that questions of TJ remain not only unresolved within Taiwan, but also that they are connected with wider issues of national identity, sovereignty and international recognition. Given past examples of the ways that other political leaders have used TRCs to address domestic and regional violence, Tsai's invocation of the language and policy tools of TJ, particularly a TRC, is both a creative and potentially unwieldy approach to legitimate her new regime in domestic, regional and international arenas. Based on analysis of Tsai's inauguration speech and actions during her first 100 days in office, we interpret this call for a TRC as a multiscale strategy aimed at domestic political consolidation, regional redefinition and international recognition.³⁵

Before analyzing these three dimensions of her strategy, it is worthwhile quoting the English translation of the TJ segment of Tsai's inauguration speech in full:

The third area the new government must address is social fairness and justice. On this issue, the new government will continue to work with civil society to align its policies with the values of diversity, equality, openness, transparency, and human rights, so as to deepen and evolve Taiwan's democratic institutions. For the new democratic system to move forward, we must first find a way to face the past together. I will establish a Truth and Reconciliation Commission inside the Presidential Office, to address the historical past in the most sincere

34 National Chengchi University Election Study Center, 'Trends in Core Political Attitudes among Taiwanese,' <http://esc.nccu.edu.tw/course/news.php?class=203> (accessed 30 November 2016).

35 We recognize that these scales are not mutually exclusive, especially in the case of a contested state like Taiwan, but suggest that they provide a useful heuristic for a treatment of the diverse stakes and instrumentalities of Taiwan's proposed TRC.

and cautious manner. The goal of transitional justice is to pursue true social reconciliation, so that all Taiwanese can take to heart the mistakes of that era. We will begin by investigating and sorting through the facts. Within the next three years, we plan to complete Taiwan's own investigative report on transitional justice. Follow-up work on transitional justice will then be carried out in accordance with the truth unveiled by the report. We will discover the truth, heal wounds, and clarify responsibilities. From here on out, history will no longer divide Taiwan. Instead, it will propel Taiwan forward.³⁶

Tsai's approach to TJ reflects a common, though contested, perspective in academic literature that 'moving forward' requires 'facing the past.' Her use of the words 'sincere' and 'cautious' also implies an understanding of TJ as an alternative to retributive justice. Her approach is in line with the case studies explored earlier, pursuing 'social reconciliation' via the fostering of a collective memory that bridges the divides caused by histories of violence. Implementing this narrative, however, faces a number of challenges and contradictions. These include reconciling this redefinition of the nation with the state, still nominally the ROC, as well as with the claims to land and rights by indigenous (Austronesian) activists.

There is, however, a broader regional geography to consider in this proposal. Attending to the subtext of her speech, particularly as it pertains to Taiwan's geopolitical position and contradictions between nation and state, reveals the wider range of Tsai's vision. Read alongside her later interviews, her call for TJ suggests a strategy of using a TRC as a discursive technique and policy tool to signal a departure from the ROC's authoritarian past and to draw a distinction from China's authoritarian present, while demonstrating adherence to international norms of human rights, democracy and self-determination. As the legitimacy of both the ROC and the PRC relies on discursive claims to exclusively represent the Chinese nation, Tsai's commitment to 'deepen and evolve Taiwan's democratic institutions' in order to 'propel Taiwan forward' marks a clear break from the China-centric economic policies and Chinese identity politics of her immediate KMT predecessor. Indeed, it signals her responsibility to the people of Taiwan rather than to the members of an imagined Chinese nation. In the next sections, we delve deeper into these arguments to suggest that the calls for a TRC have domestic, regional and international aims that are relevant not only for Taiwan, but for other countries where governments have proposed TJ interventions.

