EBERHARD KARLS
UNIVERSITÄT
TÜBINGEN

Philosophische Fakultät
Asien-Orient-Institut
Abteilung für Sinologie
Lehrstuhl Greater China Studies

Strengthening or Challenging the Settler State? An Analysis of the Current Indigenous Transitional Justice Approach under the Democratic Progressive Party in Taiwan

Sabrina Hoffmann

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Betreuer: Prof. Dr. Gunter Schubert

Zweitbetreuer: Prof. Dr. Andreas Hasenclever

Abteilung für Sinologie und Koreanistik
Lehrstuhl Greater China Studies
Wilhelmstraße 133
72074 Tübingen
Germany

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FACULTY OF ECONOMICS AND SOCIAL SCIENCES
INSTITUTE OF POLITICAL SCIENCE

MASTER THESIS

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An Analysis of the Current Indigenous Transitional Justice Approach under the Democratic Progressive Party in Taiwan

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Eingereicht von: Sabrina Hoffmann (Matrikelnummer: [redacted])
Anschrift: [redacted]
E-Mail: [redacted]
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Erstgutachter: Prof. Dr. Gunter Schubert
Zweitgutachter: Prof. Dr. Andreas Hasenclever

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1. Introduction

"To all indigenous peoples of Taiwan: […] For the four centuries of pain and mistreatment you have endured, I apologize to you on behalf of the government"[1]

In August 2016 and for the first time in Taiwanese history, the current president of the Democratic Progressive Party (DPP) Tsai Ing-wen officially apologized for the wrongdoings that different systems on the island have committed to the Indigenous peoples (Jacobs 2017: 32f.; Tsai 2016b). Furthermore, a 'Presidential Office Indigenous Historical Justice and Transitional Justice Committee' was set up in order to deal with related matters. Inhabiting the island since more than six thousand years, the Indigenous peoples now represent 2.3 percent of Taiwan's total population, whereas Han Chinese constitute the dominant group due to different waves of immigration that started four hundred years ago (Chi 2016: 268; Jacobs 2017: 31; Kuan 2016: 203; Simon 2005: 54). With the rise of Indigenous movements and the end of military rule, various attempts in order to deal with remaining injustices have been taken by the Taiwanese government (Jacobs 2017: 32; Kuan 2016: 215). This has led to a consequent improvement of the situation of the Aborigines since the 1990s (Jacobs 2017: 32). However, "[e]ven post-transition, Indigenous peoples may continue to suffer from normalised structural violence" (Hobbs 2016: 523). Similarly, in Taiwan they face lower economic statuses in comparison to the dominant population as well as challenges to their cultures, languages and traditional territories (Chi 2016: 269; Huang, S./Liu, S. 2016: 303f.; Jacobs 2017: 31).

Transitional Justice measures, like apologies or truth commissions, have also been applied in other countries in order to address harms perpetrated against Indigenous peoples. Those cases which foremost did not undergo a regime transition, such as Canada or Australia, consequently received academic attention and various scholars started to critically examine these approaches, that were originally created for post-authoritarian/-conflict situations. As a result, the normative aspiration of treating harms against Indigenous peoples as matters of Transitional Justice alike has developed and its transformative potentials in settler states have been pointed out (Hobbs 2016; Jung 2016; McMillan, M./Rigney 2018). On the contrary, researchers have also emphasized its constraints, claiming that "official responses to indigenous injustice […] have in fact

[1] Apology of president Tsai (2016b) in August 2016

been used in settler states to strengthen rather than challenge their [the governments'] sovereignty and legitimacy" (Balint/Evans/McMillan, N. 2014: 209). Unlike other redress processes in settler contexts that "have been positioned by governments – implicitly, rather than explicitly – in line with transitional justice rhetoric" (ibid.: 195), the current Taiwanese government connects its initiatives directly to Transitional Justice (Tsai 2015, 2016a). Against the background that, on the one hand, such measures may strengthen rather than challenge the settler state, while, on the other hand, transformative opportunities are nevertheless ascribed to Transitional Justice in settler contexts, the leading research question will be the following:

Is the approach under the DPP-government directed towards transforming past as well as on-going injustices and harms against the Indigenous peoples? Or do/did the measures primarily serve to legitimize the status quo between the dominant population and the Indigenous peoples?

I argue that a Transitional Justice approach which is centered on the state and prioritizes the goals of nation or state building, acts within the same structures of the settler state that "continually […] fortify its legitimacy by marginalizing indigenous claims" (Balint/Evans/McMillan, N. 2014: 203). As a consequence, a "victim-centred" (Robins 2011), or here understood as an Indigenous-centered approach of Transitional Justice based on Indigenous demands, communities and their needs is conceived to be crucial in order to transform past wrongdoings and remaining injustices. These collective injustices are based on and visible in the "loss of land and sovereignty, the loss or devaluation of language and culture, loss of access to resources, and limited access to the socio-economic and political rights of citizenship" (Jung 2016: 359). Hence, justice for Indigenous peoples implicates changes in the relation towards the state through corresponding structural reform or restitution while especially the restoration of land and self-determination rights constitute crucial aspects in challenging the settler state's status quo (Balint/Evans/McMillan, N. 2014: 203; Corntassel/Holder 2008: 466f.).

The Taiwanese Indigenous Transitional Justice attempts have been placed in a broader agenda that aims to deal with past abuses during the Martial Law period under the Nationalist Party (or Kuomintang; KMT). For the first time since democratization, the DPP was able to win both the presidential elections as well as the majority within the Legislative Yuan which has been prior to that dominated by the KMT. Before, initiatives dealing with abuses during the authoritarian system had been limited

(Caldwell 2018: 451f.). Against this background, analyzing Taiwan's Indigenous Transitional Justice approach appears to be interesting for two additional reasons: First, several scholars (Ku, K. 2005; Kuan 2016; Rudolph 2015) argue that the engagements with Indigenous rights and cultures have served among others as ways to demonstrate a new national identity and, contrary to China, a democratic Taiwan to the international community. This entails the possibility to make the government "susceptible to instrumentalization" (Rudolph 2015: 368) and could therefore support the Indigenous peoples to give weight to their demands. However, it could also lead to an instrumentalization of the Indigenous population, serving state-based interests of constructing a national identity – especially, since similar intentions have been linked to the current DPP's approach of dealing with the Martial Law period (Rowen, I./Rowen, J. 2017). Second, the broader Transitional Justice process has furthermore been questioned if it is actually aimed at dealing with the past or rather at retaliating against the KMT (Caldwell 2018). This may also have relevance for the Indigenous Transitional Justice process as Aboriginal voters traditionally tend to support the KMT (Simon 2010: 727f.; Templeman 2018: 471, see Chapter 2.1.2). In line with the literature on Transitional Justice in settler societies and based on these implications, the guiding argument within this work is formulated as follows:

The Taiwanese government is using its Indigenous Transitional Justice approach primarily as a state-centered tool to "strengthen [...] their sovereignty and legitimacy" (Balint/Evans/McMillan, N. 2014: 209; [emphasis added]) rather than to pursue a Transitional Justice approach that is centered on the Indigenous communities.

While it is not the aim of this work to examine the hidden interests of the Taiwanese government linked to Transitional Justice, I intent to find patterns that either implicate if the Indigenous communities are central within the design or that imply the process' centrism on the state. If the current DPP's Indigenous Transitional Justice approach remains within the roots of a conventionally state-centered process aimed to establish the liberal state, it will be concluded that this approach is legitimating or strengthening the settler structures and conducted within the relations of a settler society that in fact need to be overcome. If the Indigenous peoples are found to be central, the formulated argument will be rejected and the approach will be assessed as designed to potentially transform unjust relations and past harms.

The work is structured as follows: *Chapter 1* concludes with an overview on the corresponding literature and the work's contribution, stating that Taiwan, in comparison to other analyzed countries, mostly western, so-called long-established democracies, represents a fruitful case to further investigate Transitional Justice in settler societies. *Chapter 2* provides a historical background on the harms as well as the achievements important to the Indigenous society and represents the general debates on Transitional Justice in Taiwan. I then derive the theoretical conceptualizations in *Chapter 3* and reveal the understandings of Indigenous- as well as state-centered designed Transitional Justice approaches and their state challenging or strengthening potentials. The research design in *Chapter 4* builds upon these conceptualizations. Here, methodological implications for the case study, key questions, the main demands of the Indigenous population, that serve as an important landmark for the evaluation, and the existing limitations of this work are formulated. *Chapter 5* then constitutes the case study of DPP's current Indigenous Transitional Justice approach and argues that its focus on social communication bears possibilities to challenge settler narratives, while its lack of stronger powers in implementation or participation rather speaks for legitimating the status quo. These findings are then discussed and summarized in *Chapter 6*.

1.1 State of the Art

As the application of Transitional Justice has increased during the last decades, it consequently gained the attention of various scholars whereby a research field with special journals, research centers and academic programs has emerged (Nagy 2008: 275). Practically, Transitional Justice has been mainly applied in contexts of post-authoritarian and post-conflict societies and, similarly, the relatively young research field has primarily concentrated on these so-called paradigmatic cases. However, as the following parts demonstrate, more academic attention has recently been drawn on Transitional Justice initiatives in settler contexts.

Narrower vs. Broader Concepts of Transitional Justice

In contemporary research on settler injustices most studies have focused on so-called long-established democracies where no transition from a conflict or authoritarian situation to peace or democracy took place, and therefore "periods of rupture" (Teitel 2003: 86f.) are absent. One of the main debates revolves around the question if practices

dealing with harms perpetrated against Indigenous peoples can be a part of and analyzed with Transitional Justice approaches. Supporters of narrower concepts argue among others that an expanding of Transitional Justice to settler harms would lead to the loss of its explanatory power or to the reduction of its practical capability due to the various expectations connected to it (Hobbs 2016: 526). Waldorf (2012), for example, examines the engagement of Transitional Justice with (historically constructed) socio-economic wrongs and inequalities and comes to the conclusion that this drift "will simply freight it with yet more unrealizable expectations" (ibid.: 179). Moreover, Nagy (2008) apprehends an over broadening of democratization or transition concepts. She furthermore questions if dealing with long negated injustices in liberal democracies is actually "transitional" (ibid.: 281).

In contrast, advocates of broader notions oppose this view. In this context, many scholars concentrate on cases such as Canada (Jung 2009, 2016), Australia (Balint/Evans/McMillan, N. 2014; Henry 2015; Hobbs 2016) or New Zealand (Winter 2013). As settler migration is conceived to be rather "a structure [than] an event" (Wolfe 1999: 163) where the settler never leaves (Balint/Evans/McMillan, N. 2014: 205), in their argumentation, past harms in settler societies represent roots for today's marginalization. In order to deal with those harms, Hobbs (2016: 512f., 517, 525, 530) argues that Transitional Justice, as a mediation between the past, the present and the future and as an instrument for a more just social contract, is not limited to past harms in post-authoritarian or post-conflict societies. According to him, Transitional Justice is also relevant and utile "for established democracies founded on legacies of historic injustice" (ibid.: 512). Furthermore, Winter (2013) opposes the claim that established democracies have already reached the idealized endpoint of democracy and states that past official wrongdoings have the potential to damage the state's political authority. He argues that "[they] can and do undergo transitional processes in the form of radical change to their legitimating regimes" (ibid.: 225) as Transitional Justice measures share a legitimating function (ibid.: 233, 244). Moreover, in regard to Transitional Justice as a theoretical concept, Henry (2015: 211, 217) outlines that the state's role, committed harms, their effects and possible actions can be critically examined. In line with these scholars, this work similarly holds the view that Transitional Justice can take place in settler societies and serves as a useful analytical concept within these contexts.

Transitional Justice in Settler Societies

The implications of Transitional Justice processes in settler societies have furthermore been critically examined. On the one side, scholars highlight their advantages in settler societies. As already mentioned, Hobbs (2016) underlines their usefulness in non-paradigmatic cases as the concept is oriented on "transforming past unjust relations to just relations" (ibid.: 515). In line with this, McMillan, M. and Rigney (2018) "argue that the prolonged and structured violence perpetrated by the state against Indigenous peoples requires a transitional justice framework to facilitate healing" (ibid.: 759). Or, as Jung (2016) writes, "Transitional Justice measures offer opportunities for reinscribing the responsibility of states [...], empowering Indigenous communities, responding to Indigenous demands to be heard, and rewriting history" (ibid.: 357).

On the other side, the same researchers, together with other scholars, have pointed out various potential constraints of Transitional Justice applied in settler societies. These constraints can be aligned into an overarching debate on Transitional Justice as, how Nagy (2008) describes it, a "global project" (ibid.: 276) that is connected to "a body of customary international law and normative standards" (ibid.). Points of criticism concern among others the application of Transitional Justice as a blue print used in different contexts and its blindness towards gender and social injustices (ibid.: 275f.). In regard to settler contexts, Balint, Evans and McMillan, N. (2014: 200f.) propound that on-going injustices are marginalized by conventional Transitional Justice paradigms among others due to their state-strengthening focus, their linear temporal character and, in general, due to their historical evolution in post-authoritarian contexts. Consequently, Transitional Justice processes in settler societies have been blamed as tools that may serve the states' or governments' interests rather than the Indigenous population. According to Orford (2006), who examines the final report of the 'Australian Human Rights and Equal Opportunity Commission', one of the Australian government's goals was to develop a new unified nation through the creation of a shared history and a mutual future. She criticizes that the state structures as such remained unchanged while the truth seeking has been 'sacrificed' to produce the modern state (ibid.: 881f.). Similarly, though by taking Canada as a case, Jung (2009, 2016) argues that the government may understand Transitional Justice as a means of drawing a line between past harms and a shared future. In this way, further claims by Indigenous communities

can be restrained and remaining structural injustices based on past harms will be left untreated. She furthermore points out that "governments may try to use transitional justice to assert their sovereign and legal authority" (Jung 2009: 1) in contrast to the sovereignty claims often stated by Indigenous populations (ibid.). In regard to these limitations of Transitional Justice, especially in settler societies, scholars, as for example Jung (2009), have argued that such processes then need to exceed its "standard functions of legitimation and national reconciliation" (ibid.: 4).

Transitional Justice in Taiwan

With regard to research on Transitional Justice in Taiwan, the literature mostly focuses on its initiatives to come to terms with crimes committed during the Martial Law era (1949-1987) under the KMT. These initiatives have been evaluated as rather weak, shying away from creating responsibility of perpetrators (Hwang 2016; Wu, N. 2005, see more detailed in Chapter 2.2). The DPP now intends to apply a broader Transitional Justice agenda that scholars nevertheless link to other potential objectives. Rowen, I. and Rowen, J. (2017: 107f.) rate it among others as a strategy to redefine the Taiwanese national identity and as a process aimed to globally demonstrate a Taiwan that is multicultural, democratic as well as modern, and different to China. In addition, recent attempts dealing with legacies of this era have also casted doubt if "the DPP transitional justice is actually about confronting the past and healing old wounds or is simply a case of revenge against a long dominating political party" (Caldwell 2018: 482f.). As indicated, periods before the rule of Martial Law (1949-1987) and harms perpetrated against Indigenous communities have been largely excluded from the societal debates and research on Taiwan's Transitional Justice attempts (ibid.: 453). Wu, N. (2005), for example, solely writes about two ethnic groups on the island, although Aboriginal communities were too negatively affected under the authoritarian period. Similarly, Hwang (2016) as well as Wang, V. and Ku, S. (2005) exclusively concentrate on Mainlander and Native Taiwanese, giving the impression that Transitional Justice questions do not involve the Indigenous peoples. While Indigenous justice issues have recently found more attention within the literature on Transitional Justice in Taiwan (Caldwell 2018; Rowen, I./Rowen, J. 2017), in-depth Anglophone research is not known.

Apart from this, there is a rich literature on various aspects of the role of Indigenous communities within Taiwanese policies and the political system mainly written by anthropologists. Interestingly, patterns analogical to those of the broader Transitional Justice agenda are similarly pointed out. Ku, K. (2005) for example concludes that "[t]he changing perceptions and status of the indigenous populations within the state are often used to legitimize the new national identity" (ibid.: 116). Similarly, Rudolph (2015) argues that the Taiwanese government "rediscovered" (ibid.: 346) Indigenous cultures and rituals in the 1990s "[d]ue to their role as indexes demonstrating Taiwan's historical, cultural, and political uniqueness" (ibid.) and because "democratic multiculturalism could […] impress China and the international community" (ibid.: 345). Moreover, in regard to Taiwan's geopolitical situation, Kuan (2016) writes that "highlighting the Austronesian component of Taiwan is a way to disprove China's claim" (ibid.: 207) on the island, referring to the Austronesian language family to which the Indigenous mother-tongues in Taiwan belong. Hence, the institutionalization of and debates surrounding the Indigenous peoples' rights similarly need to be understood as connected to the broader geopolitical situation of Taiwan and the independence movement (ibid.). In addition to that, Hirano, Veracini and Roy (2018) indicate that this utilization of Indigenous history is in part based on a "settler-colonial unconscious" (ibid.: 213) in Taiwan, wherefore they argue that the island's history needs to be explored from anew (ibid.: 215)

1.2 Contribution and Relevance

With regard to the state of the art, the contribution and relevance of this work is constituted in a couple of ways: (1) The discussion surrounding Transitional Justice in settler contexts has primarily focused on western cases and so-called long-established democracies. Countries from other regions and comparably younger democracies with a settler history have been marginalized. This work tries to complement this gap by taking Taiwan as a non-western case, which had a transition from an authoritarian to a democratic system, into account. As Taiwan thereby deviates from other investigated contexts, it represents an interesting and fruitful case to further explore and to gain new insights for the use of Transitional Justice approaches in settler societies. Here, this work intends to neglect the question if long-established democracies actually perform

Transitional Justice and focuses theoretically on the dealing with settler harms as structures that are existent in younger as well as in long-established democracies. This seems to be relevant in order to focus more deeply on the characteristics and mechanisms of Transitional Justice in settler societies in general. (2) As McMillan, M. and Rigney (2018) state: "transitional justice is not *always* or *necessarily* able to bring improved justice outcomes for Indigenous peoples. These potential failures must be overcome" (ibid.: 763; [emphasis in original]). By examining the Taiwanese way of designing the Transitional Justice approach as well as the integration, consideration or marginalization of the Indigenous communities within its practice, "potential failures" (ibid.) can be identified and examined. These findings may enrich the scholarly debate on the constraints and challenges of Transitional Justice as well as question or support its application in settler societies. Furthermore, the results can then be considered in processes of Transitional Justice within other settler contexts. (3) Additionally, even though a broad literature on Aborigines in Taiwan is existent, the current DPP's Transitional Justice approach toward the Indigenous communities has not been analyzed comprehensively within Anglophone literature. By using Transitional Justice as an analytical frame, this work reflects on and names settler wrongdoings of the past and the present, their "nature and extent" (Henry 2015: 217). This seems to be important, as according to McMillan, M. and Rigney (2018), the denial "to acknowledge the stories of harm, or to minimize the scale of the harm, is fundamentally re-traumatizing" (ibid.: 772). This work thereby tries to prevent "to further reinforce the harm" (ibid.). According to Henry (2015: 211), Transitional Justice as a theoretical framework may furthermore put the focus on the state and its wrongdoings, wherefore current policies can be normatively evaluated and critically examined. This underlines especially the socio-political relevance, since "[t]here is much work to be done before Taiwan's indigenous peoples can live on their own island with both a good standard of living and without facing daily racism" (Jacobs 2017: 35).

2. Historical Background

In order to get a better understanding of the case, this part will provide an overview on the island's history and the debates on Transitional Justice in Taiwan. With regard to the harms done to the Indigenous population, this part aims to demonstrate that even though

important Indigenous rights have been institutionalized, collective injustices in form of on-going cultural assimilation and, most importantly, the lack of self-determination, resource management rights as well as the restoration of land prevail.

2.1 Indigenous Peoples in Taiwan

Before outlining the historical events important for this work, the different ethnic identities will be shortly described: The Hoklo or Native Taiwanese (approx. 72 percent), as the largest group, historically migrated from Fujian (China) during the Dutch rule in the 17th century (Simon 2010: 727). The two second largest groups (each approx. 13 percent) are represented by Hakka, whose ancestors migrated from Guangdong (China) during the 18th and 19th centuries, and by Mainlanders, who came with the KMT after the Second World War (ibid.). Like most anthropologists, this work will refer to the groups with Chinese ancestry as 'Han'. Living for more than 6000 years on the island, the Indigenous peoples in Taiwan represent the smallest ethnic group (2.3 percent) and belong to Austronesian speaking peoples (Chi 2016: 268; Simon 2010: 727). They consist of various communities with different traditions and languages while there are sixteen officially recognized groups who obtain special regulations due to their Indigenous status (Charlton/Gao/Takahashi 2016: 66, see Appendix). However, most of the Pingpus (approx. 400,000 individuals) are excluded from these laws as they are not officially registered as Aborigines[2] (Pan 2018: 272). These groups are traditionally living in the western plain parts of Taiwan and faced earlier contact with settlers which has affected their ways of living (Charlton/Gao/Takahashi 2016: 66). Lastly, due to the grown numbers of marriages with immigrants, mainly from Southeast Asia, claims were raised to consider them as another ethnic identity in Taiwan (Hsieh, J. 2006: 51f.).