Domestic Legitimation: Fostering National Identity through Collective Memory

Tsai's election promises to 'maintain the status quo [with China]' constrain her from declaring independence, rewriting the constitution or changing the name of the ROC. Thus, the TRC provides an additional mechanism to maintain the assent and participation of her more nationalistic Taiwanese supporters and sympathizers who may see a TRC as a way to directly condemn the KMT's colonial legacy and indirectly condemn China's contemporary irredentism. This, however, may be a hard

36 Tsai, *supra* n 1.

square to circle, as the TRC may also implicitly reinforce the authority of the ROC state, which some of her most radical supporters reject.

Collective memory of state violence has increasingly become a cross-generational issue, with the youngest segments of political society connecting their own activism with the legacy of state violence suffered by their (great) grandparents. Both youth and the elderly see efforts to revisit the violence of the KMT regime as a way to point out the enduring legacies of colonial violence, and to develop a new political identity. An example of the politically instrumental and cross-generational appropriation of collective memory is the annual Gongsheng (coexistence) Music Festival, launched by university students in 2013 to commemorate the 228 Incident. It features bands with pro-Taiwan independence and pro-democracy messages and hosts booths for affiliated civil society groups. Subsequent film festivals, book printing and crowdfunding efforts quickly grew it into Taiwan's largest 228-related event. The Taipei chapter of 'Friends of Tsai,' a civil group with no formal attachment to her campaign, was listed as a sponsor. Attendance peaked at 10,000 in 2015, with youth political participation still high following the Sunflower Movement. Tsai herself attended that year and shook hands with volunteers.

One of the student founders, Yeh Jiunn-tyng, stated that the festival's promotion of TJ was aimed at the unresolved contradictions of the ROC:

The reason to commemorate 228 is related to transitional justice. We want to draw people's attention about the incompleteness of transitional justice in Taiwan. Though the government apologizes for 228 Massacre every year, they're not willing to deal with it from the bottom of their hearts. There are several criteria to examine whether transitional justice is completed or not in a country, which includes the unveiling of the truth, the trial of the victimizer, and the compensation of the victim. None of these standards is fully met in Taiwan. Historians that want to study this incident are interfered by the government, and the victimizer is often not identified by the government, etc. As long as transitional justice is not complete, the country cannot move on, and the trauma of the related people cannot be healed. Most importantly, the same tyrant government still exists now, doing the same thing to the people in Taiwan but in a more sophisticated way. By commemorating 228, we recall the historical incident again, which is also a reminder of our present political reality.³⁷

Yeh's statement reveals how activists see the role of TJ in fostering trust between the Taiwanese government and its citizens. He points to what he sees as incomplete apologies that show a lack of political will to actually address the country's violent history. He also suggests that the government's interference with TJ contributes to the ongoing 'trauma' of those who experienced violence. The statement also reveals how appealing it is for those hoping to recast Taiwan's history in a different light. By calling the ROC government (then under Ma) a 'tyrant government,' Yeh reveals

37 Brian Hioe, 'Profile: Gongsheng Music Festival,' *New Bloom*, <https://newbloommag.net/2015/02/20/profile-gongsheng-music-festival/> (accessed 30 November 2016).

that many Taiwanese, including those who upended the political system in the Sunflower Movement, may not passively accept even the new DPP administration's narrative of the violence, as it is still constrained by the anachronisms of the ROC, which they consider illegitimate.

Tsai's base, however, is composed not only of social activists and Taiwanese nationalists, but also of businesspeople with a financial interest in political stability and trade liberalization. Additionally, the broad and open-ended announcement of a TJ agenda raises the possibility of future acrimony and infighting within Taiwan's polity, including claims of political persecution. KMT chairwoman Hung Hsiu-chu said that Tsai's program may 'twist' justice and aggravate divisions and hatred.³⁸ Political acrimony and divided constituencies are endemic in both transitional governments and well-established, diverse polities. Tsai, hoping to consolidate her political authority, does not want to alienate these different groups. She faces the difficult task of balancing calls for TJ with the otherwise technocratic aims of her administration, particularly economic growth and liberalized trade.

The TRC, therefore, can be understood as an additional and more subtle political resource Tsai can use to reshape Taiwan's cultural and political sphere in ways more conducive to her broader political agenda. By fostering a new collective memory, one that fully acknowledges the repression of the 228 Incident and the White Terror, Tsai hopes to show that her government, although still working within the framework introduced by the KMT, is legitimate even to those who would like to see it ultimately replaced with a *de jure* independent Taiwan. If influential – and there is no guarantee it will be – the TRC may mitigate these contradictions by providing an authoritative, state-directed reinterpretation of Taiwan's history, resolving the ongoing textbook controversy and tempering more violent struggles over Taiwan's national identity. It may also keep her base motivated for future electoral campaigns, and provide further resources for reform of persistent distortions to Taiwan's democratic institutions, such as the recovery of 'ill-gotten' KMT assets.³⁹

Unsettled indigenous rights claims present another challenge that Tsai seeks to address. The proposed TRC is likely to focus on formative moments of modern Taiwan's collective memory, not indigenous issues in particular. At the same time, Tsai's attention to the indigenous Taiwanese, exemplified by an unprecedented national apology on 1 August 2016, points to another part of her strategy in redefining Taiwanese national identity by redressing past violence. During that apology, she announced a separate Indigenous Historical Justice and Transitional Justice Commission and said that 'we must face up to this history, we must tell the truth' about indigenous peoples in order to 'set this country and all its people on the path

38 Stacy Hsu, 'Hung Rejects Transitional Justice Plan,' *Taipei Times*, 13 June 2016.

39 One of Tsai and the DPP-controlled legislature's first major wins was the July 2016 passage of a bill to recover the 'ill-gotten assets' acquired by the KMT after Taiwan was handed over in August 1945. By confiscating the former assets of the Japanese administration, the KMT earned the dubious distinction of being one of the world's richest political parties, with over US\$2 billion as late as 2001, which gave it an extraordinary advantage in election contests. See, 'On the Brink,' *Economist*, 6 December 2001. While most of the assets may never be recovered, implementation of the bill puts major limits on the KMT's access to its remaining funds, which the bill requires to be returned to the state. See, Stratfor, 'Leveling the Playing Field in Taiwan,' 29 September 2016, <https://www.stratfor.com/analysis/leveling-playing-field-taiwan> (accessed 30 November 2016).

towards reconciliation.⁴⁰ While this Commission appears to be primarily focused on domestic issues, it has a subtler if no less important regional component. Acknowledging that Taiwanese indigenous people have been subjected to multiple colonial projects and have endured ‘four centuries of pain and mistreatment’ disrupts hegemonic narratives of the Chinese nation state which have erased indigenous histories on both sides of the Taiwan Strait.⁴¹ These commissions, as part of a broader strategy at consolidating Taiwanese national identity, are therefore not only an attempt to stabilize a new regime, but also signal to China and other nations that Taiwan is a modern, democratic and multicultural country willing to address its violent past and redress its victims.

Regional Redefinition: Distinction from China

Tsai’s interest in a TRC, much like leaders in South Korea and East Timor, reflects a desire not only to distinguish her government from previous leadership but also to define the country’s relationship with its powerful neighbors. Taiwan has been represented by state and media actors as part of the territory of the ROC or the PRC, or of a broader Chinese cultural sphere.⁴² While the ROC and the PRC are still nominal rivals with claims over Taiwan’s sovereignty, the KMT’s cultural claim over Taiwan as a part of China is congruent with that of the CCP. The direct communication and collaboration between the KMT and the CCP, which began even before Ma’s inauguration in 2008, helped accelerate the conditions for the popular backlash against the KMT exemplified by the Sunflower Movement, which further consolidated Taiwanese nationalism. However, while Taiwan’s and China’s economies have grown deeply interpenetrated in recent decades, this TRC will likely further cultural and political distinctions, presenting the specter of a regional redefinition. Whereas East Timor’s second TRC appeared to establish closer diplomatic relations with its former rival, Taiwan’s TRC will likely have a very different impact on its relations with China.