2.1.1 The Impact of Colonial Systems and Han Chinese Migration

Han Chinese migrants have already settled to Taiwan before the first Portuguese ships landed the island in 1590 (Schubert 2013: 506). However, the arrival of the Dutch (1624-1661) and Spanish (1626-1624) on the western plain area of Taiwan marked the

[2] Among the Pingpu groups the Kavalan were officially recognized in 2002 and the Tainan administration has recognized the Siraya as an Indigenous group within their county. The governmental recognition as an Indigenous people is demanded among others by the Siraya, Babuza, Hoanya, Kaxabu, Ketagalan, Makatao, Pazeh, Papora, Taokas and Tavorlong groups (Chen, W.2017c; Pan 2019b).

start of the incremental loss of Indigenous sovereignty and the beginning of different colonial systems that installed various policies to both segregate or assimilate the Indigenous peoples living on the island (Hirano/Veracini/Roy 2018: 198; Hsieh, J. 2006: 2; Kuan 2016: 203). Since the Dutch supported the immigration of Chinese workers, the number of Han settlers grew steadily during their colonial rule. This resulted in the situation that "Aborigines in the southwestern plains were in an increasingly vulnerable position [...] [and] found it difficult to maintain their traditional economies, institutions, and headhunting practices" (Hirano/Veracini/Roy 2018: 198). Similarly, with the short rule of the Zheng family (1661-1683), who have conquered the Dutch, immigration augmented and Han settlers gradually became the dominant population in the after following Qing dynasty (1683-1895) (Hirano/Veracini/Roy 2018: 198f.; Kuan 2016: 203). However, the Qing dynasty never managed to conquer the 'raw barbarians'' territory, how they called the Aborigines living in the mountainous and eastern parts in distinction to the assimilated perceived communities in the western plain areas, who they called 'cooked barbarians' (Kuan 2016: 203; Simon 2007: 224).

With their victory in the Sino-Japanese War (1894-1895) and the Treaty of Shimonoseki (1895), Japan became the new ruling power and aimed to turn Taiwan into a "model colony" (Brown 2004: 53) through investing in and controlling their infrastructure, economy and population (Brown 2004: 53f.; Hirano/Veracini/Roy 2018: 205). While "Chinese settlers, and the legacies of settler colonialism, did not depart with the Qing" (Hirano/Veracini/Roy 2018: 205), the Han and Indigenous population alike were subordinated under the new system. During this period, Japan forcefully (and with military strength) brought the mountainous Indigenous territories under their control and restricted their traditional lands to special reservation zones in order to more effectively manage and exploit these areas (Brown 2004: 54; Kuan 2016: 203; Rudolph 2006: 66; Simon 2005: 57). Moreover, the Japanese authorities adopted a household registration system on the whole island which included the categorization and registration of Indigenous tribes to fixed residential places (Templeman 2018: 465).

The Japanese colonial rule ended with the Second World War and the landing of Chinese nationalist troops on Taiwan (Brown 2004: 58). However, "[f]or indigenous peoples and native Taiwanese, Taiwan's transfer to Chiang Kai-shek's Republic of China was just a change from one violent regime to another" (Simon 2005: 58). The

new rule under the KMT and another wave of settlers with approximately one and two million immigrants from the mainland led to societal tensions leading to the '228 Incident' in 1947 (Brown 2004: 60; Caldwell 2018: 454; Hirano/Veracini/Roy 2017: 212). The harsh inspection of a woman on the 27th of February promoted resentments of surrounding people whereby a citizen was killed by one of the inspectors (Caldwell 2018: 454). The next day island-wide uprisings arose and many of the protesters were punished or killed by Mainland officials during the following months (ibid.: 455). Whereas the Indigenous population was also affected, this incident especially symbolizes the social division between Mainlander and Native Taiwanese (Caldwell 2018: 454f.; Wang, V./Ku, S. 2005: 9f.). With the establishment of Martial Law and the years of the so-called 'White Terror period' (1949-1987) not only Native Taiwanese and the Indigenous population were affected by the state's human rights violations, but also Mainlanders who were "suspected of spying or being communist sympathizers" (Caldwell 2018: 455f.).

Similar to the Japanese rule before, the KMT pursued an assimilation strategy wherefore Aborigines had to adopt Chinese names and to learn Mandarin (Jacobs 2017: 32; Simon 2005: 58). Indigenous communities were furthermore forced to move for more effective control, national parks or industrial zones, including further restrictions on traditional hunting as well as agricultural activities (Simon 2005: 58, 2007: 225). While the KMT had initially nationalized all traditional territories, the government began to register Aboriginal Reserve Lands in 1968 (Simon 2005: 58). However, as Simon (2005) states: "[A]boriginal families received usufruct rights *rather than legal ownership* […] granted only under the condition that crops were planted for ten years" (ibid.: 58; [emphasis in original]). In cases were those territories were cultivated for a shorter period, they were turned into state property and often (illegally) given access to Han corporations (Rudolph 2006: 67; Simon 2005: 58, 2007: 225).

The KMT furthermore categorized the 'raw barbarians' into 'Mountain compatriots of the mountain areas' and 'of the flatland' avoiding a sharp distinction of the Indigenous peoples from the Chinese society by using the term 'compatriot' (Huang, S./Liu, S. 2016: 298; Rudolph 2006: 68). In addition, Pingpu peoples lost their tribal status under KMT rule (Hsieh, J. 2006: 4). The 'Mountain compatriots of the mountain areas' received special privileges such as economic support as well as quotas in education or

in political representation (Huang, S./Liu, S. 2016: 298; Rudolph 2006: 66). On a local level, special constituencies and quota seats for Aborigines in certain county councils were guaranteed – however, without allowing separate sovereignty or privileges (Jacobs 2017: 32; Simon 2010: 731; Templeman 2018: 469). On a national level, two quota mandates were first reserved for Indigenous representatives in 1972 and in 1980 within the Legislative Yuan (Templeman 2018: 469). Since then the number of Indigenous seats augmented to six of 113 contested mandates in total in the Legislative Yuan (ibid.) and thereby represent a continuance between the authoritarian and democratic era. Besides granting more representation, Awi Mona (2007) nevertheless argues that "[n]either the unified [under Japanese rule] nor the multicultural national model [under the KMT] had a place for aboriginal rights to land, self-government, and cultural preservation" (ibid.: 99). Hence, the Indigenous peoples' experience of losing their sovereignty, their land, their languages and cultures continued while many Aborigines moved out into the urban suburbs, frequently starting to work in the industrial low-wage sector (Chi 2016: 268; Chiu 1989). This course had severe implications as Chiu (1989) illustrates: "In 40 years, the aborigines' way of life and culture has been destroyed in the name of 'equalisation and plainisation'. Their lifestyle has been equalized to that of the urban pauper. […] They have lost their homes, and worse, their communities" (ibid.: 146f.). However, confronted with this development, just as under the colonizing powers before, Indigenous communities started to show resistance and began to claim for their rights in the 1980s (Chi 2016: 270).

2.1.2 Indigenous Movements and Democratization

On the 15th of July 1987 Martial Law has been lifted whereby gradually more rights and freedoms were guaranteed to the public (Hsieh, J. 2006: 1). Thereafter, the first national democratic elections were held for the National Assembly[3] in 1991 and the Legislative Yuan in 1992 (Schubert 2013: 514f.). Moreover, the first free and democratic presidential elections took place in 1996 and KMT-candidate Lee Teng-hui, who had been already in charge of the highest position since 1988, succeeded over the opposition party DPP (Brown: 2004: 63; Hsieh, J. 2006: 1). Prior to that, various social movements

[3] The National Assembly constituted a part of the Taiwanese legislative power next to the Legislative Yuan. Its responsibilities however decreased during the process of democratization until it dissolved in 2005 after a constitutional reform (Schubert 2013: 516f.)

had emerged in the late 1970s/early 1980s and put the KMT government under pressure. Similarly, Aboriginal intellectuals gathered together in order to claim for their needs and rights (Kuan 2016: 206; Rudolph 2006: 69). Yet, these activists were among others criticized for being "elites without people" (Hsieh, S. 1994: 414) and detached from their local communities. In 1983, often considered as the beginning of this movement, the magazine Gao Shan Qing, that called to protest for "survival rights", was firstly published (Chi 2016: 269f.). The next year, the Alliance of Taiwan Aborigines (ATA) was set up with support from the Presbyterian church as the first pan-Indigenous movement (Chi 2016: 270; Rudolph 2006: 69; Schubert 2013: 525). Especially, the Declaration of Rights of Indigenous Taiwanese in 1987, where right claims to cultural, political, language, territorial and self-governmental issues were stated, represents an important record of the ATA (Chi 2016: 270). Initially, the Indigenous movements' demands covered mainly social and economic dimensions such as labor conditions, racial discrimination or the work of young Indigenous girls in the sex industry (Kuan 2016: 206; Rudolph 2015: 346; Schubert 2013: 526). The scope of demands has nevertheless changed over time and turned to address cultural and identity related issues as well as institutional answers (Kuan 2016: 206; Schubert 2013: 526). Similarly in the 1990s, the Pingpu groups started to re-establish their Indigenous identity and formed a movement in order to claim for their recognition as Aborigines (Hsieh, J. 2006: 3f.).

Many of these demands have been realized within the last decades and the process of democratization. A first great achievement has been realized in 1994, when the name 'Mountain compatriots' has been officially changed into 'Indigenous people' ('Yuanzhumin'), thereby recognizing the Aborigines as the first inhabitants on the island (Rudolph 2006: 77). Furthermore, the Council of Indigenous Peoples (CIP) was established in 1996, a cabinet-level institution which is concerned with the supervision of matters affecting Indigenous peoples' interest, and additional quota seats for Indigenous representatives were guaranteed within the Legislative Yuan (Chi 2016: 272; Huang, S./Liu, S. 2016: 301; Rudolph 2006: 77; Simon 2016: 64f.). Moreover in 1997, a constitutional amendment formulated the state's will and responsibility to protect, support and develop the Indigenous cultures as well as languages and changed the term 'Indigenous People' into its plural, thereby acknowledging the plurality of Indigenous groups in Taiwan (Chi 2016: 269; Kuan 2016: 204, 207). These and further

achievements as well as state efforts to revitalize Indigenous rituals reflect the changing perception of Aborigines during the 1990s and the growing interest in the Indigenous groups as representatives of a culturally, politically and historically distinct Taiwan (Rudolph 2015: 346f.). It is furthermore interesting to note that even though the DPP and Indigenous activists have collaborated in the 1980s and the DPP appears to be more supportive for their claims, Indigenous voters traditionally endorse the KMT (Simon 2010: 727f.). Reasons can among others be found in the tense relationship between Aborigines and Hoklo, who predominantly constitute the DPP. This tense relationship is based on historical experiences of the Aborigines who often got tricked or taken away their land by Hoklo (ibid.: 732) and conceive them "to work mostly on their own behalves" (Rudolph 2006: 71). In contrast, the KMT-Mainlanders promoted their party's historical function of protecting the Aboriginal communities against "Hoklo ethnic chauvinism" (Templeman 2018: 471).

With his New Partnership Policy the first elected DPP-president Chen Shui-bian (2000-2008) began to address the still unsolved issues of Indigenous territories and political autonomy (Huang, S./Liu, S. 2016: 301; Kuan 2016: 209). As part of this policy, traditional land claims were planned to be reconstructed by local communities and researchers. However, land conflicts between Indigenous communities became visible due to their former migrations based on agricultural practices which had been one of the reasons why the mapping was terminated (Huang, S./Liu, S. 2016: 301). As such, one of the critiques has been directed towards the modern mapping tool's inadequacy to capture the aboriginal concept of land (Kuan 2016: 210). As a further important step of institutionalizing multiculturalism in Taiwan, the Indigenous Peoples' Basic Law (Basic Law 2005) has been passed by the Legislative Yuan during Chen's presidency (Kuan 2016: 209). This law "clearly spelled out the ultimate goal of establishing parallel 'nationhood' institutions in legislation, judiciary, education, and so on among indigenous communities" (Huang, S./Liu, S. 2016: 302). As a framework law, it can, however, only be effective with the implementation of additional laws and regulations whereby its legislation has not been fully accomplished yet (van Bekhoven 2017: 13; Kuan 2016: 212).

In 2008, the KMT won the presidential elections with Ma Ying-jeo (2008-2016) during whose two presidencies several human rights treaties have been incorporated into

Taiwanese domestic law although Taiwan as a non-UN member did not represent an official party of these treaties (van Bekhoven 2017: 14). Even though several Indigenous rights issues were thereby addressed, predominantly, "the legislation process for indigenous self-government has been stalled" (Chi 2016: 276).

All in all, with the emergence of Indigenous movements in Taiwan, the notion of the Indigenous population by the government and the Taiwanese society has changed. Whereas Aborigines have been long perceived as subordinated or as "'backward' mountain peoples" (Simon 2007: 239) during the decades of "mono-ethnic nationalism" (Kuan 2016: 215), this has gradually changed with the institutionalization of multiculturalism. As a consequence, the Indigenous peoples are now understood as entities with "inherent rights" (Simon 2007: 239) and as an important part of the Taiwanese society with whom the state needs to negotiate (ibid.). Despite these achievements, economic disadvantages or stereo-types prevail and, most importantly, claims to self-determination, to land and using rights as well as the gradual loss of cultures remain (Chi 2016: 277; Huang, S./Liu, S. 2016; Jacobs 2017: 35, see Chapter 4.3). The reasons for the continuation of these injustices mainly lie in the lack of a complete legislation as well as fragmental and stereotyped understandings of Indigenous traditions within local or governmental agencies (Charlton/Gao/Kuan 2017: 125f.; Kuan 2016: 214). With Tsai (2015; 2016a), these (and other) remaining Indigenous claims in Taiwan are now connected to and embedded within the already existent debates on Transitional Justice. It thus seems to be important to illustrate previous Transitional Justice attempts and debates dealing with the Martial Law period.

2.2 Transitional Justice Debates in Taiwan

The often cited scholar Wu Naiteh (2005) refers to the Taiwanese Transitional Justice approach as "a case with ten thousand victims but not a single perpetrator" (ibid.: 78) and still over one decade later, Hwang (2016) states that "Taiwan belongs to the countries with the weakest transitional justice model" (ibid.: 177). Causes for these statements are lying among others in the Transitional Justice measures that foremost concentrated on victim reparations without locating responsibility to the perpetrators (Caldwell 2018: 462-467; Wang, V./Ku, S. 2005: 10f.). Even with Chen Shui-bian (DPP, 2000-2008) as the first DPP-president in Taiwan's history, no essential progress

in the prosecution or naming of perpetrators could be initiated (Caldwell 2018: 471). The same applies to the presidency under Ma Ying-jeo (KMT, 2008-2016) where "there has not been any policy initiative or legal attempt to advance transitional justice in Taiwan" (Hwang 2016: 172).

Scholars locate the reasons for this Transitional Justice approach primarily in institutional obstacles and the lack of public demand: According to Wu, N. (2005), Taiwan's type of a negotiated transition allowed the KMT to stay in power and prevented a deeper going engagement with crimes perpetrated during the Martial Law period (ibid.: 84ff.). He furthermore identifies another obstacle in "the remote moment of repression combined with the fresh memory of satisfactory economic performance [that] have largely decreased the demand for transitional justice" (ibid.: 93). Hwang (2016) underlines these findings and similarly argues that Taiwan's transition had so far been incomplete as the "legislative power has always been in the hands of the old authoritarian party, the KMT" (ibid.: 178). Moreover, the Transitional Justice issues are linked to the divided national identity in Mainland Taiwanese, who traditionally identify with the KMT and pro-Chinese values, and Native Taiwanese, who predominantly support pro-independence values and the DPP. According to him, this division led to different evaluations of the Martial Law period and further limited public requests for Transitional Justice (ibid.: 178f.).

While public demand has initially remained low, voices that call for a deeper engagement with Taiwan's past became stronger and the topic turned to be more and more politicized within the recent years. Rowen, I. and Rowen, J. (2017) state that the "[c]ollective 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" (ibid.: 106). This became especially apparent after the Sunflower Movement in 2014 against the planned Cross Strait Service Trade Agreement with China which weakened the public support for the KMT and paved new ways for Transitional Justice (ibid.: 102f.). In the aftermath of these mass protests directed against the KMT's pro-China policies, events connected to Transitional Justice were initiated and also attended by the younger generation (ibid.: 103). The visibility of the public dissatisfaction with the Transitional Justice process peaked in the election campaigns in 2016 where it expanded as a major

subject of the debates (Caldwell 2018: 472). Especially, illicitly gained assets of the KMT as well as the still unallocated responsibility for crimes during the authoritarian rule have been discussed (ibid.). If elected as president, Tsai pledged that she will attend to these matters and, additionally, deal with injustices of the Indigenous communities (Caldwell 2018: 472f.; Jacobs 2017: 32). With the DPP gaining the majority of votes in the presidential and the legislative elections in 2016, the Taiwanese transition can now be evaluated as complete in the sense of Hwang (2016). As a consequence, "[f]or transitional justice in Taiwan, the election meant that for the first time *any* aspect of Taiwan's authoritarian past had a fair chance of legislative consideration" (Caldwell 2018: 474; [emphasis in original]). Furthermore, as Caldwell (2018: 453) indicates, periods before 1945 were frequently not considered in Taiwan's Transitional Justice attempts and scholarly work, thereby excluding many of the Indigenous injustices from the sphere of interest. With Tsai, wrongdoings against the Aboriginal communities are now increasingly embedded in the already existent Transitional Justice discourse whose questions are similarly "connected with wider issues of national identity, sovereignty and international recognition" (Rowen, I./Rowen, J. 2017: 104). The current Indigenous Transitional Justice policies under the DPP government therefore need to be evaluated and understood in the light of the broader attempts and debates on Transitional Justice.

3. Theoretical Framework: Transitional Justice

As Tsai (2015, 2016a) directly links Transitional Justice to the Indigenous justice issues and demands in Taiwan, this work will similarly use a Transitional Justice framework to evaluate the current policies. I will therefore characterize Transitional Justice as a concept and shed light on its particularities as a first step in the following part.

3.1 Defining Transitional Justice

According to a United Nations report of the Secretary-General Transitional Justice can be referred to as

> "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof" (Annan 2004: 4).

Yet, in current literature no generally accepted definition of Transitional Justice is existent and there is little accordance on how to define it (Henry 2015). The understandings range from narrower definitions that determine Transitional Justice "as the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes" (Teitel 2003: 69) over definitions that also include "countries emerging from periods of conflict" (ICTJ 2018a) as well as non-judicial means (ibid.). And, they extend to broader theoretical concepts that address not only paradigmatic, post-authoritarian or post-conflict cases, but also cases of so called long-established democracies (Winter 2013) and furthermore include both structural and direct violence as objects of Transitional Justice (Balint/Evans/McMillans 2014).

Similarly, 'transition', as one of the "key differentiating feature between transitional and 'ordinary' justice" (Henry 2015: 208) is defined differently within the Transitional Justice literature. Frequently and traditionally, transitions are understood as "rare periods of rupture" (Teitel 2003: 86f.) and as transformations from undemocratic systems to democracies or from conflicts/wars to peace (McMillan, M./Rigney 2018: 761; Ní Aoláin/Campbell 2005: 212). However, transition has also been referred to as something that can happen "gradual" (Hobbs 2016: 521) as well as "incremental and progressive [...] over a long period" (Ní Aoláin/Campbell 2005: 213) and therefore stands in opposition to the perception of transition as "one 'big bang' event" (ibid.). The answers to the question "what are we transitioning from, and what are we transitioning to?" (Hobbs: 2016: 522) enlarged alike whereby "it has become increasingly common to define the transition in terms of a comprehensive transformation in social and political life" (Winter 2013: 227). In regard to settler contexts, Balint, Evans and McMillan, N. (2014), for example, suggest

> "that we need to think about transition differently – as not solely transition to a democratic regime […] but also as transition from unjust relations to just relations and the transformation of the social, political, economic and legal frameworks such as those that underlie settler colonialism" (ibid.: 214).

As already mentioned, such interpretations have faced critique as the broadening of transition may load up the concept and practice with too many expectations and reduce its explanatory functions (Hobbs 2016: 526; Waldorf 2012: 179, see Chapter 1.1). Yet, as Balint, Evans and McMillan, N. (2014) argue: "It is the structural injustice of settler

colonialism, and colonialism generally, that continues as the core injustice into the present" (ibid.: 214). Hence, the connection of injustices rooted in settler harms to a Transitional Justice framework may reinforce the perception of injustices faced by Indigenous peoples as "justice, not welfare, issues" (ibid.: 211). This may furthermore strengthen the general awareness of these harms within the non-Indigenous population (ibid.). As a consequence, this work supports a broader and gradual notion of transition.

Another main characteristic of Transitional Justice concerns "its direct emphasis on mediating between the past, present and future" (Hobbs 2016: 533). It is inherent to Transitional Justice processes to investigate wrongdoings of the past in the present in order to prevent further harms in the future or to pursue other forward oriented goals. All in all, this characteristic displays a distinguishing feature of Transitional Justice from other concepts as for example constitutional changes, ordinary justice or welfare measures that appear to be more directed towards the future rather than towards the acknowledgement of past harms (ibid.: 513).