Tsai’s major geopolitical consideration with a TRC is China’s military threat and Taiwan’s contested status as a *de facto* independent state without universal diplomatic recognition or full representation in international bodies. Tsai and her party, however, have not accepted the ‘One China’ principle of the KMT and the PRC, and its omission in her speech caused consternation in Chinese state media. By revisiting the KMT’s past policies of not only physical but epistemic violence conducted in the name of ‘China,’ the TRC will not only reevaluate the KMT’s legacy, but may indirectly produce further distinction from the CCP’s cultural and territorial claims.

Taiwan’s efforts to redefine its collective memory, like its democratic electoral system and free press, perform an act of further distinction with China. Tsai’s inauguration roughly coincided with the 16 May 50th anniversary of the Cultural Revolution, a campaign instigated by Mao. Although the campaign led to a decade of violence,

40 Tsai Ing-wen, ‘Full Text of President Tsai Ing-wen’s Apology to Indigenous People,’ *Focus Taiwan News Channel*, <http://focustaiwan.tw/news/aip/201608010026.aspx> (accessed 30 November 2016).

41 Jeremiah Jenne, ‘Taiwan’s Apology, Beijing’s Problem,’ *Jottings from the Granite Studio*, <http://granitestudio.org/2016/08/06/presidents-apology/> (accessed 30 November 2016).

42 William A. Callahan, *Contingent States: Greater China and Transnational Relations* (Minneapolis, MN: University of Minnesota Press, 2004).

China's approach has been to avoid directly accounting for culpability or making any reparations, which is not entirely dissimilar to the ROC of days past. While this history is acknowledged by state media, unlike the 1989 Tian'anmen Incident, the state carefully manages its discussion. As explained by historian Jeffrey Wasserstrom, selective memory is part of China's legitimation strategy:

What the authorities try to do with the Cultural Revolution is not to blot out all memory of the event, which is often referred to in official sources as 'ten years of chaos,' but rather to discourage close scrutiny of what happened and who was to blame . . . A full accounting of the Cultural Revolution would be one in which blame for many incidents would need to be apportioned to individuals who were victims and then later perpetrators, or perpetrators and then later victims, as well as to some people who now hold positions of power or are related to those who do. As a result, moving toward a full reckoning with the past is verboten; partial memory rather than amnesia remains the order of the day.⁴³

This reflection on China's interest, or lack thereof, in facing its violent history implies that a TRC or any effort aimed at addressing past violence is simply unimaginable under the present regime in China because it might implicate the currently ruling beneficiaries of the party-state that was responsible for the violence. Taiwan's TRC will no doubt further highlight these differences between its political culture and China's. This distinction, which posits Taiwan as a democratic nation capable of admitting the state's role in past violence, appeals to Taiwanese nationals, realigns Taiwan regionally and legitimates Taiwan internationally. Much like South Korea, a country with an authoritarian neighbor that continues to threaten its existence, Taiwan must maintain the support of powerful democratic leaders who can defend the country if necessary.

Short of a Chinese military takeover or the subversion of Taiwan's democratic institutions, Taiwan appears set to pursue further autonomy and a regional redefinition not as an appendage of 'China' but as a national peer in the wider regions of east and southeast Asia. Taiwan has been hailed as the 'first Chinese democracy' and perhaps ultimately a model for China itself to follow.⁴⁴ However, its turn against top-down, KMT-driven Chinese identity and China's own irredentist belligerence, coupled with intensified domestic repression within China under Xi Jinping, makes Taiwan's democracy decreasingly likely to inspire democratic reform in China. While Tsai promised during the election not to change the name of the ROC, should the TRC add momentum to the Taiwanese national project, it may provoke not only a redefinition of collective memory but also a redefinition of the nation state in a future administration.

43 Jeffrey Wasserstrom, 'Remembering and Forgetting Repression in China,' *Dissent*, <https://www.dissentmagazine.org/blog/tiananmen-square-cultural-revolution-anniversary-historical-memory-propaganda-china> (accessed 30 November 2016).