3.2 Designing Transitional Justice: Indigenous- and State-centered Approaches

In regard to its origins in post-authoritarian and post-conflict societies, the roots of Transitional Justice lie in approaches pursuing larger goals such as democratization as well as establishing and legitimizing the liberal state (Gready/Robins 2014: 339f.; Robins 2017: 42f.). The field and practice of Transitional Justice have been largely critiqued due to this state-centrism, for leaving out structural injustices, being imposed by elites or applied as a standard global practice detached from the local context (Gready/Robins 2014; Nagy 2008; Robins 2011, 2017). Different scholars (McEvoy/McConnachie 2013; Robins 2017) have furthermore emphasized that many Transitional Justice processes, while "demonstrating their 'victim-centredness'" (McEvoy/McConnachie 2013: 490), are nevertheless designed and implemented as a state-centered practice with a rather instrumental focus on participation.

Similarly, in regard to the use of Transitional Justice measures in settler societies, scholars have pointed out the constraints of such a conventionally state-centered, institutionalized field and practice. While McMillan, M. and Rigney (2018) support to apply a Transitional Justice framework in the Australian case, they nevertheless admit that "[w]ith its emphasis on the state, transitional justice can operate to silence or deny

the justice claims of minorities" (ibid.: 763). Jung (2009) also identifies different tensions of Transitional Justice measures in Canada and thus states: "It is not enough for them to perform the standard functions of legitimation and national reconciliation for which they have been designed in post-authoritarian and post-conflict situations" (ibid.: 4). Thus, I will argue that a Transitional Justice approach that remains within its roots and that is centered on the state "is not enough" (ibid.) as it may reaffirm unjust structures between the dominant and the Indigenous population. According to Henry (2015), Transitional Justice can "productively assist to destabilize or challenge the power of the state, even through measures that are designed and implemented by the state" (ibid.: 212). However, in order to question the settler state this work holds the normative view that it appears to be crucial to put the centre on the Indigenous population. Against this background, I will differentiate between *Indigenous-* and *state-centered* designs of Transitional Justice.

An *Indigenous-centered* Transitional Justice approach will be defined according to Robins' (2011) "victim-centred" (ibid.) understanding which he describes as:

> "a response to the explicit needs of victims, as defined by victims themselves. This does not imply that all goals of the process are made subservient to the agenda of victims, but that 'an awareness of the centrality of victims/survivors and their needs to the whole process' drives it. External constraints must be accommodated by any transitional justice process, and there will be legitimate goals at a national level that may or may not coincide with those of victims. It challenges external and prescriptive approaches, counters elite control of the transitional justice agenda and optimizes the addressing of victims' needs. For these needs to be considered, a victim-centred approach requires either broad consultation with victims or for victims and their representatives to be engaged at all levels of planning and implementation" (ibid.: 77).

In order to prevent to categorize the various Aboriginal communities in a one-sided manner as 'victims', this work will instead use the term 'Indigenous-centered' which appears to be more neutral and better able to catch the multiple roles of Indigenous individuals and communities. Furthermore, the terms 'claim' and 'demand' are used interchangeable and understood as articulated needs. While an Indigenous-centered Transitional Justice approach is sensible towards the different needs of the Aboriginal communities, this does not implicate that it is exactly pursued as the various groups demand – something that would be very ambitious and nearly impossible. Furthermore, the interests of the government and the Indigenous peoples are not conceived to be contradictive within this work. However, an Indigenous-centered Transitional Justice approach is characterized by its awareness and centrality of Indigenous demands which

is most notably displayed through the engagement and consultation of Indigenous communities (ibid.).

A characterizing aspect in the relation between former settlers and Aborigines lies in

> "the structural nature of settler colonial harms whereby the violence of the original dispossession of indigenous peoples […] helps to constitute settler sovereignty, producing a polity that seeks continually to fortify its legitimacy by marginalizing indigenous claims" (Balint/Evans/McMillan, N. 2014: 203).

Thus, a Transitional Justice approach centered on Indigenous needs, demands and their participation is conceived to challenge this relation and the marginalization of the Aboriginal population. By placing the centre on demands such as to sovereignty, structural justice and historical harms, core aspects of the settler-Indigenous relations can be questioned instead of being legitimized. An Indigenous-centered approach is thus perceived as important in order to create the already mentioned "opportunities for reinscribing the responsibility of states towards their Indigenous populations, empowering Indigenous communities, responding to Indigenous demands to be heard, and rewriting history" (Jung 2016: 357).

In contrast, a *state-centered* Transitional Justice approach will be understood as a process that performs within its roots, characterized by an institutionalized process that prioritizes the goals of state or nation building. The participation of the Indigenous population is furthermore conceived as mostly instrumental, "delivering little to victims but often being necessary for a process to occur" (Robins 2017: 55). Such approaches may be presented as being centered on the survivors which serves in part to legitimize the Transitional Justice process itself and to attribute it as "technical and non-political" (ibid.: 57). However, "sometimes such claims are significantly overplayed in the pursuit of larger political or social goals" (McEvoy/McConnachie 2013: 490). Moreover, "by placing them [the Indigenous communities] in a position to determine which indigenous claims to injustice will and will not be recognized and by confining, interpreting and responding to such claims through the framework of the colonial legal system" (Balint/Evans/McMillan, N.: 209f.), state and settler structures can be reaffirmed instead of being opened up or questioned. Thus, a state-centered Transitional Justice process bears the risk to legitimize unjust structures and harms by continuing to marginalize Indigenous demands and participation.

Before outlining this works understanding of an Indigenous- and state-centered approach more detailed, general practical and theoretical limits of Transitional Justice need to be shortly outlined. Firstly, as a framework implemented by the state, it remains above all a top-down process. As such, the state which initiated the process, similarly displays the entity that decides over how much it will open up, how much decisive power it will give to Indigenous communities and how the process will take place. Secondly, different expectations and demands may collide within a Transitional Justice process, especially in regard to different value systems between the state, mainstream society and Indigenous peoples. As such the process itself may be uneven, controversial and lead to conflicts (Winter 2013: 239, 241). Lastly, even though Transitional Justice within this work is defined broader, it nevertheless remains limited in regard to structural justice. Through its characteristic of mediating between the past, present and future it may put emphasis on dealing with existing structural injustices as results of settler migration. However, Transitional Justice is nevertheless a temporal framework with restrained measures whereas substantive, structural justice is a complex, nearly impossible, goal to achieve. Hence, while "[s]uch an approach [to Transitional Justice] may enable the redress of harm as well as establish the grounds for a just future" (Balint/Evans/McMillan, N. 2014: 216), its limitations in achieving structural justice need to be considered.

3.2.1 Objects and Scope of Transitional Justice

Generally speaking, "limited approaches to engaging with the past are problematic in that they can obscure other colonial harms and modes of redress and the structural, continuing nature of these harms" (Balint/Evans/McMillan, N. 2014: 210). It is, however, the case that the range of injustices committed to Indigenous peoples and their corresponding claims are broad, whereas "transitional justice measures are limited" (Jung 2016: 359). Hence, dealing with all the multiple claims based on the particular harms and injustices experienced by different Indigenous communities and individuals constitutes an ambitious project. However, McMillan, M. and Rigney (2018) underline the importance of recognizing this plurality of claims as the "denial [in Australia] has only served to further reinforce the harm" (ibid.: 772). Consequently, an Indigenous-centered approach is displayed by including a broad range of demands to injustices in terms of scope and historical periods in opposition to state-centered attempts that might

try to set limitations. It would thereby give space to acknowledge and investigate matters without a direct victim-violator-relation and open up the ways for investigating the state's role and accountability.

3.2.2 Transitional Justice Goals and Types of Instruments

According to the UN-definition, Transitional Justice aims to "to ensure accountability, serve justice and achieve reconciliation" (Annan 2004: 4). However, it should be noted that truth, recognition of and compensation for survivors, institutional reform, sustainable peace, rule of law or the deepening of democracy are also cited as goals of Transitional Justice in the literature (Buckley-Zistel 2008: 6; Freeman 2000: 114; Skaar 2012: 55). These aims are pursued through different instruments. Here, the International Centre for Transitional Justice (ICTJ 2018a) identifies four types, namely 'criminal prosecutions', 'reform' (including vetting and dismissals), 'truth-seeking' and 'reparations', on which most Transitional Justice processes have focused and which include all of the measures already named within the UN's definition. The individual instruments "should not be seen as alternatives for one another" (ibid.) while the implications made within this part will be important for the analysis of the whole implementation process.

Accountability, Justice, Criminal Prosecution, and the Primacy of Individualism

"From a conventional transitional justice perspective, criminal law reigns supreme in the miscellany of justice option" (Henry 2015: 212). As prosecutions especially aim to create (individual) accountability, responsibility and retributive justice (Henry 2015: 212; Balint/Evans/McMillan, N. 2014: 198f.), legal accountability and corresponding narrower interpretations of justice have similarly been prioritized in concepts and initiatives of Transitional Justice (Balint/Evans/McMillan, N. 2014: 199f.; Hobbs 2016: 519ff.; Henry 2015: 214). This work will understand accountability not solely individually but in general as a process that locates responsibility for harms and wrongdoings. This process is advanced by unfolding the abuses' history and structure, by officially acknowledging them and enacting corresponding consequences (Ambos

2009: 52; Kamali 2001: 91)[4]. Thus, Transitional Justice can locate accountability to individuals and "with its focus on the transition of state power, [it] […] has the potential to draw critical attention to the role and the harms of the state" (Henry 2015: 211).

In regard to the goal of justice, Weiffen (2018: 86f.) argues that its differing facets and imperatives may not always be linked to a judicial process but may include a broad array of questions of how to aspire justice in general. As already indicated, retributive justice targets to punish atrocities mostly through criminal prosecutions whereby the new regime aims to demonstrate that no one can stand above the rule of law (ibid.: 87). In contrast, restorative justice supposes that the harm perpetrated was directed against a person rather than against the law (ibid.: 89f.).It is therefore focused on the restoration of the social relations between perpetrators, survivors and the society, often pursued through truth and reconciliation commissions (ibid.). This approach is understood as centered on the survivors since it tries to give them the possibility to define what kind of justice needs to be restored (ibid.). Another often cited facet of justice, which is similarly more concentrated on the ones who were affected by atrocities, is reparative justice and is concerned with the compensation for experienced injustices (ibid.: 90). While individualism is foremost connected to retributive justice and criminal prosecution, it can nevertheless find expression within mechanisms of the alternative justice goals (Henry 2015: 214; Hobbs 2016: 520).

In regard to settler contexts, a Transitional Justice approach which is driven by individualism can have the "effect of focusing on individual restoration, rather than on broader forms of indigenous healing" (Henry 2015: 214) which omits many of the Indigenous demands embedded in long distant atrocities and structural injustices. Corntassel and Holder (2008) for example argue that the exclusion of self-determination within the use of "state-centered strategies ultimately failed to hold states accountable for past wrongs" (ibid.: 466). As a consequence, Balint, Evans and McMillan, N. (2014) highlight the goal of structural justice and the aim to overcome injustices which are not solely caused through individual action. They argue that "a structural justice model would involve a shift from individualistic and state-focused modes of redress […] and

[4] Like Ambos (2009: 52 in footnote 198), accountability will not be understood to be limited to a criminal process. However it should be noted that the components of this understanding are broadly based on Kamali's (2001) processual comprehension of individual accountability.

an openness to deep and wide-ranging reforms, including indigenous jurisprudences" (ibid.: 213). Furthermore, Corntassel and Holder (2008: 486f.) suggest that particularly in cases where not only Aboriginal communities but also individuals were targets of political violence, national healing and mechanisms based on individualism may be prioritized rather than measures that deal with the structures that facilitated the violence. Similarly, the process in Canada was mainly directed on individual survivors of the residential school system[5]. As a response, "Aboriginal leaders have tried to use the transitional justice framework to extend their definitions of injustice to include not only individual harms [...], but also collective and cultural harms suffered by Aboriginal communities, languages, and cultures" (Jung 2016: 369). The government reacted to these demands for example by funding community healing projects or by initiating outreach programs to whole communities (ibid.: 370ff.). Thus, in order to create a transformative potential, a Transitional Justice approach truly concerned with the demands and the engagement of the Aboriginal population is indicated by departing from the primacy of individualism and by implementing mechanisms that also consider collective or structural injustices faced by Indigenous communities.

Reparations and the Trade-off to '*Justice*'

Reparations "serve to acknowledge the legal obligation of a state, or individual(s) or group, to repair the consequences of violations – either because it directly committed them or it failed to prevent them" (ICTJ 2018b). As they "may be the most tangible manifestation of the state addressing harms" (Robins 2017: 48), reparations appear to be crucial in creating state responsibility or accountability. On the one hand, material reparations include initiatives such as "financial compensation[,] [...] restoring civil and political rights, erasing unfair criminal convictions, physical rehabilitation, and granting access to land, health care, or education" (ICTJ 2018b). On the other hand, "apologies, memorials, and commemorations" (ibid.) are functioning as symbolic reparations.

In regard to settler circumstances, especially, the restitution of land and control over natural resources appear to be crucial for Indigenous demands to self-determination

[5] Within this system (1880s-1990s) Indigenous children were taken away from their communities and sent to special institutions in order to assimilate them into the dominant society (Corntassel/Holder 2008: 472f.; Nagy 2013: 55ff.). In Australia, Indigenous children were similarly brought to orphanages or were adopted with the aim of assimilation (Corntassel/Holder 2008: 476).

(Corntassel/Holder 2008: 471). However, "cultural and physical homeland claims […] are rarely addressed by state restitution schemes, which tend to favor solutions that minimize settler-colonial territorial and material sacrifice while maximizing political/legal expediency" (ibid.). Thus, even though reparations are often perceived as being centered on survivors, Robins (2017) points out that they "fail to be reparative if victim needs are not considered" (ibid.: 49). Jung (2016) furthermore highlights that reparations, apologies, but also truth commissions may function as ways used by the state and the dominant population to argue that "'OK, now we're even'" (2016: 373). Especially, when those measures remain without subsequent redress activities, they could be used by the state as a method to shut down further going demands (Balint/Evans/McMillan, N. 2014: 210f.; Jung 2016: 376; Hobbs 2016: 533)

Lightfoot (2015) therefore argues, with regard to a meaningful apology, that "some form of […] redress" (ibid.: 33) needs to follow and that the state needs to proof "credible commitment" (ibid.) for a new relation to the Indigenous population. Hence, an Indigenous-centered Transitional Justice approach, here, is conceived to be displayed by the application of instruments instead of remaining rhetorically. It is furthermore indicated by the use of meaningful and substantial redress measures in contrast to state-centered mechanisms that serve as a trade-off to other, deeper-ranging Indigenous justice demands.

Reform, Suitability and Indigenous Frameworks

Reform can affect "laws and institutions, including the police, judiciary, military, and military intelligence" (ICTJ 2018a) through initiatives such as vetting, structural reform of institutions, creation of oversight bodies, reform/creation of new legal frameworks, demobilization/reintegration of armed groups or/and education programs for public officials and employees (ICTJ 2018c). Balint, Evans and McMillan, N. (2014) ascribe a transformative potential to legal responses in settler societies. According to them, the "use of law as a tool for both the addressing of harm and institutional and social change can be a strength in tackling long-term structural injustice" (ibid.: 211). However, where Indigenous peoples are not truly considered and the state remains central, measures of reform similarly bear the risk to answer "through the framework of the colonial legal system" (ibid.: 209f.). In Australia, for example, where land reform should be enabled

through the Native Title Tribunal process, the standardized system demanded the applicants to prove their "continuous connection to land, where in many cases, due the history of dispossession, this is impossible" (ibid.: 201). This system thereby "reduced its utility and relevance for many Indigenous Australians" (Hobbs 2016: 514).

As a consequence, an Indigenous-centered Transitional Justice approach is here indicated by an adequacy to the Transitional Justice context and a sensitivity to Indigenous own legal traditions, frameworks or Indigenous knowledge within its implementation. Indigenous or local knowledge (IK) is here understood as

> "knowledge that is unique to a given culture or society. IK contrasts with the international knowledge system generated by universities, research institutions, and private firms. It is the basis for local-level decision-making in agriculture, health care, food preparation, education, natural-resource management, and a host of other activities in rural communities" (Warren 1991: 1).

In the field of development, the implementation of Indigenous knowledge is among others considered as important in regard to its effectiveness and suitability in a particular context (ibid.). Within this work, this sensitivity to Indigenous customary law and knowledge is understood to open up the opportunities to challenge the "colonial legal system" (Balint/Evans/McMillan, N. 2014: 210) instead of reaffirming the settler state structures.

Seeking Truth, Reconciliation and Unity

According to the ICTJ (2018a), "'truth-seeking' (or fact-finding) processes [investigate] into human rights violations by non-judicial bodies. These can be varied but often look not only at events, but their causes and impacts" (ibid.). The backward-looking contributes to establish a historical record of past wrongdoings which counters disavowals regarding responsibilities and "generat[es] awareness of abuses that were previously hidden or denied" (Leebaw 2008: 108). In addition, these instruments are aimed at serving national reconciliation (Buckley-Zistel 2008: 16) – another frequently cited goal of Transitional Justice which is often connected to the aim of healing (Straßner 2018: 218, 221). Yet, no widely accepted definition of how to understand reconciliation in theory is existent (ibid.: 223) and it is similarly interpreted differently within Transitional Justice practices. Based on the aim of reconstructing a society after an authoritarian regime or conflict (Moses 2011: 145), and thus as a more state-centric understanding of reconciliation, it is often pursued with the goal of national unity.

However, such a "reconciliation paradigm as currently conceived in the Australian context (and in other countries)" (Henry 2015: 204f) has been highly critiqued within settler contexts as it stays sharply in contrast to the Indigenous peoples' attempt to "maintain their 'indigeneity' rather than to acquire new, shared, identities" (Moses 2011: 146). Generally speaking, "Indigenous self-determination and sovereignty […] are fundamentally at odds with the 'one nation,' liberal peacebuilding formula of reconciliation" (Henry 2015: 204f.) and therefore contrasts strongly with the "one historic injustice that lies at the heart of Indigenous identity [which] is [the] loss of sovereignty" (Jung 2016: 384). Similarly, processes of truth-seeking may be focused on certain conflict lines and not everyone's truth may be desired (Buckley-Zistel: 2008: 17), wherefore different scholars have criticized the instrumentalization of Indigenous participation. Orford (2006) exemplifies this "commissioning of truth" (ibid.) at the Australian case. She illustrates among others the Australian attempts of nation building and the use of the Indigenous testimonies as tools required to act within the framework given by the state. As she argues: "They must speak just enough in the language of the universal to make themselves understood […] and just enough in the language of authentic culture and suffering to retain […] support as a particular group within the nation-state" (ibid: 879f.).

As opposed to this, Nagy (2013) suggests an approach of reconciliation understood as a "peaceful coexistence" (ibid.). While "[p]eaceful coexistence is often seen as the minimalist version of reconciliation […][,] in the Indigenous-settler relationship [it] entails a much wider understanding of peace – positive peace[6] – than is typical of transitional justice" (ibid.: 71). An understanding of reconciliation based on coexistence can, for example, be found in the Canadian Law which "entails balancing Aboriginal sovereignty with the sovereignty of Canada" (Jung 2016: 386). As Jung (2016) illustrates, this understanding applied in Canadian Transitional Justice measures is among others displayed by the participation of the Aboriginal population in "negotiation[s] among equals" (ibid.: 386) or by "extending the institutional and rhetorical spaces where Indigenous law may be applied and acknowledged" (ibid.).

[6] According to Galtung (1969: 171, 183) negative peace entails the absence of personal violence while positive peace is characterized by the absence of structural violence which is also sometimes referred to as social injustice.

Here, the Truth and Reconciliation Commission of Canada (TRC) has engaged "tribal elders and others familiar with Indigenous law, in an attempt to install their knowledge and frameworks at the centre of the process" (ibid.: 387). This furthermore supports the "Indigenous demands for truth-telling [which] stem in part from a desire to inscribe their own historical experience in the history of the nation, while nevertheless maintaining a separate identity" (ibid.: 385). Such an approach may then challenge and transform a "settler-colonial unconsciousness" (Hirano/Veracini/Roy 2018). An Indigenous-centered approach is therefore indicated by possibilities for the Indigenous communities to inscribe their own historical experiences and a balancing between Indigenous and modern frameworks, knowledges and customs.

3.2.3 Participation

The possibility of participation or consideration of survivors, in terms of numbers and quality, is dependent in part of how the 'victim-status' is constructed and defined (Robins 2017: 52ff.). Against this background, state centric and institutionalized approaches have faced different critiques. On the one hand, it has been stated that defining survivors as 'victims' based on their experience of direct, exceptional violence ignores those who are affected by other non-direct forms of violence (ibid.: 52). Jung (2016: 371) for example illustrates that Canadian compensations regarding the residential school system were provided to approximately ten per cent of the Indigenous population who were sent to such schools. The other part of the Aboriginal population was not included in "the transitional justice framework, [they] have received no apology, and were unlikely to participate in the main events of the TRC" (ibid.) even though their families and communities were also affected by this system or other governmental policies. Jung (2016) claims that this could reinforce divisions which have been produced by the residential school system within the Aboriginal communities (ibid.). Aware of this, commissioners of the Canadian TRC have attempted to reach out to and to create a dialogue with Aboriginal communities as a whole (ibid.: 371f.). However, as already pointed out, differing demands to Transitional Justice may cause conflicts within the Indigenous population as well as the society and, as a consequence, dealing with them may pose a complicated quest for the government. Thus, while even an Indigenous-centered Transitional Justice approach may not be able to deal with the multiple demands of Indigenous peoples in the first place, such an approach will be

conceived to be aware of the multiplicity of demands. This is here indicated by the state's attempts to create a constructive dialogue and listen to multiple voices.

It has been furthermore stated that the participation of survivors within a standardized Transitional Justice approach is rather instrumental, leaving little space for survivors themselves to take influence on the process (Gready/Robins 2014: 357; Robins 2017: 54f.). Yet, agency understood as "the sense in which victims are in control of their own destiny and are agents in processes to address their needs" (Robins 2017: 53), appears to be important. Firstly, it allows survivors to directly articulate their claims and demands concerning the measures that are directed to affect their lives. Triponel and Pearson (2010: 131) for example suggest that consulting the public within the planning of Transitional Justice mechanisms contributes to create the process more suitable and fairer to the multiple actors and to induce more support. Secondly, widening the agency of participation is connected to "processes of empowerment: the challenging of power relations which exclude certain categories of people from playing particular roles in a process" (Robins 2017: 54). As such, a Transitional Justice approach that is guided by a state-based, instrumental understanding of participation refuses possibilities for Indigenous peoples to influence measures according to their needs and demands and it pursues within structures that, again, marginalize the Indigenous population.

In regard to the constraints of an institutionalized, state-centered Transitional Justice approach, Gready and Robins (2014) support a Transformative Justice which

> "is defined as transformative change that emphasizes local agency and resources, the prioritization of process rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level" (ibid.: 340).

As a consequence, they suggest a transformative approach of participation that "defines victimhood broadly, and is participatory and transparent about whose voice is heard and which organizations gain a seat at the table" (ibid.: 358). This involves participation within all stages of the Transitional Justice process (ibid.). Informed by their understanding of a transformative participation, an Indigenous-centered approach is here perceived to provide agency to the Aboriginal population at all steps of the process.

4. Research Design

According to Yin (1989), "the first and most important condition for differentiating among the various research strategies is to identify the type of research question being asked" (ibid.: 19). As formulated within the introduction the research question asks if *the approach under the DPP is directed towards transforming past as well as on-going harms against the Indigenous people or if it mainly tends to legitimate the status quo?* Hence, the interest lies in the question of *how* the Indigenous Transitional Justice approach in Taiwan is conducted, which is why a case study is chosen as research strategy. Whereas the generalization grade of case studies is restrained (Jahn 2013: 324), and represents a general limitation of this work, they nevertheless bear advantages in asking "[a] 'how' or 'why' question [...] about a contemporary set of events, over which the investigator has little or no control" (Yin 1989: 20). Based on Gerring's (2004) definition, a case study within this work is understood as "*an intensive study of a single unit for the purpose of understanding a larger class of (similar) units*" (ibid.: 342; [emphasis in original]). The unit, or case, is constituted by the DPP's Indigenous Transitional Justice attempts since the inauguration of Tsai in 2016. This case has been chosen, on the one hand, because it has not yet been described under aspects of Transitional Justice – something which is assumed to generate new insights in regard to the relatively recent application of the field to settler contexts. On the other hand, the Taiwanese case deviates from other already investigated countries such as Canada, Australia or New Zealand in terms of having had a transition from an authoritarian to a democratic system and by directly linking Transitional Justice to the wrongdoings and injustices faced by the Indigenous population. By applying a Transitional Justice approach to the Indigenous population as well as to its authoritarian past, Taiwan appears to be furthermore different from other paradigmatic cases such as Peru and Guatemala (Corntassel/Holder 2008) that foremost focused on the authoritarian legacies than on collective harms perpetrated to the Aboriginal population throughout history. Against this background, Taiwan appears to be a unique and interesting case to further investigate the design and structures of Transitional Justice approaches in settler societies and, especially, to gather new insights of its use in such circumstances.

By asking a 'how'-question the decision of pursuing a study based on descriptive inference has been readymade (Gerring 2004: 342). With this setting, this work "does

not make any assertions about causal relationships (beyond the most proximal) occurring *within* A, B, and C" (ibid.: 347; [emphasis in original]). Thus, the analytical framework and the propositions of this work are based on the theoretical conceptualization of the previous part (see Chapter 3) which constitute the "cross-unit reference point" (Gerring 2004: 347) and expose the "identifiable entities" (ibid.) that serve to describe and categorize the case. This in turn reflects the "implicitly comparative" (ibid.) propositions of a descriptive case study. Even though this study is not based on deductive theory conceptions with causal hypothesis, reality unlocking significance is similarly ascribed to a more general defined framework as generated within this work (Blatter/Janning/Wagemann 2007: 30).

Although descriptive research designs are often subordinated to works based on causation, they nevertheless bear advantages (Gerring 2012: 108). It is thus assumed to be suitable for this case for two reasons. On the one hand and as already argued, Taiwan's Indigenous Transitional Justice approach has not yet been comprehensively described. However, in order to explain *why* the state applied a certain type of Transitional Justice towards the Indigenous population, the approach has to be explored within a first step (Gerring 2012: 108; van Evera 1997: 95). On the other hand, the work intends to achieve a high "level of accuracy, precision, and comprehensiveness with respect to the topic" (Gerring 2012: 109). Research designs "only in the quest for causal inference" (ibid.) or "motivated solely by a causal hypothesis" (ibid.) may fall short in this or bear the risk to be biased when describing a certain phenomenon or variable. However, as van Evera (1997) states, "a purely descriptive thesis" (ibid: 95) is often judged as scientifically poor and needs to include some "explaining or evaluation" (ibid.) as well as "making, testing, or application of theory" (ibid.). In order to go beyond a solely descriptive study, this work applies theoretical conceptualization as formulated within the previous part. Based on these depicted "identifiable entities" (Gerring 2004: 347), it is thus the aim to find evidences and observations that indicate an Indigenous-centered or state-centered Transitional Justice patterns. Furthermore, in regard to these findings, I will then evaluate the patterns' opportunities of transforming settler-Indigenous relations or its legitimating potential of the status quo.

4.1 Data Generation

Within this work I will focus on different sources of data since the inauguration of Tsai on the 20th May in 2016 which marks the point of the DPP to hold the majority in legislative as well as executive power. As a non-Chinese speaking person, I have to face the disadvantage of being bound to Anglophone data which limits the access of available information. While being aware of this limitation, it is presumed that this constraint will have no substantial influence on answering the research question as the most important governmental documents and webpages are published in English and by furthermore drawing on different sources such as news articles or scholarly work.

Hence, I will first analyze officially issued documents related to the Indigenous Transitional Justice process, such as governmental declarations, guidelines, the apology, laws or policy reports. The webpage of the Presidential Office Indigenous Historical Justice and Transitional Justice Committee, here published news releases as well as Tsai's speeches for every meeting will furthermore be examined. These official documents and releases serve as the basis to understand and investigate the structures, scope and functions of the Indigenous Transitional Justice process and its measures. In addition, news articles are taken into account as further empirical data in order to generate information about new policies, enacted laws and the progress of the Indigenous Transitional Justice process. In regard to the lack of Anglophone webpages, statements or documents from organizations of Taiwanese Indigenous communities or activists, I will draw on news articles published by the Taipei Times since the inauguration of Tsai. The here released interviews, statements, discussions or reactions from the Indigenous population will be further conducive to evaluate the process' ability to meet the Indigenous injustices and demands. However, they need to be interpreted carefully as such statements can only display an individual picture that might not be able to speak for the variety of Indigenous groups or people in the local communities. Moreover, to further strengthen the findings and evidences, I will draw on existing research on that topic and evaluated aspects of the DPP's Transitional Justice approach. In general, the work tries to be aware of each data being issued "for some specific purpose and some specific audience" (Yin 2009: 105), by "constantly trying to identify these objectives" (ibid.).

4.2 Analytical Framework

The understanding of an Indigenous-centered Transitional Justice approach as described within the theoretical part will be determined as an "ideal-type" (Gerring 2012: 136). Consequently, it is not expected that Taiwan's Transitional Justice approach displays all of the described characteristics. However, it will be evaluated "according to how closely […] it resemble[s] the attributes of the ideal-type" (ibid.: 137). The analysis is hence focused on finding patterns or hints that indicate (or not) the centeredness on the Indigenous peoples and "its ability to address victims' needs" (Robins 2011: 77). Finally, I will take these observations into a whole picture and decide according to its preponderance whether the Indigenous Transitional Justice approach tends to be rather state-centered, and thus potentially legitimating the status quo, or if it leans towards being centered on the Indigenous population, hence bearing opportunities to transform unjust structures and past wrong-doings. Based on the theoretical conceptualizations, following steps and key questions will guide the analysis:

(1) General Scope of Transitional Justice

The aim of this section is to compare the matters considered within the Transitional Justice process with the central Indigenous demands (Chapter 4.3) in order to find (or not) potential limitations to the scope or historical periods of Indigenous injustices. Hence this part is guided by following questions:

- Which of the (central) demands/issues are acknowledged as objects?
- Is the Transitional Justice approach comprehensive or limited to certain types or historical periods of demands/injustices?

Table 1: Scope of Transitional Justice

	Indigenous-centered ⟵	**State-centered** ⟶
Acknowledgement of:		
Central demands	All	None
Historical periods	All	None

(2) Implementation of Transitional Justice Measures

Based on the theoretical conceptualizations, the focus of this section will be placed on finding evidence if the Transitional Justice process is conducted in an individual logic, if Aboriginal knowledges, truths, concepts are provided with space and, in general, if the process is conducted substantial and meaningful (Lighfoot 2015). In order to find

out the weight that is given to the process by the government, the suitability and strength of each instrument within the Taiwanese context will be furthermore taken into account. The interest is therefore based on following questions:

- In general: What types of measures have been implemented?
- Are Indigenous frameworks considered within the mechanisms? Are there spaces where the Indigenous peoples may integrate their own histories/truths/knowledges in the sense of "negotiation among equals" (Jung 2016)?
- Are the Transitional Justice mechanisms foremost pursued within an individualistic logic or based on collective healing?
- For which demands/issues have consequences been implemented (accountability been constructed)?
- Are the mechanisms within the entire process used as a trade-off to other demands or holistically implemented? Is each single measure designed suitable or weak?

Table 2: Implementation

	Indigenous-centered	**State-centered**
Implementation:	←	→
Design of single measures	Strong /suitable	Weak/inadequate
Indigenous frameworks; "Negotiation among equals" (Jung 2016)	Consideration of/Spaces for Indigenous truths/knowledges/ histories; Notion of equality	No consideration/spaces; Notion of unity rather than equality
Dominant patterns	Collective healing	Individual logic
Consequences enacted for demands	All	None
Entire process	Holistic/substantial approach	Trade-offs to other demands/issues

(3) Participation

The quality of Indigenous participation will serve as another crucial indicator to measure the centeredness on the Indigenous peoples which will be evaluated on the basis of the eight-rungs-ladder of citizen participation by Arnstein (1969). According to her, "participation without redistribution of power is an empty and frustrating process for the powerless. […] It maintains the status quo" (ibid.: 216). The first two rungs on the ladder, (1) manipulation and (2) therapy, are considered as non-participation as they provide no possibilities to participate in planning or implementing (ibid.: 217). People are educated, persuaded to be supportive, advised about the processes or tried to be cured from their 'pathologies' by the powerholders while the structures that caused such "pathologies" remain untouched (ibid.: 218f.). The next three rungs are characterized by

tokenism as, even though people are informed or are being heard within the process, the powerholders retain decisive power (ibid.: 217). On the third rung of (3) information people get informed within a one-way manner whereas within (4) consultation peoples' voices are heard – yet without any insurance that they will be considered (ibid.: 219f.). The fifth rung, (5) placatation, grants more possibilities to influence and to advise the process, however, this may apply only to "a few hand-picked" (ibid.: 220) individuals and powerholders may still be able to overrule those with less power (ibid.: 217, 220f.). Finally, the last rungs of the ladder are displayed by an ascending of decisive power granted to the participants (ibid.: 217) and are here conceived to bear transformative potential. At the rung of (6) partnership "power is in fact redistributed through negotiation between citizens and powerholders. […] After the groundrules have been established through some form of give-and-take, they are not subject to unilateral change" (ibid.: 221). Furthermore, (7) delegated power is characterized by people possessing significant decision-making power over the processes "to assure the accountability of the program to them" (ibid.: 222) and, finally, on the last rung of (8) citizen control, people obtain "full managerial power" (ibid.: 223) of the process.

As illustrated in the theoretical conceptualization, the question of 'who' may participate plays an important role within Transitional Justice processes as divisions may be reinforced. While this work also tries to unfold how the approach deals with potential fractions within the Indigenous population in Taiwan, this question does not serve to indicate a state-centered or Indigenous-centered approach. This would require a deeper engagement with the relations within and between the different Aboriginal groups which can only be done superficially within this work. The intention is rather to find patterns that in general indicate an awareness of the multiplicity within the Transitional Justice process and thus the approach's capability to create dialogues and to hear to multiple Indigenous voices. Corresponding key questions will guide the empirical part:

- Is the participation of Indigenous individuals or/and communities rather instrumental or provided with decision-making power? (Arnstein 1969)
- How is the process dealing with the multiplicity of demands and injustices?

Table 3: Participation

	Indigenous-centered	**State-centered**
Admission of Power:	Decisive power (ladder 6-8)	No decisive power (ladder 1-5)
Awareness of Multiplicity:	Creation of dialogue with multiple groups	Denial of multiple voices

4.3 Central Demands within the Indigenous Population

Within this part I will draw from literature on Indigenous movements in Taiwan and press articles on protests of the Aboriginal population after Tsai announced to create Transitional Justice within her five major reforms in August 2015 (Tsai 2015). The aim is to create a general overview on the main demands now postulated towards and connected to the Transitional Justice approach. It needs to be noted that these cannot be understood as comprehensively shared since scholars (Huang, S./Liu, S. 2016; Rudolph 2006) have pointed out the different claims between Indigenous elites and local communities in Taiwan. However, this assumption is slightly weakened by Simon (2016). He came to the conclusion that the results of his surveys in two Truku villages in 2006 "do not support the 'elites without people' hypothesis, and thus suggest that this intellectual framework needs to be carefully nuanced, if not rejected altogether" (ibid.: 76). By shortly reconstructing each demand's historical significance, their importance for the activists – and probably for the whole Aboriginal population – shall be underlined. These main claims will then constitute a central landmark for the analysis:

(1) Pingpu Status

Due to intermarriages with Han settlers and early contact to colonizers, Pingpu groups' cultures and languages became highly endangered. While being still recognized as 'Indigenous' under the Japanese colonial registration system, they lost their status during the 1950s and 1960s due to "administrative failures" (Loa 2015), but also because of the KMT who regarded them as "'civilized' and their 'moral standard' […] similar to Han-Chinese" (Hsieh, J. 2006: 4). In the 1990s, the Pingpu Status Recognition Movement emerged, claiming for their Indigenous status to be accepted by the Han-Chinese society as well as by already recognized Aboriginal groups who apprehend a diminution of resources if Pingpu groups similarly receive Indigenous status (Chi 2016: 276; Hsieh, J. 2006: 4). The loss of being recognized as 'Indigenous'

has the consequence for Pingpu peoples that they "face the tragic situation of losing their group identity while continuing to suffer social discrimination" (Pasuya Poiconu 2011: 259). Since Tsai pledged to restore their Indigenous status as part of realizing "reconciliation and transitional justice" (Loa 2015) during her presidency campaign, Pingpu groups consider the president accountable for these promises (Chin/Tsai, T. 2016), thereby connecting their demands for recognition to the Transitional Justice approach. Before her apology, protesters for example claimed that "Transitional justice should include the Pingpu people" (Gerber 2016b) and "called on the government to return the 'rightful name' to Pingpu people and identify them as part of transitional justice efforts" (ibid.). In addition, claims to remove statues or festivals honoring Zheng Chenggong, also known as Koxinga, during whose family's reign (1661-1683) especially Indigenous groups living in the plains were displaced and exploited, are emphasized by Pingpu, but also by other Indigenous groups (Rupeljenga 2016; Tung/Chung 2019).

(2) Nuclear Waste Storage on Lanyu

The majority of low-level radio-active waste in Taiwan has been stored on Lanyu (Orchid Island), which is foremost homeland to the Indigenous Tao people (Fan 2006: 417; Huang, G./Grey/Bell 2013: 1561). In 1982, the KMT-government started to store nuclear waste on the island – however, without asking or informing the local residents (Fan 2006: 419; Huang, G./Grey/Bell 2013: 1559). Finding out about the nuclear waste and later about rusted containers, the Tao people began to worry about their security (Fan 2006: 419; Huang, G./Grey/Bell 2013: 1561). Since the late 1980s, demonstrations arose and the topic gained relevance within the "pan-ethnic aboriginal movement" (Rudolph 2006: 82). While the government and the state-run Taiwan Power Company (Taipower) declared the nuclear waste storage as temporary and stopped further transports to the island, the radio-active waste has not yet been removed and electing another site has since then posed an issue (Huang, G./Grey/Bell 2013: 1561). In regard to the nuclear accident in Fukushima, but also due to the expiration of Taipower's contract for the land, Tao activists again protested in 2011 and 2012 (Han 2017; Loa 2011, 2012a, 2012b, 2012c). In general, the claim to remove the nuclear waste barrels from their island is supported by the Basic Law (2005) which implicates that "[t]he government may not store toxic materials in indigenous peoples' regions in contrary to

the will of indigenous peoples" (ibid.: §31). The demand is nevertheless partly opposed by residents who are worried about a potential stop of compensation currently paid by Taipower in case the storage is removed (Loa 2012a, 2012b). Like Pingpu groups, the Tao people now link their demands to the promises stated by Tsai within the Transitional Justice approach. The Tao Foundation's chief executor for example claimed that Tsai should "hold meetings with residents to discuss when and how the nuclear waste will be removed, which is the only way to achieve reconciliation and transitional justice" (cited in Chen, W. 2016).

(3) Traditional Territory, (4) Self-Determination, (5) Resource Management and (6) Cultural Rights

The strongest and most explicitly connected claims to Transitional Justice are however constituted by the restoration of Indigenous land. As the Indigenous demand for collective self-determination "includes both cultural rights and rights to use and manage natural resources in their traditional territories" (Charlton/Gao/Kuan 2017: 127), demands to cultural revitalization, resource management, self-determination and land are perceived as highly intertwined within this work. These claims are based on the former dispossession of land which "is one of the vital factors that caused the assimilation of indigenous groups and subsequently the rapid extinction of cultures" (Hsieh, J. 2016: 69). As Kuan (2016) states: "The realization of indigenous land rights is the core of the restoration of historical justice" (ibid.: 214). Corresponding claims are, however, sometimes simplified within the Taiwanese society as "struggles for more possession" (Chen, Y.s. et al. 2018: 990). These interconnected claims represent highly debated topics between Aboriginal groups, and they fundamentally challenge the settler state as such (Charlton/Gao/Kuan 2017: 128; Kuan 2016: 208).

Especially, the use of resources, gathering and hunting often lead to conflicts between state authorities, like the Forest Bureau, and Indigenous communities with the result that hunters are frequently seized due to their "too 'modern'" (Kuan 2016: 213) perceived shotguns (ibid.: 211ff.). While the Aborigines "claim that their social systems and inner-social solidarity depend on the exertion of hunting and the rituals connected to it" (Rudolph 2006: 84), opponents state that Indigenous resource management is not that "sustainable" (ibid.) or "traditional" (Kuan 2016: 213) anymore. However, as Kuan

(2016) argues, "[f]acing the fact that indigenous cultures are changing does not undermine the legitimacy […] to return their indigenous territory" (ibid.: 215). In general, the Basic Law (2005) determines that "[t]he government shall guarantee the equal status and development of self-governance of indigenous peoples and implement indigenous peoples' autonomy in accordance with the will of indigenous peoples" (ibid.: §4) and that it "recognizes indigenous peoples' rights to land and natural resources" (ibid.: §20). However, as already mentioned, its legislation remains incomplete (Kuan 2016: 211f.). As such, Indigenous claims for Aboriginal lands and sovereignty, but also conflicts because of hunting prevail.

Claims to cultural revitalization and rights are similarly highly connected to demands of self-determination, gathering and hunting. Here, language appears to be an important issue "as the revival of cultures, identities, knowledge, and traditions is strongly linked to fluency in Indigenous mother tongues" (Nesterova/Jackson 2018: 59). In the last decades, the Taiwanese state has taken different attempts to revitalize the Indigenous cultures. As for example with the Education Act for Indigenous Peoples (1998) "schools must adapt multicultural perspectives and introduce indigenous histories/cultures in their curriculums" (Kuan 2016: 207f.) and the Basic Law (2005) alike includes articles supporting the development and respect of the Indigenous cultures and languages (ibid.: §9, §10, §30). In addition, various Aboriginal communities have themselves pursued ways to strengthen and re-build their identities for example through "re-establishing their own education spaces" (Nesterova/Jackson 2018: 59). However, in regard to the on-going challenges to cultures and languages, Kuan (2016) highlights that "[t]he institutional investment to revitalize indigenous cultures is necessary […], since the state is responsible for the harm it did to these cultures" (ibid.: 214f.). According to him, this "previous mistakes of assimilation" (ibid.: 215.) need to be remedied by corresponding policies (ibid.).