44 Linda Chao and Ramon H. Myers, 'The First Chinese Democracy: Political Development of the Republic of China on Taiwan, 1986–1994,' *Asian Survey* 34(3) (1994): 213–230.

International Legitimation via ‘Democratic Normalization’ and Geopolitical Realignment

Finally, Tsai is interested in legitimating Taiwan as a democratic nation worthy of protection and international recognition, as well as increased trade. Apart from its direct links with other nation states, Taiwan has extremely limited room for full participation in international bodies due to China’s political and economic influence. Taiwan is blocked from UN membership by a certain China veto and is forced to participate as ‘Chinese Taipei’ in everything from the Olympics to the World Health Assembly.

These political restrictions make Taiwan’s *performance* as a politically stable, democratic member of the international community one of its only tactical options. The international legal affirmation of a TRC matches this performative approach. Complementing this, other sections of Tsai’s inauguration speech proposed a geopolitical and geoeconomic package meant to redefine Taiwan’s regional affiliation and reorient its place in the international world order. Signaling her shift away from Ma’s China-centric economic policy, Tsai called for a ‘New Southbound Policy’ towards south and southeast Asia, ‘in order to elevate the scope and diversity of our external economy, and to bid farewell to our past overreliance on a single market’⁴⁵ – the single market of course being China. Tsai’s speech and the early actions of her administration, including overtures for security cooperation, also signaled a major foreign policy departure from her predecessor’s focus on China and towards not only south and southeast Asia, but Japan and the US. Even before her inauguration, Tsai’s transition team began drafting a free trade agreement with Japan. Shortly after taking office, Tsai’s administration also extended an olive branch to Japan by removing Taiwanese naval forces from a disputed reef. The language of ‘democracy,’ ‘freedom’ and ‘human rights’ repeated throughout her speech is also consistent with this geopolitical shift away from China and towards Japan and the US. Given this shift, and the fact that most of her voting base’s political pressure comes from activists more concerned about the KMT and China, it is unlikely that the proposed TRC will follow the lead of South Korea and look in-depth at Japan’s colonial legacy in addition to its focus on the early KMT regime.

These overtures towards Japan and the US suggest that Tsai sees a TRC as one more tool to legitimate Taiwan among powerful, democratic nation states. Given that her call for a TRC was couched within broader calls for rule of law reform, she appears cognizant that a TRC could help in her effort to represent Taiwan as a modern democracy with an active, competent judiciary.⁴⁶ Tsai’s speech closed by positioning Taiwan as a model member of the international community, and emphasized her intention for Taiwan to ‘proactively participate in international economic and trade cooperation and rule-making, steadfastly defend the global economic order,

45 Tsai, *supra* n 1.

46 Tsai seems well aware that emerging states can benefit from drawing on international law while pursuing political goals. Tsai studied law abroad and earned degrees at Cornell University and the London School of Economics. With experience on both sides of the Atlantic and having served as Taiwan’s lead negotiator during its bid for World Trade Organization accession, she gained significant experience in the instrumental use of international law.

and integrate into important regional trade and commercial architecture.⁴⁷ The TRC is another opportunity to demonstrate Taiwan's respect for and adherence to international norms, ideally leading to full participation in international trade agreements and organizations, and more normalized international relations.

CONCLUSION: GEOPOLITICAL TJ IN TAIWAN AND BEYOND

Taiwan's call for a TRC reflects the new executive's broader goals to address the unredressed violence of the ROC's past and the contemporary structural and cultural legacy of the KMT party-state, as well as to distinguish itself from China by signaling that it is a democratic nation. As a tool to legitimate the new regime, and one with international visibility, Taiwan's incipient TRC has the potential not only to reframe narratives of Taiwan's democratic transition, but also to affect its geopolitical position and participation in international institutions. In this sense, the creation and effect of a TRC is not only contingent on regional context, but may in fact be part of a larger program to redefine the region itself.