Concerning the Transitional Justice approach, various activists protested days before the apology in August 2016 and claimed for "education, hunting and land rights" (Gerber 2016c) evaluating Transitional Justice in regard to the Indigenous population as important to achieve sovereignty (ibid.). One activist also described the traditional territories as "illicit national assets" (Gerber 2016d), linking it to the DPP's approach of dealing with the KMT's "illicit party assets" (ibid.). Furthermore, Indigenous protest

groups had organized a march to Taipei in July 2016 demanding for Transitional Justice, compensation for their territory and political autonomy (Chin/Tsai, T. 2016). According to Mayaw Wutao from the Amis Indigenous group, "[l]and and transitional justice require the uncovering of historical truths about Taiwan's ruling regimes, and Aborigines demand real compensation and policy changes from the Tsai administration (cited in Chin/Tsai, T. 2016). Hence, especially the allocation of traditional territory appears to be an important and highly debated topic connected to the Indigenous Transitional Justice approach.

Lastly, in regard to social differences between the Indigenous and the dominant population (Huang, S./Liu, S. 2016: 303), Huang, S. and Liu, S. (2016) state that the demand for economic improvements is mostly displayed in "grassroots indigenous opinions" (ibid.: 310). Furthermore, claims to the improvement of Indigenous wellbeing are frequently connected to land, autonomy and self-determination as facilitators for 'Indigenous development' (Huang S./Liu, S. 2016: 309; Kuan 2016: 208). Simon (2005) describes Indigenous poverty, for example, as a "*symptom of colonial loss*" (ibid.: 64; [emphasis in original]) due to the social institutions and the concepts of property that were destructed, which in turn made the communities vulnerable to the exploitation by economic businesses (ibid.). However, specific claims of Indigenous groups for economic and social justice in connection to Transitional Justice as such were not found. As a demand of local communities and connected to other claims, it will be kept in mind but not treated as a main demand to Transitional Justice within this work.

4.4 General Research Limitations

Firstly, as a non-Chinese speaking, neither Taiwanese nor Indigenous person, I have to face not only limited access to data, but also my role as a researcher with restricted insights to the cultural, historical, societal, political conditions and relations on the island. As a response and in order to obtain a detailed picture of the case, I tried to gather in-depth information and previous knowledge foremost through literature research beforehand. In addition, my experiences within a seminar on 'Modernization and the Development of Taiwan Indigenous Societies' at National Chengchi University in Taipei and a corresponding two-days field trip to an Atayal community in Cinsbu in January 2018 have functioned as ways to gather preliminary insights on the topic.

Secondly, by referring to statements within news articles or to studies of Indigenous scholars, there is the risk of reproducing certain narratives that do not reflect the opinions of the local communities or multiple groups of Aborigines on the island. However, in order to get a coherent picture of the exact demands and needs it would be necessary to conduct extensive surveys in Taiwan, which exceeds the scope and resources of this thesis. I have hence attempted to cover the main demands and their significance within the previous part which will serve as a central reference point within this work.

Thirdly, even though the Han society similarly captures an important role within the settler-Indigenous relation, this work will nevertheless focus on the relation between the Taiwanese state and the Indigenous population. This decision has been made as the Indigenous Transitional Justice approach is enacted by the government while including data regarding the Han society would go beyond the scope of this work. However, since the transformation or legitimation of settler-Indigenous relation is also dependent on the dominant society, it would be nevertheless interesting to investigate their role in future research.

5. Analysis

Before tracing the question if the DPP`s Transitional Justice attempts to the Indigenous peoples are rather designed to legitimate or transform the status quo, the approach needs to be embedded in the overall design of the political processes under the DPP.

DPP's Transitional Justice Initiatives Addressing the Authoritarian Era

Generally speaking, two important laws have been passed in regard to the Martial Law era. Firstly, the Act Governing the Settlement of Ill-gotten Properties by Political Parties and Their Affiliate Organizations (2016) (Ill-gotten Properties Act 2016) came into effect only a few months after Tsai's inauguration in May 2016. Based on this law, the Executive Yuan has established the Ill-Gotten Party Assets Settlement Committee which is "tasked with investigating and compiling information on alleged illicit assets, as well as seizing and, if possible, reinstating such properties to their original owner" (Caldwell 2018: 476). This committee has started to investigate the property and financial resources of the KMT and has frozen large amounts of their bank accounts (ibid.: 476f.). Secondly, the Act on Promoting Transitional Justice in 2017 (Transitional

Justice Act 2017) constitutes another important pillar of the Transitional Justice approach designed to address the authoritarian period. This law exceeds the scopes of former legislations (Caldwell 2018: 478f.) and shall be realized through a Transitional Justice Commission (Transitional Justice Act 2017: §2). This commission is among others authorized to investigate into harms and illegal acts perpetrated, to remove statues or rename public places and to "redress judicial wrongs" (ibid.). Several thousands of individuals have been exonerated from unjust convictions under the authoritarian rule since October 2018 (Chen, Y.f. 2018; Chen, Y.f./Hsiao 2019) and symbols, statues or road names have been recorded and investigated (Chen Y.f. /Hetherington 2019a, 2019b).

Within this approach legacies and harms perpetrated during Martial law era against the Aboriginal population are addressed in a couple of ways. Firstly, Eleng Tjaljimaraw of the Paiwan people is both a member of the Transitional Justice Commission and part of the commission designed under the Indigenous Transitional Justice approach, functioning as a link between the two processes (IJC 2018c). Secondly, as Indigenous individuals have also faced unjust convictions during the KMT-authoritarian rule, their cases are similarly assessed under the Transitional Justice Act (2017). The Transitional Justice Commission, for example, has exonerated 1505 people in December 2018, of which twenty-seven persons were of Indigenous origin (Chen, Y.f. 2018). The announcement of these exonerations was then furthermore accompanied by an Atayal ritual (ibid.). Thirdly, within the Transitional Justice approach Indigenous communities similarly strive to remove symbols of the authoritarian era as the renaming of a police station in a Thao area shows (Liu, P. 2018). The police station possessed a name since the Martial Law period which was offensive to Aboriginal peoples, thereby representing not only a legacy of authoritarianism but also settler colonialism, and has therefore been changed in October 2018 (ibid.). The overarching approach of Transitional Justice, hence, deals with individual harms committed during the authoritarian era and its legacies that are faced by the Han and the Aboriginal population alike. It seems to conduct its aims largely through fact-finding measures or reparation and furthermore by creating "accountability of judicial and military personnel […]. They do not, however, extend to specific criminal trials of individuals" (Caldwell 2018: 479).

Current Indigenous Transitional Justice Approach

While keeping these processes in mind, the general focus of the following analysis will be placed on the Transitional Justice measures specifically designed to address the Indigenous peoples' demands and needs within the last three years since the inauguration of Tsai in May 2016. In contrast to the approach aimed at addressing the Martial Law era, the Indigenous Transitional Justice approach and its focus on particular Indigenous issues or demands is expected to more specifically address the relation between the Aboriginal population and the state. In this way, the analysis of this approach shall reveal where or if the settler state is challenged or legitimized and try to confirm or reject the formulated argument that the Taiwanese government is using its initiatives primarily as state-centred tools to "strengthen [...] their sovereignty and legitimacy" (Balint/Evans/McMillan, N. 2014: 209), rather than to pursue a Transitional Justice approach that is centered on the Indigenous communities. Besides the Executive Yuan, the "executive branch of the […] government" (2017c), and the president, the Council of Indigenous Peoples (CIP) constitutes another crucial institution within these processes as it is, in general terms, responsible "[t]o integrate the policies and protect the rights and interests of indigenous people, and to handle business related to indigenous people" (Organization Act of the Council of Indigenous People 2014: §1). As a cabinet-level agency it plays an important role in planning and promoting Indigenous Transitional Justice and the Executive Yuan announced that it "will lend full support to the Council of Indigenous Peoples as it pursues transitional justice for indigenous group" (Executive Yuan 2016a).

The analysis will begin with the general scope of the current Indigenous Transitional Justice approach in order to get a first assessment of its extent and limitations. After having outlined this, concrete measures shall be analyzed and the progress will be furthermore revealed. The focus of the last analytical chapter will then be placed on Indigenous participation within the approach.

5.1 General Scope of the Indigenous Transitional Justice Approach

In her inaugural speech in May 2016 Tsai promised Transitional Justice in regard to the Martial Law era and pledged to "uphold the same principles when addressing issues concerning Taiwan's indigenous peoples" (Tsai 2016a): "My administration will work

to rebuild an indigenous historical perspective, progressively promote indigenous autonomous governance, restore indigenous languages and cultures, and improve the livelihood of indigenous communities" (ibid.). Three month later the new president officially apologized – thereby accepting the harm and taking responsibility – for the following aspects: the dominant Han perspective of history; for violations, land seizure, and exploitation during systems of the last four hundred years; for the loss of collective rights, of languages and cultures; for the storage of nuclear waste on Lanyu; for the erosion of Pingpu ethnic identities; for the slow implementation progress of the Basic Law (2005); and for (social) discrimination that the Indigenous peoples have to face (Tsai 2016b). Hence, these apologetic passages addressed all injustices related to the central demands ((1) Pingpu status; (2) Nuclear waste storage on Lanyu; (3) Traditional territory; (4) Self-determination; (5) Resource management; (6) Cultural rights). As Tsai moreover apologized for "the four centuries of pain and mistreatment" (Tsai 2016b), all historical periods are generally acknowledged.

Beside this rhetorical acknowledgement, it appears to be furthermore important to investigate the weight that is given to these harms through concrete policy or legal formulations. Important material is constituted by the government's Indigenous Peoples Policy (Executive Yuan 2016a), policy's reports to the Legislature (Executive Yuan 2016b, 2017a, 2017b) and news articles on the discussion surrounding the Transitional Justice Act (2017). The government's Indigenous Peoples Policy (Executive Yuan 2016a) is based on Tsai's promises and the three major goals of implementing the Basic Law (2005), serving Indigenous historical justice and laying the foundation for Indigenous self-government made within her apology (Tsai 2016b). Concerning (1) the recognition of the Pingpu peoples, the policy determines that important laws shall be investigated in order to grant these groups "the rights and status they deserve" (Executive Yuan 2016a). Here, an amendment to the Status Act for Indigenous Peoples (2001) is planned but not realized yet (Executive Yuan 2016a, 2017a, 2017b; Pan 2019a: 305ff.). In order to meet the demands concerning the (2) nuclear waste storage on Lanyu, compensation and a report were planned to be issued (Executive Yuan 2016a; Tsai 2016b). For that reason a task force investigating into the decision-making process that led to the waste on the island was created in October 2016 (Executive Yuan 2017a). The apology and the policy also determine that Indigenous territory shall be delineated

(Executive Yuan 2016a; Tsai 2016b). Here, corresponding regulations for mapping Indigenous land or community area have been announced in 2017. The president moreover declared that (4)-(6) "the ideals of indigenous self-government will be realized step by step" (Tsai 2016b) through the Indigenous Peoples Self-Government Act, the Indigenous Peoples Land and Sea Areas Act, and an Indigenous Languages Development Act (Executive Yuan 2016a; Tsai 2016b). From these laws, the last one became effective in 2017 (ILDA 2017). Moreover, according to her apology (Tsai 2016b) and to the Indigenous Peoples Policy (Executive Yuan 2016a), an Indigenous Legal Service Center will be installed in order to deal with tensions between modern law and traditional cultures. In addition, the policy and the apology pledged to create an Indigenous Historical Justice and Transitional Justice Committee under the Presidential Office (IJC) (Executive Yuan 2016a; Tsai 2016b). As a consequence and with regard to the approach directed to the authoritarian legacies, the overall framework is encompassing both, (political) violations under the authoritarian period as well as direct, collective and non-personal violence faced by the Aboriginal population throughout various historical periods. In regard to the broad scope, a separation between the Martial Law era and particular Indigenous injustices may generally have the advantage to focus more deeply on each strand and the specific harms connected to them. This stays in contrast to other settler countries where processes addressing former authoritarian periods have prioritized the acknowledgement and investigation of direct, political violence over non-personal, collective harms even though the Indigenous populations were affected by both forms (Corntassel/Holder 2008: 486f.). Hence, the Transitional Justice approach's basic foundation does not appear to limit the different demands which indicates its Indigenous-centeredness and general openness to challenge the state's relations to the Aboriginal population. This conclusion is, however, lightly weakened with regard to the lack of a law, precisely stipulating the scope of Indigenous Transitional Justice, as it has been done for the approach directed to the Martial Law era.

As already outlined within the theoretical part, "[f]raming settler colonial harms through transitional justice discourse […] may enable non-indigenous citizens in settler colonial contexts to recognize injustices in their nations that otherwise may be hard to discern as a result of dominant official narratives" (Balint/Evans/McMillan, N. 2014: 211). However, especially, the discussions within the Legislative Yuan in regard to the

Transitional Justice Act (2017) show that it is not always explicitly defined if Indigenous injustices and demands are 'Transitional Justice' issues (Gerber 2016a). On the one side, DPP legislators largely suggested to separate between justice for the Aboriginal population, calling it historical justice, and abuses under the Martial Law era, defining them as Transitional Justice issues (ibid.). Interestingly, Tsai made similar distinctions between historical and Transitional Justice in a meeting of the IJC (IJC 2018c), while nevertheless referring to "broader issues of transitional justice for indigenous peoples" (IJC 2018e) and connecting their demands more clearly to Transitional Justice in other meetings (IJC 2017g, 2018g). On the other side, the KMT perceives itself as "unfairly targeted […] [,] calling for the inclusion of justice for Aborigines in the draft legislation" (Gerber 2016a). Their proposals therefore intended to enlarge the law's time span among others to the Dutch rule (Lin 2017). This appears to be especially interesting as "[a]fter decades of limiting the legislative scope of transitional justice, it is now the KMT that criticizes the language and scope of transitional justice legislation produced by the DPP" (Caldwell 2018: 480).

Generally, both calling the harms perpetrated against Indigenous communities as objects of either historical or Transitional Justice may generally contribute to their recognition as 'justice' issues. Their unclear definition through leaving them out of the legal foundation from the overarching approach and not providing them with a similar legislation so far has nevertheless consequences for the scope and, lastly, for the strength of the Indigenous Transitional Justice framework. After many debates, the final version of the Transitional Justice Act (2017) was restricted to Taiwan's authoritarian period defined as the time span from 15th of August 1945 to the 6th of November 1992 (ibid: §3). The legal foundation is therefore limited to a specific era and not only leaves out Japan's colonial system (1895-1945) but also other periods prior to that (Caldwell 2018: 481). However, the exclusion of Japan's occupation "is particularly troubling for Taiwan's indigenous communities. As the Japanese attempted to pacify the 'savage aborigines,' many of these communities lost vast amounts of their land and fell victim to massacres at the hands of the Japanese" (ibid.). Further bills seek for another law specifically including demands to restoration or investigation of traditional territory (ibid.: 481f.). Similarly, critique has been raised among Indigenous protesters and some of them were claiming for an analogical law addressing their needs (Gerber/Loa 2016;

Loa 2016). According to an article of the Taipei Times, the Executive Yuan has approved a proposed act on Aboriginal justice in May 2018 which should not be limited to a historical period and encompass issues such as forced relocation, cultural aspects or constraints of resource management (Lin 2018). While it has been forwarded to the Legislative Yuan, it has not been passed at the time of writing.

Conclusion: Indigenous-centered

All in all, the scope of the Indigenous Transitional Justice approach is broad and all-encompassing, and therefore evaluated as Indigenous-centered. Its comprehensiveness is, however, partly weakened through the lack of an overarching law that would clearly determine its scope and define the demands as matters of Transitional Justice. This is furthermore highlighted by Caldwell (2018) who states that "[t]he DPP must ensure that transitional justice is all-encompassing, otherwise its legislation runs the risk of being categorized as myopic, much like the previous legislation of the KMT" (ibid.: 482). Hence, the broad scope must find realization in order to establish full accountability and a "transformation of the social, political, economic and legal frameworks […] that underlie settler colonialism" (Balint/Evans/McMillan, N. 2014: 214). In order to gain more insights into the scope and depth of the Transitional Justice approach, the measures planned or enacted will be discussed in after following analysis part.

5.2 Implementation

This chapter is divided into three sections. While the first part analyzes the measures that encompass multiple demands and justice issues, the second part concentrates on more issue-specific initiatives. Here, questions concerning the means' strength and suitability, their awareness of Indigenous frameworks, notion of unity or equality as well as their patterns of individual or collective healing are important. The third section concentrates on the entire implementation process, asking if the measures were directed to all demands or if they functioned as a trade-off to other justice issues.

5.2.1 Issue-overarching Measures

(1) Apology

The apology of Tsai in August 2016 can be characterized as a symbolic reparation (ICTJ 2018b). In order to analyze its strength, I will use Lightfoot's (2015) analytical

framework which is oriented on assessing state apologies to Indigenous peoples. Her framework is largely based on James' (2008) eight criteria for an 'authentic political apology' that function "as a potential counterweight to the symbolic and temporal advantages that states appear to enjoy when it comes to the perceived scope and extent of their apologetic utterances" (ibid.: 149). In contrast to James (2008), Lightfoot (2015) assigns the criteria to 'content' and 'method of delivery' and distinguishes them between 'high' and 'low' (see Table 4). All in all, this makes it easier to demarcate between a non-, quasi- and authentic apology and turns her approach to be analytically more useful. Important documents for this part are the apology (Tsai 2016b) as well as news articles displaying the reactions from Indigenous activists.

Table 4: Assessing State Apologies to Indigenous Peoples by Authenticity

CONTENT \ METHOD OF DELIVERY		**LOW** • Apology not official act of government • No ceremony, not delivered by high official	**HIGH** • Apology is official act of government • Ceremony, delivered by high official
LOW	• Wrongs are not named • Keeps responsibility limited • Does not state regret • Does not promise non-repetition, or apologizes for wrongs that are ongoing • Expects forgiveness • What is apologized for/not apologized for seems arbitrary	NON-APOLOGY	QUASI-APOLOGY
HIGH	• Wrongs are named • Accepts explicit responsibility • States regret • Promises non-repetition only of wrongs that have ceased • Asks for forgiveness • Apologizes for discrete wrongs	QUASI-APOLOGY	AUTHENTIC APOLOGY

Source: Lightfoot (2015: 23)

Suitability/Strength of Apology and Focus on Collective Healing

When applying the framework to the Taiwanese case, the apology exhibits a 'high' level in regard to its *method of delivery.* Firstly, with Tsai as the president giving the formal

apology and by repeatedly stating that she apologizes "on behalf of the government" (Tsai 2016b), it represents an "official act of government" (Lightfoot 2015: 23). Secondly, the day of the apology has been turned into the Indigenous Peoples' Day and was combined with a ceremony in which various rituals of different Indigenous peoples have played an integral part. Starting with a Paiwan ritual of burning a bundle of millet in order to lead the ancestral spirits, the ceremony was furthermore accompanied by different prayers (n.A. 2016a; Tsai 2016b). All in all, the apology thereby intended to morally capture the non-Indigenous population and to demonstrate its sincerity to the Aboriginal peoples (James 2008: 139; Lightfoot 2015: 23).

In terms of its ***content***, the apology furthermore meets the requirements to separately address all demands and thus the central "wrongs in question" (James 2008: 139; see Chapter 5.1). Rather than being concentrated on individual, political violence, the apology focused on the various structural and collective forms of harms and losses experienced by the Indigenous peoples. This furthermore underlines its core on collective healing. Moreover, the apology had been promised by Tsai and the DPP as part of their election campaign (Caldwell 2018: 473) and has therefore been planned beforehand which speaks for its consistency rather than for its 'arbitrariness' (James 2008: 139; Lightfood 2015: 23). Furthermore, Tsai (2016b) accepts responsibility by stating that "[t]he duty for reconciliation lies not with the indigenous peoples and the Pingpu ethnic group, but with the government" (ibid.) or that "the government must genuinely reflect on this past" (ibid.). In addition to that, she repeatedly expresses regret ("For this we apologize"; "For this we are truly sorry") and promises "that succeeding generations of indigenous tribes and all ethnic peoples in Taiwan never lose their languages and memories, that they are never separated from their cultural traditions, and that never again are they lost in a land of their own" (ibid.). Lastly, she explicitly does not "ask […] to forgive, here and now" (ibid.). These aspects consequently suggest that the apology is furthermore 'high' in content. Accordingly, Tsai's apology is evaluated as an "authentic apology" (Lightfood 2015) in its entirety and, hence, as a strong, suitable measure in the Indigenous Transitional Justice context.

Awareness of Indigenous Frameworks and Notion of Equality

In regard to its tenor, the apology furthermore puts emphasis on equality and diversity rather than on unity. While this may indicate its centrism on the Indigenous communities, this notion needs to be regarded in a nuanced way with regard to criticism stated by activists and actions that need to give weight to the promises. Within her speech, Tsai (2016b) "used the Atayal indigenous words, Balay [truth] and Sbalay [reconciliation]" (Jacobs 2017: 34) in order to generally illustrate her aim to create a mutual understanding among the ethnic groups as part of Transitional Justice and reconciliation. As connected to this understanding of reconciliation, Tsai (2016b) furthermore asked the Taiwanese society to "work towards […] a shared existence and shared prosperity, and a new future for Taiwan" (ibid.) and "to join together, work hard, and build a country of justice, a country of true diversity and equality" (ibid.). The notion of diversity and equality are additionally displayed by the promise to establish a special centre that aims to deal with conflicts between modern and Indigenous law (ibid.). In addition to this, the Indigenous Peoples Policy formulates that the apology displays the government's intention to "foster reconciliation and peaceful coexistence in Taiwan society" (Executive Yuan 2016a).

Notwithstanding, the apology has met criticism among Indigenous protestors. Firstly, an equal balance between both Indigenous and modern frameworks has not been implied for the highly disputed topic of hunting. While Tsai promised a revision of cases in which Aboriginal Individuals were punished for hunting "where […] [it] was done in accordance with traditional customs, on traditional lands, and for non-transactional needs" (Tsai 2016b), she made the exception that "the animals hunted were not protected by conservation laws" (ibid.). However, as this is the case for most convictions (Gerber 2016d), her promise failed to appreciate the need to resettle the different frameworks in regard to the wildlife protection laws. As a consequence, "many indigenous peoples remain skeptical that such [a legal] coordination will in fact occur" (Jacobs 2017: 35). Secondly, some Indigenous rights advocates criticized that, even though promises to promote Indigenous self-government have been made (Tsai 2016b), Tsai "fail[ed] to explicitly acknowledge Aboriginal sovereignty" (Gerber 2016d). This further dampens the sense of equality and "negotiation among equals" (Jung 2016) between the state and the Indigenous population. Thirdly, the Presidential Office chosen

as ceremony location, which is the former office of the Japanese colonial administration's governor-general, as well as the procedure itself provoked critique for symbolizing colonialism and not being neutral (Gerber 2016d; Zhang 2016). Yapasuyongu Akuyana, president of the Association for Taiwan Indigenous Peoples' Policy and a Tsou member, for example compared it to "an audience with a monarch" (cited in Gerber 2016d). Lastly, some of the measures or reparations promised were critiqued for not formulating concrete actions. In regard to the Pingpu status, Kumu Hacyo argues that "the issue has been under discussion for a long time – so she [Tsai] should have given a concrete response" (cited in Gerber 2016d). Aborigines on Lanyu alike criticized the lack of a concrete timetable or plans to remove the nuclear waste on their island (Chen, W. 2016).

Conclusion: Indigenous-centered

All in all, the apology proves to be "authentic" (Lightfood 2015), addresses all collective harms experienced by the Indigenous population and puts high emphasis on diversity and equality. It therefore seems to be in general rather centered on the Indigenous peoples than on the state and a powerful foundation for the Indigenous Transitional Justice process. So far, these findings do not support the argument that the Taiwanese government undertakes a state-centered approach primarily for the sake of strengthening their own sovereignty and legitimacy. Templeman (2018) similarly states that the apology "has created new opportunities for activists to press for concessions on more controversial pan-indigenous priorities such as the Self-Government Law, hunting and fishing rights, and land management" (ibid.: 477). As critiques from Indigenous activists however indicate, this powerful foundation needs to be underpinned by substantial means – otherwise, it will become a nation-building project, a blunt tool or even a substitution to justice measures (Balint/Evans/McMillan, N. 2014: 212; Jung 2016: 381). Similarly, Shih, a professor of National Dong Hwa University, claimed before Tsai's apology that

> "[t]he DPP's objective is to further the establishment of a Taiwanese national identity comprised of different ethnic groups, but while that is important, if the policy stops there, Aborigines will still be left in a position of being dominated" (cited in Gerber 2016c).

Thus, in order to gain a larger picture, the apology needs to be evaluated in the light of the whole Indigenous Transitional Justice process. In regard to criticisms directed against other apologies in settler contexts which have been blamed among others as

"tool[s] for integration" (Lightfoot 2015: 19), as "self-serving for the state actor" (ibid.) or to "perpetuate power imbalances" (ibid.), Lightfoot (2015) similarly states that apologies not only need to be authentic but also meaningful. According to her, an "apology must, first, be a full and comprehensive acknowledgment of harms committed [that] will necessarily include some form of compensation or redress. Second, there must be a credible commitment from the state to engage in a new and different relationship with Indigenous peoples in the future" (ibid.: 33). Following this, the implementation process will be further analyzed in order to get a picture of the whole Transitional Justice approach. This will in turn unveil the "meaningfulness" (Lightfoot 2015) of the apology or, generally speaking, it will answer the question of how substantial and holistic the approach has been designed.

(2) Indigenous Historical Justice and Transitional Justice Committee (IJC)

On the same day of the apology, Tsai approved the guidelines of the IJC which has been

> "established to coordinate and promote related matters [to the implementation of the Basic Law (2005), to the promotion of Historical and Transitional Justice as well as to the construction of a foundation for the Indigenous peoples' self-rule], and to serve as a platform for consultation between the government and the various indigenous peoples on an equal footing" (IJC-Guidelines 2016: Article 1).

Starting with a preparatory meeting in December 2016, the first official committee meeting proceeded in March 2017, while altogether ten meetings have taken place until June 2019. There are currently twenty-nine members within the committee, and additional twenty-three individuals constituting the subcommittees' associate research fellows and project assistants according to the IJC's website (IJC 2017i). While Tsai functions as the convener within the meetings, there is one representative per each of the sixteen officially acknowledged Indigenous groups as well as three committee members representing all Pingpu "ethnic groups" (IJC-Guidelines 2016: Article 3). Before starting with the analysis, the IJC's similarities to truth commissions need to be outlined in order to evaluate its strength by the means of reasonable criteria.

Classification as a Truth-/Fact-finding Measure

The IJC is within this work classified as a 'truth' or 'fact-finding' measure as, according to its guidelines, the committee as well as its subcommittees are supposed to disclose historical information. In addition, Tsai applies a language within the meetings that furthermore resembles to truth commissions (Krüger/Scheuzger 2018: 145f.) by

frequently referring to "move toward reconciliation among the various ethnic groups" (IJC 2017c) or to "promote truth and reconciliation" (IJC 2018c). Overall, definitions for truth commissions are often criticized for being unable to analytically demarcate them from other commissions or to capture their varieties (Krüger/Scheuzger 2018: 131). Apart from this criticism, the IJC may, however, not be classified as a truth commission based on common definitions. According to some scholars (Schneider 2018: 109), the IJC would rather represent a historical commission due to its focus on wrongdoings perpetrated in more distant periods. In addition, it does not undertake broad private or public hearings, which would among others contradict with Hayner's third characteristic that a truth commission "(3) engages directly and broadly with the affected population, gathering information on their experiences" (Hayner 2011: 12). The IJC nevertheless shares central aims with truth commissions. As Hayner (2011) states:

> "what is special about truth commissions is their intention of *affecting the social understanding and acceptance of the country's past* […] It does seem […] that the intention of truth commissions is part of what defines them: *to address the past* in order to *change policies, practices, and even relationships in the future*, and to do so in a manner that respects and honors those who were affected by the abuses" (ibid.: 11; [emphasis added]).

This applies in part to the guidelines of the IJC and its purpose repeatedly pointed out in speeches of Tsai (IJC 2016b; IJC 2017a; IJC 2017c; IJC 2019a) like within the preparatory meeting:

> "And finally, I want to stress once again that the purpose of this committee is to *clarify historical facts, put forward legislative and policy proposals*, spur *societal communication*, and *seek reconciliation* among different ethnic groups" (IJC 2016b; [emphasis by added]).

Hence, the committee's intentions to resolve historical facts, to formulate recommendations in order to change certain policies and to create a societal communication in fact overlap with the intentions of a truth commission as stated by Hayner (2011). Due to these similarities – and even though the IJC might not be characterized as a proper truth commission – a comparison of the committee's capability to realize its intentions based on other findings for truth commissions appears to be reasonable. This should then display the commission's adequacy and strength within the Taiwanese Transitional Justice approach and answer the question of how the committee enables the Indigenous peoples to put forward their demands or how it may or may not challenge the settler state. Following this, I will examine the IJC's mandate based on Hayner's (2011) conclusions, especially within her part 'What Works Best'. Her insights will be underpinned with findings of an international conference of the

ICTJ in 2011, where as a result "guiding principles to ensure that truth commissions strengthen indigenous rights" (ICTJ 2012: 2) were formulated. As the IJC is not concerned with broader or systematic hearings, related aspects are not considered within the evaluation. Furthermore, its operating period is not included due to its short time of running and the same applies for its financial equipment. The committee is generally provided with "means of budgetary allocations" (IJC-Guidelines 2016: Article 12) from the Presidential Office and relevant agencies under the Executive Yuan (ibid.) Here, criticism especially addressed the lack of a determined funding (Gerber/Loa 2016). While Hayner (2011: 217, 285) suggests a budget of more than five Million US dollars that should not be used as a tool of influence, so far, no conclusion can be drawn for the IJC due to its short operating time.

Strength/Suitability: The IJC's Mandate, Public Input, Power of Reporting and Inquiry

The strength and suitability of the IJC will be therefore evaluated according to its mandate, public input and competences in the following part.

Mandate: Regarding a truth commission's mandate, Hayner (2011) propounds a "flexible" (ibid.: 76) and "broad" (ibid.) orientation in order "to allow investigation into all forms of rights abuses" (ibid.). According to its guidelines, the IJC's tasks encompass among others:

- the investigation of violations against Indigenous peoples throughout history;
- the elaboration of corresponding compensation, reparation and restitution measures;
- the identification of laws and policies discriminating Indigenous peoples or conflicting with the Basic Law (2005);
- the promotion of the Basic Law (2005);
- the implementation of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) or other international right conventions;
- as well as the revision and discussion of information and perspectives concerning Indigenous Historical and Transitional Justice (IJC-Guidelines 2016: Article 2; Pan 2018: 276).

These functions are pursued through regular committee meetings as well as through the continuous work of five subcommittees focused on 'land matters', 'culture', 'languages', 'history' and 'reconciliation' that gather and provide information in regard to their thematic topic (IJC-Guidelines 2016: Article 4). Hence, the mandate's terms of

references are kept very broadly and flexible as the committee members may decide to put in place further subcommittees if needed (ibid.). Its flexibility becomes furthermore apparent within the committee meeting's topics that frequently address contemporary debates. This is for example reflected by reports and discussions on the Transitional Justice Act (2017) (IJC 2017g, 2017h) or on matters concerning the Asia Cement Corporation (ACC) (IJC 2018b, 2018h). All in all, the IJC appears to function as a nodal point where the progress and matters of Indigenous Transitional Justice are presented and discussed. The ICTJ (2012) furthermore specifies that

> "[t]he mandate should ensure that the commission will pay specific attention to violations of the rights of self-determination, access to land and ancestral territories, and the practice of specific culture and language […] [as well as] to the structural and historical causes of violations, including colonization or other forms of marginalization of indigenous peoples" (ibid.: 50).

As indicated, this requirement is met within the broad mandate and the work of the subcommittees. Indigenous self-rule (IJC 2017a, 2017b) has been furthermore part of the first meeting while Tsai defined the allocation of traditional territory next to the recognition of Pingpu peoples as the committee's "two major issues" (IJC 2017a).

Public Input: According to Hayner (2011), "a commission will have greater support if there is public input on its membership" (ibid.: 213). Similarly, the ICTJ (2012: 51) suggests that the Indigenous population should have the possibility to take part within the selections of the commission members. For the officially recognized Indigenous groups, Article 3 of the IJC-Guidelines (2016) determines that "each indigenous people's assembly shall elect its representative in accordance with its current internal practices" (ibid.: Article 3). There is however a restriction for Pingpu groups as their representatives "shall be jointly elected by currently existing indigenous communities and other civic groups that have long advocated for Pingpu ethnic groups" (ibid.). Besides this limitation, the mandate of the IJC nevertheless grants representation for the Indigenous groups as well as "public input" (Hayner 2011: 213), which supports its strength to actually speak for and mirror the Indigenous population.

Power of Reporting: The power of reporting plays another crucial role for the functioning of truth-commissions (Hayner 2011: 193, 286). Whereas the naming of perpetrators may not be as relevant for the IJC due to its focus on non-personal wrongdoings, the analytical focus will lay primarily on its recommendatory function (ibid.). Here, Article 5 of the Guidelines (2016) determines that the committee should

annually report on the implementation progress of its work which should guide "the relevant government agencies for follow-up action" (ibid.: Article 5). Furthermore, the subcommittees may formulate recommendations based on their insights (ibid.: Article 4) while positions expressed within committee's discussions are among others forwarded to the Legislative Yuan (IJC 2017b, 2017f, 2019b). According to the ICTJ (2012: 50), it appears to be furthermore important that relevant governmental authorities ensure their support for the commission. For the IJC the guidelines determine that delegates of relevant government agencies are part of the committee, that their attendance may be requested by members and that representatives of governmental agencies may furthermore participate as observers (IJC-Guidelines 2016: Article 3, 5; IJC 2017e). These interconnections may enable sensibility for matters affecting Indigenous peoples. A good example is the participation of the Director General of the Forest Bureau who gave a report during the second meeting (IJC 2017d) which gains relevance, especially, if put against the Forest Bureaus' propagated distrust and skepticism towards Indigenous ecological resource management (Kuan 2016: 212). However, even though the direct inclusion of relevant government agencies is a crucial component to facilitate the IJC's aim of societal communication, there is no guarantee that these institutions will back up the committee's discussions and recommendations. In general, its reports and recommendations are neither "mandatory" (Hayner 2011: 193), nor are they provided with enforcing functions such as the option to require an explanation if recommendations are not implemented. In regard to deliberations on the highly disputed regulations of land delineation, Tsai for example mentioned that "[t]he committee respects the autonomy of the Legislative Yuan" (IJC 2017c). All in all, this has raised the critique that the IJC "does not have the necessary executive or investigative powers to perform its functions" (Mayaw cited in Chen, W. 2017b) which leads to the next aspect – its power of inquiry.

Power if Inquiry: Based on Article 9 of the IJC-Guidelines (2016), "the committee may request that relevant government agencies provide needed documents and files or dispatch their personnel to provide explanations before the committee" (ibid.: Article 9). This does imply that the IJC "can only ask for explanations or request that agencies provide materials, which means that the target of the investigation can ignore requests" (Ishahavut/Mayaw 2017). It has therefore been blamed as a "toothless tiger" (Wu,

P./Hetherington 2017). Here, critics compare the IJC's competences with mandates of the Ill-gotten Party Assets Settlement Committee as well as of the Transitional Justice Commission which have both a legal foundation and are located under the authority of the Executive Yuan (Ill-gotten Properties Act 2016; Transitional Justice Act 2017). In contrary to the IJC, both commissions' mandates determine that an investigation may not be refused and fines can be imposed (Ill-gotten Properties Act 2016: §12, §28; Transitional Justice Act 2017: §16). While presidentially established commissions have the advantage to be created rapidly and without large political controversies (Hayner 2011: 210), (truth) commissions introduced by legislation commonly entail "the possibility of stronger powers such as subpoena or search and seizure powers" (ibid.: 211).

Interim Conclusion for the IJC's Design

Before proceeding with the analytical framework and assessing the IJC's focus on collective healing, its awareness of Indigenous frameworks and its notion of equality, this interim conclusion shall shortly summarize the findings made so far. All in all, the IJC bears weaknesses and strength in the Taiwanese context with regard to Hayner's (2011) and the ICTJ's (2012) implications for truth commissions. On the one side, the election of commissioners, its broad and flexible mandate as well as its dialogical function may play a vital role in challenging settler narratives within the society as well as to reach more sensibility within governmental agencies. Beside some weaknesses of the Canadian TRC, Nagy (2013) similarly locates its potential strength within its "social function" (ibid.) and the possibility to invoke "political will to ensure that an injustice is not repeated" (Stanton 2012 cited in Nagy 2013: 64). The IJC's dialogical capacity may furthermore bring the various Indigenous peoples and their different views together which could result in achieving consent in regard to more disputed topics. Hence, its focus on societal communication, or its "social function" (Nagy 2013), is evaluated as an important aspect of the IJC's design. On the other side, its legal foundation and means in terms of reporting and investigating are relatively weak, offering little opportunity for the Indigenous peoples to give weight to their demands or the recommendations formulated. The IJC's aims to clarify historical facts and to put forward proposals are thereby highly undermined. Here, the proposed act on Aboriginal Justice could provide the investigations with more strength. According to this bill,

another committee would be created with more power to issue fines if investigations are rejected (Lin 2018).

Focus on Collective Healing

In general, the mandate of and the debates within the IJC have a focus on harms inflicted on the Indigenous communities rather than on individuals. As demonstrated in the theoretical part, the individualization of collective harms and the omitting of matters without a direct victim-violator relation represent major points of criticism within the literature of Transitional Justice (Corntassel/Holder 2008: 487; Hobbs 2016: 519; Nagy 2008: 278f.). This appears to be, however, not the case in the Taiwanese context. Hence, with the establishment of both, a committee focused on matters affecting specifically the Indigenous population and a Transitional Justice Commission created for the investigation of the authoritarian period, the primacy of individualism seems to be widely dampened.

Awareness of Indigenous Frameworks and Notion of Equality

On the one hand, emphasis is put on an equal dialogue between the Indigenous peoples and the government which is endorsed discursively as well as inscribed in the IJC-Guidelines (IJC-Guidelines 2016: Article 1; IJC 2017a; Tsai 2016b). Furthermore, at least half of the experts need to be from Indigenous origin (IJC-Guidelines: Article 3) and all subcommittees are headed by Aboriginal conveners. The committee additionally discussed topics such as assimilative education (IJC 2018f) and the need to "include diverse ethnic viewpoints" (IJC 2018d) on historical events, to educate the Taiwanese society more on Indigenous historical perspectives (IJC 2017f, 2018d, 2018h, 2019a), and to reveal the significance of historical events for the Indigenous population (IJC 2018d, 2019b, 2019c). Hence, the IJC's "social function" (Nagy 2013) offers space to debate, to reveal and to investigate Indigenous perspectives or truths and to contribute to a "negotiation among equals" (Jung 2016). The concept of reconciliation – here Tsai often refers to a reconciliation among the ethnic groups (IJC 2017c, 2017e, 2018c) – is similarly based on the IJC's societal communication. Tsai connects reconciliation largely to dialogue and mutual understanding (IJC 2017c, 2017g, 2018a, 2018c, 2019a) even though it has not been defined clearly. The goal of reconciliation shall be among others facilitated through "ethnic mainstreaming" (IJC 2017e) through which the

"society as a whole […] work[s] together to get to know the history and culture of different ethnic groups, and build a country of true diversity and equality" (IJC 2017e). The Indigenous cultures shall then turn into a part of the Taiwanese mainstream culture (IJC 2017c). This picture of equality may further support the Indigenous demands to sovereignty instead of constructing a Taiwanese identity based on unity. The committee's discussions surrounding Indigenous self-determination (IJC 2017b) and Tsai's acknowledgment that Indigenous traditional territory is a "concept of natural sovereignty" (ibid.) reinforce this picture. These discussions as well as the subcommittees' work consequently play a crucial role for inscribing "their own historical experience in the history of the nation" (Jung 2016: 385) and to strengthen their demands to self-determination.

On the other side, the lack of more competences weakens the investigations into Indigenous historical experiences and recommendations based on such findings, whereby the IJC runs the risk of becoming a substitute to meaningful measures apart from rhetoric. This partly indicates its vulnerability of being instrumentalized as a tool to strengthen or build a nation apart from justice (Balint/Evans/McMillans 2014: 202). As Rowen, I. and Rowen, J. (2017) point it out, the commissions installed in the light of Transitional Justice are a "part of a broader strategy at consolidating Taiwanese national identity" (ibid.: 17). This is also reflected in statements of Tsai within committee meetings, where she emphasized that "[a]chieving transitional justice can make us even more democratic, free, equal, and tolerant" (IJC 2018g) or that "we will build a Taiwanese identity that all people aspire to" (IJC 2019a). Within the fifth meeting Tsai furthermore underlined its international relevance by mentioning that the committee members' "efforts will be a positive inspiration for governments and indigenous peoples in other countries throughout the world. This is the value of Taiwan's democracy" (IJC 2018a). Here, it is especially interesting to add that the Indigenous committee members enforced this "strategy" (Rowen, I./Rowen, J. 2017) by filing a letter to Xi Jinping who emphasized China's goal of unification with Taiwan in January 2019 (Buckley/Horton 2019; Everington 2019). Within this joint declaration they outlined that neither Taiwan nor the Indigenous peoples living on the island belong to China, highlighting Taiwan as a country build on diversity and putting emphasis on their demand to sovereignty (Everington 2019).