Taiwan's TRC will, perhaps uniquely, be run by the administration of a contested state that lacks universal recognition and is still coming to terms with its history of multiple colonialisms. However, by recognizing the TRC's utility as a political instrument, it is also necessary to pay attention to the potential pitfalls of Tsai's TJ strategy. Taiwan's TRC harbors the potential of consolidating a collective national memory, but along the way it is likely to be criticized by the KMT and its aligned media outlets and may add fuel to the fire of Taiwan's fractured polity. In fact, a full accounting for the past could stymie Tsai's stated goal of 'true social reconciliation,' especially with KMT leaders and supporters claiming that TJ interventions are being manipulated by a partisan administration that seeks to undermine the KMT's influence.

More broadly, the Taiwan case points to the need for ongoing scholarly attention to TJ in Asia. A variety of studies focus on the East Timor truth commissions and on other countries, such as Nepal, where international actors have provided consultation and assistance on domestic TRCs.⁴⁸ However, these are not the only places where TJ interventions are being created in the region. Focusing on domestically driven TJ initiatives in Asia can shed light on why various political actors choose to promote tribunals, truth commissions and other interventions. In addition, given the history of colonization between Asia's more powerful countries (Japan, China and Indonesia) and their less powerful neighbors, studying TJ in Asia can cast further light on how regional dynamics shape the design, implementation and outcomes of different interventions. While this article provides a focused analysis of the South Korea, East Timor and Taiwan cases, there is a need for further attention to how

47 Tsai, *supra* n 1.

48 See, Simon Robins, 'Transitional Justice as an Elite Discourse: Human Rights Practice Where the Global Meets the Local in Post-Conflict Nepal,' *Critical Asian Studies* 44(1) (2012): 3–30; Tafadzwa Pasipanodya, 'A Deeper Justice: Economic and Social Justice as Transitional Justice in Nepal,' *International Journal of Transitional Justice* 2(3) (2008): 378–397; Lia Kent, 'Local Memory Practices in East Timor: Disrupting Transitional Justice Narratives,' *International Journal of Transitional Justice* 5(3) (2011): 434–455.

and why truth commissions, in particular, are increasingly used to address legacies of colonialism in the region.

Finally, what this case suggests is that a TRC may offer far more than a ‘trans-regime legitimization’ tool that bridges past and future governments, or transforms authoritarian regimes into emerging democracies. Rather, the Taiwan TRC’s emergence in the shadow of China and the US hints that a TRC may serve as a geopolitical strategy with potentially radiating effects. Taiwan’s political transitions involve the most powerful countries in the world, as its sensitive trilateral relationship with the US and China makes it a global geopolitical flashpoint. Taiwan’s proposed TRC may implicate not only the previous rulers of the ROC but also the US, which provided political cover and looked the other way during the 228 Movement and the White Terror. China could also be implicated in this TRC, as new research demonstrates that a small number of the White Terror victims may have been Chinese communist agents – as the KMT claimed – and should perhaps be compensated by the CCP instead of the KMT.⁴⁹

More dramatically, should the TRC further discursively reframe Taiwan as ‘Taiwan’ and not the ROC, a new constitution and de jure independence may appear closer on the horizon, raising the specter of a confrontation between China and the US, which has previously pledged to protect Taiwan in the event of Chinese invasion. But managed in a ‘cautious manner,’ as Tsai has proposed, it may not only contribute to domestic nation building but incrementally redefine Taiwan’s place in the regional and international order. In so doing, it may prove a landmark case for a new form of geopolitical TJ that other countries, particularly those seeking to assert or redefine their territorial boundaries, may emulate.

49 Chang-Ling Huang, ‘Taiwan’s White Terror and the Search for Transitional Justice: The Costs of a “Silent Revolution”,’ *Diplomat*, http://magazine.thediplomat.com/#/issues/-KRlmKFTShuLPMEv46ah/preview/-KRlmL9n00VIA_ux8jpo (accessed 30 November 2016).