Conclusion: Mixed, Preponderance to State-centrism

All in all, it becomes clear that the findings are rather mixed: there are different, crucial aspects that may challenge dominant settler narratives such as its broad mandate, public input, social function, collective healing, spaces to reveal Indigenous historical viewpoints, or its emphasis on equality. While these aspects cannot be neglected, specific actions need to give weight to these accentuations as "[r]econciliation is also about justice and restitution" (Nagy 2013: 62). Otherwise, the "talk of reconciliation is simply about getting Indigenous people to reconcile with colonialism" (ibid.). However, without real power to investigate into the injustices experienced by the Indigenous population or to influence policies within the Transitional Justice processes, the IJC appears to be rather weak to substantively challenge the status quo. In addition to that, the already named crucial aspects which may bear transformative potential seem to be similarly weakened by the IJC's lack of power. This slightly supports the argument that it is rather used as a tool to strengthen the representation and identity of Taiwan without providing it with more competences.

5.2.2 Issue-specific Measures

Documents important for the following sections are mainly constituted by Taipei Times news articles that display the progress in the Indigenous Transitional Justice approach as well as the attitudes of Indigenous protesters and right advocates. Furthermore, 'The Indigenous World' (Pan 2017a, 2018, 2019a), a yearly compilation providing a global overview of the situation for Indigenous peoples, serves as further references. The here published chapters on the Aboriginal population in Taiwan were mainly written by Pan Jason Adawei, a Tara Pingpu member. Additionally, scientific works on gathering and hunting activities (Charlton/Gao/Kuan 2018), traditional territory (Chen Y.s. et al. 2017) as well as on the Indigenous Languages Development Act 2017 (ILDA 2017) (Dupré 2018) are used for the evaluation.

(1) Restoring Indigenous Traditional Territory

In February 2017 the CIP announced guidelines[7] that would serve to officially delineate Indigenous traditional territory, to give such allocations a legal foundation and to provide the Basic Law (2005) with more effectiveness (Charlton/Gao/Kuan 2017: 145; Chen, Y.s. et al. 2018: 988; Pan 2018: 277f.). These regulations were crafted within twelve meetings together with Indigenous communities, public officials as well as experts and shall secure Indigenous traditional territory (Pan 2018: 278). Accordingly, Aboriginal communities may apply for the restoration of their land and they will be then granted corresponding rights over natural resources within these areas (ibid.). On the one side, it can therefore be classified as a reparative measure by restoring Indigenous land. On the other side, they function as a legal reform as they shall give effectiveness to the Basic Law (2005). Since the guidelines are limited to public land, leaving out the areas of traditional territory located on private land, Indigenous activists installed a permanent protest camp in Taipei on 23rd of February 2017 (Maxon 2019a; Wu, P./Hetherington 2017). While the camp organized by a group called 'The Aboriginal Transitional Justice Classroom' had to move and the camp was shut down by the police in January 2019, they announced that they will continue their protest until the guidelines will be adjusted (Maxon 2019a). General critique against the protest camp has been stated by Office Deputy Secretary-General Yao Jen-to and Indigenous DPP legislator Kolas Yotaka who blamed them for not representing the Aboriginal population due to their small size of protestors (Chen, W. 2017b). As opposed to this, the activists have accused the DPP caucus for not taking up position and prolonging the revision of the regulations (Gerber 2017c), claiming that "there is no rush to reach a conclusion because the current demarcation guidelines are already in force and will move forward unless the Legislative Yuan takes action" (Gerber 2017b).

Focus on Collective Healing and Suitability/Strength

On the one side, CIP Minister Parod called the guidelines a "milestone to achieve land justice for indigenous peoples" (cited in Pan 2018: 278). In fact,

[7] Unfortunately, a translated version of the regulations was not available on official webpages. The evaluation is therefore based on news articles, reports of the Indigenous World and scholarly work reflecting and discussing the content of the guidelines.

> "[t]he failure to outline the scope of traditional territories has chilled indigenous use rights [recognized by the Basic Law 2005] […] [and] the procedure by which the territories are identified, demarcated and legally allocated […] has not been fully codified" (Charlton/Gao/Kuan 2017: 145).

Consequently, the regulations appear as an important step towards the recognition of Indigenous territory, their gathering and hunting rights and finally self-determination. They furthermore entail an approach to collective healing, as Indigenous communities may apply for the restoration (Pan 2018: 278) – the land is, hence, not individualized.

However, on the other side, the exclusion of private property contributes to weaken the creation of justice and truth by protecting property rights "regardless of how they were created" (Chen, Y.s. et al. 2018: 988). Privately owned territories include areas possessed or leased by individuals, but also by companies who use these areas for development, tourism or agricultural activities such as Taiwan Sugar Corporation (Pan 2018: 278; Pasuya Poiconu 2017). The government justifies this decision with reference to the state's incapability to pass over private property rights which are given high priority in the National Constitution and expressed concerns over the societal effects if these areas would be included (Chen, Y.s. et al. 2018: 988; Pasuya Poiconu 2017). While the exclusion has been circumscribed as a first, temporal, decision, it has the consequence that the actual size of traditional territory is minimized from 1.8 Million to 800,000 hectares (Chen, W. 2017b). All in all, the governmental justifications may represent valid reasons for their decision while, in terms of Transitional Justice, the exclusion of private property could be also evaluated as a form of 'amnesty', likewise Winter (2013) reflects it for the case of New Zealand. In paradigmatic contexts criminal amnesties are, among others, evaluated as "a necessary evil […] for the sake of peace" (ibid.: 243), whereas opponents argue that amnesties may represent a trade-off to justice (ibid.).

With regard to the Taiwanese case, this work holds the view that the limitation to public land narrows the justice and sovereignty demands of the Indigenous peoples and therefore weakens the regulations' significance for the Indigenous Transitional Justice approach. As activists point out, some of their traditional territories became private property under the Japanese colonial system and the authoritarian period (Pan 2018: 278). However, in combination with the lack of a legal foundation clearly defining the Indigenous Transitional Justice matters, the loss of traditional territory on private land

and still existing Indigenous use rights to these areas will be hardly reconstructed (Charlton/Gao/Kuan 2017: 145f.). In addition, with no delineation of private land, critics state that local tribes are denied "'consultation and agreement' rights over development projects on such land, including the vast holdings of Taiwan Sugar Co" (Gerber 2017b). This furthermore hinders the application of co-management systems or Indigenous knowledge concerning the use of resources in these areas (Charlton/Gao/Kuan 2017: 145ff.) whereby "they fail to fully vindicate or effectuate indigenous hunting and gathering activity" (ibid.: 145). As the Taiwan Association of University Professors (2017) stated in the Taipei Times, this "would not help clarify historical facts or be a sincere process of reconciliation" (ibid.). The decision to exclude private property from traditional territory without providing other compensatory mechanisms (Chen, Y.s. et al. 2018: 988) leads therefore to a rather mixed evaluation of its strength: While it gives more effectiveness to the Basic Law (2005) and partly addresses Indigenous demands to traditional territory, it excludes half of this area where, as a consequence, justice in form of on-going use rights, co-management systems or truth seem to be hardly re-established.

As the land of traditional territory, however, encompasses approximately the half of Taiwan (Charlton/Gao/Kuan 2018: 128), it is obvious that the delineation process will be neither easy nor without conflicts which requires large dialogues on all levels. Such potential conflicts and practical constraints are among others displayed by the allocation of Thao people's traditional territory nearby Sun Moon lake. In 2018 the CIP demarcated and estimated the Thao's land for approximately 8,000 hectares which

> "means that the free, prior and informed consent […] of the Thao people must be sought through their traditional governance – Council of Elders and community representatives – before going ahead with economic, tourism or land development projects or environmental and wildlife conservation program" (Pan 2019a: 307).

The Nantou County government, however, opposed this decision in view of a planned resort hotel and other economic development or infrastructure projects that they fear to be dismissed by the Thao people (Maxon 2018a; Pan 2019a: 308). They have therefore filed an administrative appeal against the demarcations that has been granted by the Executive Yuan in January 2019 due to the CIP's failure "to invite all government agencies responsible for land management in the area to take part in the drawing process" (Maxon 2019b). Furthermore, the office of Yuchih County argued that the demarcated

territory is disproportional to the Thao people's size (ibid.). Thao activists have reacted to these disputes with a statement accusing the local government "to pit ethnic Chinese against the Thao people by saying that the territory would subject the entire township to the control of a small number of Thao people" (Maxon 2019b).

On the one hand, this case exhibits an unawareness of the loss of traditional territory as a matter of justice and not simply possession. This speaks for the importance to represent Indigenous demands to land as based on former dispossession and to integrate their historical viewpoints into dominant narratives. On the other hand, it points towards potential conflicts caused by the Indigenous Transitional Justice approach through which "hegemonic notions of property and possession are currently being contested" (Chen, Y.s. et al. 2018: 988). This in turn reveals the general limitations of Transitional Justice as a societal project that affects various interests in different parts of the population. Consequently, the significance and, especially, the effects of the current Indigenous Transitional Justice approach are also dependent on the implementation on a local level – beside its design by the Taiwanese government and legislation. While it is still too early and not the focus of this work, investigating the approach's effects on local levels will play further crucial indicators to evaluate its transformative potential.

Awareness of Indigenous Frameworks and Notion of Equality

Besides the noted complications to include private property, the limitation to public land nevertheless stays in clear opposition of what the Indigenous understanding of traditional territory constitutes. Consequently, this part argues that the regulations do not display the Indigenous, but rather the state's interpretation of land understood as 'possession'. As already outlined, traditional territory for Indigenous peoples "is the nexus through which their identity is constructed and maintained" (Charlton/Gao/Kuan 2018: 148) wherefore delineating land constitutes "a larger project to achieve historical justice and self-determination" (ibid.: 147). Corresponding measures therefore have a major impact on restoring justice for the Indigenous peoples and transforming the relation between them and the settler state. Since the concept of traditional territory as understood by the Indigenous community does not appear to be central within the regulations, they seem to be rather state-centric. Indigenous activists have similarly underlined that traditional territory cannot be divided in 'public' or 'private' land as the

current regulations determine (Hetherington 2017). In addition, Charlton, Gao and Kuan (2018) note that this represents "a lack of appreciation by the Government for what traditional territory represents to Taiwanese indigenous people" (ibid.: 146).

The impression that the state attaches more weight to its concept of land property and economic development over the Indigenous territory and resource management claims seems to be furthermore endorsed by the decision to extend the mining rights of Asia Cement Corporation (ACC). In 2017 plans arose to amend the Mining Act by including stricter examinations regarding the environmental impact and the consideration of affected Indigenous communities' consent on mining operations (Pan 2018: 273f.; Gerber 2017a). This amendment has not been passed yet by the Legislative Yuan at the time of writing (IJC 2019d). However, the Bureau of Mines, located under the Ministry of Economic Affairs, extended ACC's mining rights for another twenty years in March 2017 (Wang, C./Hetherington 2018) – "shortly before the Ministry of Economic Affairs agreed to freeze new approvals" (Gerber 2017a). According to the Truku people, ACC's quarry in Hualien County is placed on their traditional territory and accuse the corporation to have gained illegal access to their territory through fraud, faked documents and forced relocations of Truku households during the 1970s (Gerber 2017a; Pan 2018: 274). Consequently, and with regard to its environmental pollution and landscape destruction, they have protested against the quarry for many years (Pan 2018: 274). The extension of mining rights without any consultations with the affected communities has therefore led to further demonstrations by Truku people (Gerber 2017a; Pan 2018: 274; Wang, C./Hetherington 2018).

The government tried to resolve these contentions by initiating three-party talks with representatives from the local communities, ACC and the government as well as by discussing the topic within the IJC in order to "consider the rights of indigenous people, environmental and ecological concerns, and industry needs" (IJC 2018h). This may of course speak again for the Transitional Justice approach's capability to initiate dialogue through its social communication. But the fact that the mining rights of ACC were extended without Indigenous consent – despite the long existing protests from the Truku people and although amendments were planned – nevertheless supports the notion that the state remains central in dealing with land matters. This highly undermines the governments emphasis so far put on equality and the three party dialogues seem to be a

rather weak substitute to an inclusion of the Truku people before the mining rights were extended. On the second anniversary of the apology, a coalition of Indigenous congresses even stated that "[a] chance for the government to promote transitional justice and protect Aboriginal land rights was lost after the Bureau of Mines announced that the company did not need consent from the Truku" (Maxon 2018b).

Conclusion: Mixed

Many aspects suggest that the Indigenous Transitional Justice approach in regard to land remains rather concentrated on the state. By leaving out private property of the regulations, the Indigenous peoples experience no remedy or restitution for traditional territories seized and then privatized since the Japanese colonial rule. This decision thereby legitimizes the status quo for these areas as well as for the Truku people. With reference to Corntassel and Holder (2008), the regulations thus appear to "minimize settler-colonial territorial and material sacrifice while maximizing political/legal expediency" (ibid.: 471). This conclusion is nevertheless too easy in light of the effectiveness that they may provide for the Basic Law (2005) as first steps towards resource use or self-determination rights and the general limitations of Transitional Justice in form of differing interests and conflicts surrounding the allocation of land. Furthermore, corresponding societal debates may provide space for the Indigenous activists to question "hegemonic notions of property and possession" (Chen, Y.s. et al. 2018: 988) which would speak against the argument stated that the government is using the Indigenous Transitional Justice approach to strengthen their sovereignty. The regulations are therefore assessed as mixed, bearing components based on the state as well as possibilities to challenge the settler state's sovereignty and status quo.

(2) Improving Language Rights

The Indigenous Languages Development Act (ILDA) has been passed in May 2017 (Dupré 2018: 1; Chung 2017). As a "new legal framework" (ICTJ 2018c), it can be allocated to the type of reform within the Taiwanese Transitional Justice approach. The ILDA is originally rooted in another draft conceptualized in the beginning of the 2000s under Chen's presidency (2000-2008), which was then however assigned to the Basic Law in 2005 (Dupré 2018: 9). Now, after more than a decade, the ILDA became

effective in June 2017 and "has been an integral part of the DPP's transitional justice program" (ibid.: 8) in order to fulfill the Basic Law (2005).

Suitability/Strength

With the first article stipulating the ILDA's task "[t]o carry out historical justice" (ibid.: §1), it bears a high symbolical suitability and strength concerning the Transitional Justice process in general terms. With this phrase, it clearly spells out that it is part of rectifying the loss of languages to the Indigenous population and "promulgated to remedy past injustices" (Executive Yuan 2018) as indicated on the webpage of the Executive Yuan. It thereby signifies that it is not "yet another special right" (Kawlo Iyun Pacidal cited in Dupré 2018: 10) which has been stated by an Amis New Power Party (NPP) legislator. Furthermore, different actions have been taken by the CIP aimed at endorsing the ILDA which furthermore shows the strength that is given to this law. For example, the program 'Revitalization of Endangered Indigenous Languages' has been introduced in April 2018 in cooperation with seven universities on the island (Pan 2019a: 303). The program includes language classes as well as a one-to-one mentoring system and shall "specifically save ten of Taiwan's indigenous languages that are deemed endangered and at risk of dying out due to the dwindling population of elders and mother-tongue speakers" (ibid.). It furthermore supports Article 25 of the ILDA. This passage determines that Aborigines who strive to obtain civil servant positions specifically reserved for Indigenous peoples need to acquire an Indigenous language proficiency certificate and that civil servants concerned with Indigenous affairs "shall study indigenous language every year" (ILDA 2017: §25). Hence, the ILDA symbolizes an important component of the DPP's Indigenous Transitional Justice process.

Focus on Collective Healing, Awareness of Indigenous Frameworks and Notion of Equality

In its first article, the ILDA points out that "Indigenous languages are national languages" (ILDA 2017: §1) and thereby puts them, symbolically, on the same level as the other spoken languages of the Han population in Taiwan. As Dupré (2018) notes, "the ILDA enabled a momentous step in the recognition of Austronesian Indigenous peoples' identities by making Indigenous languages the first to be formally recognised

as Taiwan's national languages" (ibid.: 1)[8]. In addition, the law determines that regions with more than 1,500 Indigenous inhabitants are responsible to organize the promotion of Indigenous languages (ILDA 2017: §5; Chung 2017). This includes, among others, general activities to encourage the learning and speaking of Indigenous languages, the possibility for Aborigines to use their own languages in court and the issuing of official documents or signs in public spaces in the region's spoken languages (ILDA 2017; Chung 2017). This law is therefore itself an important step towards redressing collective harm and the experience of the Indigenous groups in Taiwan of losing their languages. As such, it is clearly focused on collective healing.

The determination of Indigenous mother tongues as national languages and the duty for regional authorities to nurture, promote and provide opportunities for Aborigines to apply their languages, turns it into an piece of the Indigenous Transitional Justice process which opens up the settler state by challenging the use of languages by the dominant society. As such, it has been evaluated as a "landmark in the recognition and revitalisation of Indigenous languages and cultures" (Dupré 2018: 1). Or, as Pan (2018) points it out in the Indigenous World 2018: "[A]mong the most important law enactments for indigenous rights in 2017 was the passing of the 'Indigenous Language Development Act' by Taiwan's Parliament" (ibid.: 273).

Conclusion: Indigenous-centered

Its strength within the Indigenous Transitional Justice, the (symbolical) creation of an equal status to their languages and the remedy of this collective loss, point to its centeredness on the Aboriginal population and the space that is provided by the state to challenge the use of dominant languages. Despite its importance, the ILDA nevertheless needs to be evaluated against the background that it was planned long before and is accompanied by a few weaknesses. According to Dupré (2018), it represents "arguably the easiest step in the revitalisation of Indigenous languages" (ibid.: 11) as its effect and realization need to be awaited. On top of this, "the program ignores the Pingpu peoples and their three Pingpu languages - Pazeh, Kaxabu, and Siraya […] [which] are considered the most critically endangered and are at risk of extinction within a decade"

[8] In December 2017, Hakka was turned into another official national language of Taiwan (Cheng/Chung 2017)

(Pan 2019a: 304). As a result, whereas this law may have great relevance for the officially recognized Indigenous groups, it has no consequences for Pingpu peoples and perpetuates the loss of their languages.

(3) Dealing with the Nuclear Waste Storage on Lanyu

After Tsai's apology a Tao elder from Lanyu accepted the printed version of her speech as a representative for the Indigenous groups on Taiwan and only two weeks later Tsai visited the island in order to discuss the nuclear waste issue (n.A. 2016a; n.A. 2016b). In addition to that, a fact-finding mission under the Executive Yuan was established after a preliminary meeting in September 2016 designed to reveal the decision-making process which has led to the storage on the island (CIP 2017a, 2017b). The reaction to the apology by the Tao people has been nevertheless rather critical calling it "an empty one, because it fails to specify exact relocation measures and a timetable" (Chen, W. 2016). Residents of Lanyu had among others claimed for a legal foundation to solve the nuclear waste issue and crafted a draft bill that would determine its removal within two years and provide the process with a budget over more than 316 Million US dollar for the restoration of the island's ecology, health matters and social as well as economic development (ibid.). As there was no access to English material of the fact-finding mission, the integration of Indigenous frameworks and truths cannot be incorporated as indicators within this section. However, as there was no substantial progress in relocating the storage on Lanyu, this part nevertheless follows the argument that actions within the Indigenous Transitional Justice approach dealing with this matter have so far served as trade-offs to the Tao's demands of relocation.

Suitability/Strength

In general, Lin Wan-i, Executive Yuan minister without portfolio and member of the IJC, was designated as the convener of the investigation task force (CIP 2017a). According to official documents of the Atomic Energy Council, Lanyu had been chosen as a storage site in 1972 and approved in 1978 due to its isolated and remote location and after other options, like mining tunnels, mountains or Japanese fortifications as well as a dumping site in the ocean, were abolished (Liao 2016). While there was no English version of the completed fact-finding report available, according to IJC, this report includes "recommendations for relocating the storage facility, paying compensation for

damages, providing healthcare resources, and the future development of Orchid Island" (IJC 2018b). As similar to the IJC, the investigative mission, here classified as a truth- or fact-finding measure, has been criticized as slowly and powerless in comparison to the commissions dealing with the authoritarian period (Ishahavut/Mayaw 2017). Activists therefore argued that due to its lack of competences, "Taiwan Power Co, the Ministry of Economic Affairs, the Ministry of National Defense, the Vocational Assistance Commission for Retired Servicemen and other agencies refused to provide any material, and as a result the facts remain unclear" (ibid.). Even before the investigative mission was established, Siyaman Foangayan, president of the Tao Foundation, stated that "[t]here is nothing to investigate about the nuclear waste issue. There is nothing concealed, as in White Terror-era persecution cases" (cited in Chen, W. 2016). Furthermore, one year after the apology, Tao activists expressed their resentments over the stalled progress of dealing with the nuclear waste issue on Lanyu, claiming that "no action has yet been taken on the issue of nuclear waste on Orchid Island" (Chang/Hetherington 2017). The Orchid Island Youth Movement alliance therefore organized a protest on the Indigenous Peoples Day and local residents attached protest banners to their doors as a sign of support (ibid.).

Conclusion: State-centered

Even though the state-owned energy-company Taipower is in search for another permanent storage in order to relocate the waste on Lanyu, it can nevertheless be concluded that no large progress has been made. No deadline or fixed budged was officially determined by a law or something similar. The stalled progress thereby partly confirms the initial worries of protesters that the apology was rather a move "to postpone" (Chen, W. 2016) than to find a solution for the situation on the island as stated by the Tao foundation president. Furthermore, even though Tsai's apology is overall evaluated as designed 'authentically' (see Chapter 5.2.1), it may appear somehow arbitrary with regard to the nuclear waste issue. Before the current Transitional Justice approach, former premier Yu Shyi-kun (DPP, 2002-2005) had already apologized for the waste on the island without enacting any concrete consequences (Hsu, C. 2002). As a result, even though the fact-finding mission may have contributed to gain more detailed information on the decision-making process back then, the approach in order to remedy this decision appears to be superficial and rather

weak without practical changes in regard to former initiatives. It is of course a complicated quest for Taipower and the government to find an appropriate site with the consensus of other residents within only three years since Tsai became president – which again highlights the general boundaries of a Transitional Justice approach. However, the rhetoric by promising to find a "permanent solution for the nuclear waste" (Tsai 2016b), the compensations and the investigative mission so far appear to work rather as a substitute that refrains from dealing with the long-term demand to remove the waste. With no concrete response and the semblance that something is done, the relation between the state and the Tao people appears to experience no substantial change, wherefore the situation for them is rather legitimized than challenged.

(4) Recognizing the Indigenous Status of Pingpu Peoples

Within her apology Tsai promised to revise the important laws connected to the status recognition of the Pingpu groups until the end of September 2016 (Tsai 2016b). Her emphasis on this issue, which she also underlined as one of the major concerns within the first meeting of the IJC (IJC 2017a), has awakened the hopes of many Pingpus. As a planned amendment to the Status Act for Indigenous Peoples (2001) has not been passed yet, this section will depart from the analytical framework and rather concentrate on the discussions surrounding the Pingpu status that further reveal the general limitations of Transitional Justice approaches.

Status quo for Pingpu Peoples Prevails

The Executive Yuan announced in October 2016 that Pingpu groups will be recognized through an amendment of the Status Act for Indigenous Peoples (2001). However, the proposed status granted under the amendment would be nevertheless "separate from and without the same indigenous rights as the two main CIP categories of 'Lowland Indigenous People' and 'Mountain Indigenous People'" (Pan 2017a: 324). As a result, the reaction had been mixed, with Pingpu leaders calling the plans to establish a category called 'Pingpu Indigenous people' a "historic decision" (Pan 2016) on the one side. On the other side, activists expressed their worries about the debates that still need to be carried out with the CIP and its plan to provide their groups only gradually with Indigenous rights and state support (Pan 2017a: 324). With regard to this, Aidu Mali, a

Papora, for example notes that "[i]n the end, we could be denied our rights and excluded from the system again" (Pan 2016).

In August 2017, the Executive Yuan passed an amendment draft which had been submitted to the Legislative Yuan and determines that those who were still registered as Indigenous under the Japanese rule may obtain Pingpu status (Chen, W. 2017c). Its passage was therefore expected in 2018 after public hearings on this topic had been appointed by legislators (Pan 2018: 277). These hearings included the participation of Pingpu representatives who emphasized their demand to be acknowledged as "full-status indigenous peoples" (Pan 2019a: 306). Yet, so far, no decision was made and no amendment has been passed at the time of writing. Especially KMT (Indigenous) legislators were blamed for the stalled delivery. According to Uma Tavalan from the Siraya Pingpu people, the "amendments need to get through three readings at the legislature, but Chinese Nationalist Party [KMT] legislators have blocked this amendment, using stalling tactics such as requiring more review or public hearings" (cited in Pan 2017b; [addition in original]). Similarly, the CIP faces large critique. Related to a trial to gain Indigenous status, Siraya representatives protested in February 2019, saying that "the Council of Indigenous Peoples was working to deny recognition of their people and refusing to grant them indigenous status" (Pan 2019b). The CIP, among others, intends that governmental programs are provided to Pingpu communities according to each people's level in their mother tongues and cultures (Pan 2019a: 306). This would be, however, contra productive according to Pan (2019a), who notes that "[f]or those Pingpu peoples who have lost most or all of their language and culture, this means that they cannot have indigenous rights and are not eligible for CIP subsidies and support programs" (ibid.: 306). As a consequence, there has been no change regarding the Pingpus' status quo in practice and even if they are given some kind of 'Aboriginal status', it remains unclear if this meets their demand to obtain similar rights and support as the other officially recognized groups on the island.

It is nevertheless important to note that with Tsai's and the DPP's Transitional Justice approach the matter of Pingpu Indigenous status gained more attention on higher political levels. As the former Mayor of the south-western city Tainan, Lai Ching-te formulated: "This is the first time we have had a positive response from the government on this issue, after decades of struggling and campaigning" (cited in Pan 2016). In

addition to that, issues such as the remembrance of Zheng (Koxinga) are debated, likewise discussions surrounding a statement made by Kolas Yotaka show. She stated that "the government should not be involved in the ceremony to honor Cheng [Zheng] as such worship legitimizes 'colonial thought and behavior'" (cited in Tung/Chung 2019). Since Tsai as president, the attendance of governmental representatives has stopped for such ceremonies and was delegated to the Tainan City Government (ibid.)

Differing Interests

While no or little transformative potential has been reached yet in regard to the Pingpu demands, the stalled process rather displays the general boundaries of Transitional Justice than the state's utilization of such an approach to strengthen their own legitimacy and sovereignty. The claims and the delaying behavior of the CIP, representing the sixteen Indigenous groups in Taiwan, and the Aboriginal KMT-legislators rather show that the recognition of Pingpu groups constitutes a controversial topic within the Indigenous population. The discussions are largely connected to the fear of resource reduction that the officially recognized groups expect once Pingpu communities obtain similar status. Overall, it can be stated that there is a general lack of a pan-Indigenous unity and a division among the Aboriginal legislators between the party lines. This, according to Templeman (2018), has "consistently hampered cooperation on common goals, and as a consequence, the benefits traceable to the work of indigenous representatives […] have been more narrowly targeted, less sustained, and less effective than they otherwise could be" (ibid.: 478)[9]. Interestingly, the same applies for the apology, where two DPP and one NPP Indigenous legislator attended the ceremony, whereas the other Indigenous legislators decided not to participate (ibid.: 477). Reasons for this and the lack of an overarching pan-Indigenous movement, can be traced back to the Aboriginal population's diversity in terms of culture, region, but also degree of assimilation as well as to structures within the electoral system (ibid.: 479).

[9] As Templeman (2018) outlines, with eight Indigenous representatives of 113 legislators in total, they could form the third-largest group in the legislature. This "could […] wield considerable influence. One reason is that Taiwan's legislative organization law gives party caucuses, especially small ones, disproportionate influence over the legislative process through equal representation in the Cross-Party Negotiation Committee, a super-committee that decides the fate of most legislation reviewed by the LY. Any bills that pass this committee require unanimous consent of all the party caucus representative – so, in theory, at least, a unified yuanzhumin caucus could leverage its vote in this committee […], as members of small caucuses have frequently done in the past" (ibid.: 478).

This in turn indicates that Transitional Justice and its impact are furthermore dependent on the "wider policy environment in which they occur" (Jung 2016: 357).

Conclusion: General Limitations of Transitional Justice

Consequently, the stalled process and the planned limitations to the Pingpu status cannot be used as indicators reflecting a centrism on either the state or the Indigenous peoples and rather suggest that there are general boundaries of Transitional Justice which may itself constitute a matter of conflict between the various Indigenous groups. Nevertheless, granting an Indigenous status to Pingpu groups without the same or similar rights as the other groups will leave them out of important policies and the achievements made within the Indigenous Transitional Justice approach, as their exclusion of the ILDA shows. Thus, even though the demand of Pingpu groups to achieve Indigenous status received more attention, it remains unclear if or how their experience of losing their status, cultures and rights will be remedied. With regard to the caveats within the Indigenous population, it would be consequently important to provide their potential recognition with guarantees or the needed financial equipment in order to not leave the officially recognized Indigenous peoples disadvantaged.

5.2.3 Entire Implementation Process

Overall, the approach is dominantly conducted with a focus on collective healing by mainly focusing on collective and still existing non-personal injustices that are addressed through the application of different measures, including reparative as well as fact-finding means and legal reforms. The process started with a broad as well as powerful foundation through Tsai's 'authentic' apology in August 2016. With regard to Lightfood's (2015) two criteria of meaningfulness, – (1) some form of redress and (2) commitment to a new relationship with Indigenous peoples (see Chapter 5.2.1) – this apology still needs to be evaluated in the whole light of the Indigenous Transitional Justice process. This in turn shall answer the key questions if the process has been substantially implemented and for which demands accountability – in terms of acknowledgement and enacting consequences – is being realized.

(1) Generally speaking, with the ILDA redress or accountability is established in regard to the Indigenous peoples cultural or, more specifically, language rights. In line with this, an amendment to the Education Act for Indigenous Peoples (1998) has been

furthermore approved by the Executive Yuan and submitted to the Legislative Yuan (n.A. 2019). If it passes the government would provide Indigenous peoples with more influence on school curriculums (ibid.). Moreover, with the regulations of delineating public land, accountability has been partly constructed for the loss of traditional territory. With these two measures Tsai's (2016b) promise to provide the Basic Law (2005) with more effectiveness is consequently being realized. As connected to this, a Land and Sea Area law shall be enacted as a next step according to CIP Minister Icyang Parod (Gerber 2017d). While a corresponding act drafted by the CIP has been transferred to the Presidential Office (Hetherington 2017), none such law has passed yet and similar applies to the promised act on Indigenous Self-Government. Consequently, accountability for self-determination as well as resource management claims is not realized yet, or only to some extent addressed through the regulations on delineating land. Concerning the nuclear waste on Lanyu, a fact-finding mission has been installed and compensation is being paid, the situation has however not changed for this long-term demand. Moreover, while redress is planned, there is so far no accountability constructed for Pingpu peoples in regard to their Indigenous status while they are furthermore left out from achievements made within the Indigenous Transitional Justice initiatives[10]. Given the already outlined general boundaries of Transitional Justice, likewise differing interests connected to land and the status of Pingpu peoples, this work argues that the first requirement of Lightfood (2015) is almost met by having comprehensively acknowledged the Indigenous demands as harms and enacting at least some form of redress within the last three years.

The evaluation for the second criteria – (2) the intention to change the relation between the state and the Indigenous peoples – appears to be more mixed. On the one hand, the emphasis on equality, diversity or self-governance as well as the potential delineation of land and the ILDA speak for such a commitment. On the other hand, the lack of a legal foundation that would stipulate the scope of Indigenous Transitional Justice and provide the process with more power besides rhetoric, but also the limitation and disregard of the Indigenous concept of traditional territory oppose such a commitment. They rather indicate that the approach, here, remained centered on the state. This notion is

[10] Within the tenth session of the IJC Tsai stated that the amendment is among others stalled due to other bills submitted to the agenda of the Legislative Yuan (2019d).

furthermore endorsed by the decision to extend the mining-rights of the ACC, thereby overriding the consent of the Truku people, as well as by reactions of Aboriginal rights groups. One year after Tsai's apology, a member of the Indigenous Youth front for example assessed that "a big picture perspective has been missing in most discussions of Aboriginal rights, and that has created space for the government to ignore the main issues, while using minor benefits as evidence of its accomplishments" (cited in Gerber 2017e). In addition, on the second anniversary of the apology, it has been stated by other Indigenous coalitions "that transitional justice for Aborigines has yet to be realized" (Maxon 2018b). And with comparison to broader Transitional Justice approach, Panai Kusui, a singer and Amis, argued that: "Although it is absolutely correct that the government has sought to address the 228 Incident and the issue of transitional justice, the nation has yet to make an equal effort to redress the injustices done to Aborigines" (cited in Chen, W. 2017a). This part therefore comes to the conclusion that the process only partly indicates a commitment to a new relationship. However, with being in power for just a short period, the substantiality or meaningfulness (Lightfood 2015) of the approach needs to be further explored within the up-coming years.

Conclusion: Mixed

With regard to the argument that the government and the DPP are using the current Indigenous Transitional Justice approach for a picture of a 'diverse' Taiwan, it is additionally interesting to look at the initiatives' connectedness to the broader geopolitical context, for which Tsai's speeches on the last two Indigenous Peoples' Days in Taiwan may give hints. On the first of August in 2017, president Tsai especially emphasized the international relevance of the Indigenous Transitional Justice approach, stating that the apology in line with other states that apologized to Indigenous populations "creates an excellent link between Taiwan and the rest of the world, and is a driving force that moves us forward" (Tsai 2017). She furthermore highlighted the Indigenous Peoples' Day as a possibility to exchange with other Aboriginal peoples, where Taiwan "will resolutely and proudly say to the world that […] [it] is a country of diversity and beauty that respects indigenous peoples" (ibid.). On the same day in 2018, Taiwan arranged and revived the Austronesian Forum under Tsai which was attended

by different representatives from the pacific region[11] (Dupré 2018: 9; Maxon 2018b; Tsai 2018). This forum serves an exchange platform on Austronesian Indigenous Peoples' matters and has not taken place since a decade during Ma's presidency (KMT, 2008-2016) (Dupré 2018: 9; Maxon 2018b). The argument that the DPP is utilizing the current Indigenous Transitional Justice approach merely as a tool to bolster their sovereignty or legitimacy and to create an identity of a 'diverse' Taiwan is therefore only partially confirmed. Whereas the findings and statements suggest that the approach is in general connected to strengthen the picture of a democratic and multicultural Taiwan, the implementation process nevertheless revealed aspects that may potentially challenge the settler state. Furthermore, Tsai emphasized in both speeches that it is still an on-going process (Tsai 2017, 2018), thereby avoiding the sense of a closure. On the other side, the state has shown reluctance to open up by not providing the process with more power. The next chapter on Indigenous participation will therefore serve as another important indicator to reveal the government's will to transform the relation between the state and the Aboriginal peoples.

5.3 Participation

Council of Indigenous Peoples

As already mentioned, the CIP plays an important role in planning and promoting the Indigenous Transitional Justice approach. Given the fact that it is constituted by four (deputy) chairpersons of Aboriginal origin and shall represent all of the officially recognized Indigenous peoples (Organization Act of the Council of Indigenous Peoples 2014: §3-6) it could be consequently inferred that there is some form of decisive power (rung six to eight; Arnstein 1969) granted to the Aboriginal population within the Transitional Justice process. It shall be nevertheless argued that the distributed power to the CIP does not exceed rung five (placatation) in terms of Arnstein's (1969) ladder of citizen participation. Apart from representing a great achievement in terms of granting more influence to the Indigenous population since its establishment in 1996, the CIP remains under the control of the Executive Yuan, while its chairman is recommended by the premier and appointed by the president (Executive Yuan 2017c; van Bekhoven 2017:

[11] Members, beside Taiwan, include Kiribati, the Marshall Islands, Nauru, Palau, the Solomon Islands, Tuvalu, Indonesia, Malaysia, the Philippines, New Zealand, Guam and Hawaii (Maxon 2018b).

17). With regard to the processes surrounding an already drafted version of an Indigenous Self-Government Law during Chen's presidency (2000-2008), Templeman (2018) generally states that "there is little that indigenous representatives have been able to do in practice to advance policy reforms" (ibid: 476). In this case, the CIP had compiled a draft for an Indigenous Self-Government Law, whose content was then largely reduced under Chen's administration (ibid.). Indigenous activists furthermore blame the CIP for mostly supporting governmental interest and accused it for being widely dependent from the Executive Yuan (ibid.). Similar accusations have been made in the case of the regulations on the delineation of land within the current Transitional Justice approach. Pasuya Poiconu, a Tsou member and former deputy convener of the IJC, for example stated that "[t]he council was willing, but unable" (Pasuya Poicuno 2017) to include privately owned land in the guidelines due to pressure from the Executive Yuan. However, it needs to be noted that CIP Minister Icyang Parod disputes this view, saying that there had always been the one version drafted without privately owned land under the CIP (Gerber 2017d). With regard to the afore-outlined aspects, it shall nevertheless be concluded that the participation of the CIP is mostly based on the rung of "placatation" (Arnstein 1969: 22) as "some degree of influence" (ibid.) is existent, but "the right to judge the legitimacy or feasibility of the advice" (ibid.) is in the hands of the Executive Yuan.

Indigenous Historical and Transitional Justice Committee

The IJC constitutes another important actor representing the Indigenous population within the Indigenous Transitional Justice approach, especially, as the representatives were elected with input from their communities. According to a Presidential Office news release, the IJC "will serve as a collective decision-making mechanism by indigenous peoples" (IJC 2016a). Its degree of influence shall therefore constitute another crucial indicator displaying the inclusion or marginalization of the Indigenous peoples within the approach. As already analyzed in Chapter 5.2.1, the IJC serves as a nodal point where the progress on and subjects of the Indigenous Transitional Justice approach are discussed and where input of the Aboriginal representatives may be forwarded to other governmental agencies or the Legislative Yuan. This could then result in inscribing Indigenous perspectives in corresponding policies. However, the lack of a strong legal basis and a recommendatory function, as already indicated, reveal

that there is no decisive power provided for the IJC. Furthermore, while this work has already highlighted the IJC's strength in debating Transitional Justice topics, this capacity has not always been utilized in cases where it could have played a crucial role. A good example is constituted by the (non-)inclusion of the IJC in the Asia Cement Corporation-dispute. Although this case became a subject in the IJC's debates, this was only after the rights had been already prolonged. As a consequence, Indigenous groups have stated that

> "the Asia Cement case showed, the committee was never directly involved in any decisionmaking process on important policies related to Aborigines, but rather consulted after a decision was made and ended up only backing the decision" (Maxon 2018b).

According to them, "[i]t has failed to intervene in important cases of injustices against Aborigines" (ibid.). As a consequence, it provides the Indigenous representatives with "little or no agency in challenging power relations or in determining what mechanisms occur or how they are implemented" (Gready/Robins 2015: 357). Based on these insights, this work comes to the conclusion that the space of participation given to the IJC is mostly located within the "degrees of tokenism" (Arnstein 1969). As provided with fewer capacities than the CIP the IJC occupies rung four "consultation" (ibid.), where opinions are included but no reinsurance is given that these will be considered.

Conclusion: State-centered

Generally speaking, the Indigenous Transitional Justice approach attempts to reach out to various parts and members of the Indigenous society: The IJC is designed to create dialogue between multiple Aboriginal groups; moreover, Tsai and other governmental representatives have visited Indigenous protestors as well as local communities like on Lanyu; and Pingpu representatives were consulted in the Legislative Yuan (Gerber/Loa 2016; Hetherington 2017; n.A. 2016b; Pan 2018: 306). While the awareness of the multiplicity of Indigenous voices represents a crucial aspect for an approach to be centered on 'all' Indigenous peoples, these consultations similarly remain within the degrees of tokenism (Arnstein 1969).

This displays the government's reluctance to open up, to challenge its settler-Indigenous relations and to redistribute more power to the Indigenous peoples. With reference to Arnstein (1969), this "allows the powerholders to claim that all sides were considered, but makes it possible for only some of those sides to benefit. It maintains the status quo"

(ibid.: 216). Especially with regard to the Pingpu peoples whose "cultural and political representation remains limited" (Caldwell 2018: 481f.), the state can claim that they are included or is aware of these groups, while nevertheless leaving them out from progress made within the Indigenous Transitional Justice approach. The on-going state-centrism within the Transitional Justice process is additionally indicated through the government's proceedings in the delineation of land and the already mentioned ACC-case. While the regulations deny "veto power over large-scale development projects" (Hsu, S. 2017) on privately owned land like it has been demanded by Aboriginal right advocates (Hsu, S. 2017; Gerber 2017a), the Truku people's consent had been never included within the decision to extend the mining rights nor where they informed before they were prolonged (Gerber 2017a; Wang, C./Hetherington 2018; Maxon 2018a). Didi Chang, a Truku, has therefore stated in regard to the ACC-case that the current government "is no different from past governments" (cited in Maxon 2018a). Hence, while the Transitional Justice approach exhibits spaces where the Indigenous population may influence its design and implementation, there is still a lack of more substantial power or an assurance that their voices will not only be heard but also considered within its proceeding. With regard to these findings, no shift to grant more decisive power or to consult Indigenous communities when necessary has been achieved within the current Indigenous Transitional Justice process, the participation appears therefore to be rather instrumental and state-centered. The argument that the DPP is using the Indigenous Transitional Justice approach as a tool to strengthen their legitimacy is thereby largely supported.

6. Reflection and Conclusion

This part discusses this work's findings and their implications by, first, providing a short summary of the results; secondly, answering the research question; and, lastly, by outlining the Taiwanese case's significance and further research interests.

Summary

Overall, the Indigenous Transitional Justice approach reveals three parts with different implications for the argument that the DPP is using state-centered initiatives foremost to strengthen their own legitimacy or sovereignty. (1) With regard to the all-encompassing scope and the broad range of the apology, which were both evaluated as Indigenous-

centered, this argument cannot be confirmed. All in all, the approach embraced crucial aspects of the relation between the settler state and the Indigenous population. In addition, the Taiwanese state represented these long-term injustices of the Indigenous population, such as self-determination, the loss of traditional territory, culture, and languages etc., as harms done to this part of the society. It consequently promotes them as justice issues, counters a "settler-colonial unconsciousness" (Hirano/Veracini/Roy 2018) and made the state accountable to redress these harms.

(2) The conclusions for the implemented measures appear to be more mixed. On the one side, the apology provided a first strong foundation; the ILDA (2017) gives generally more weight to the Basic Law (2005); and the social communication and emphasis on equality as well as diversity have been furthermore evaluated as important aspects that seem to be aware of the Indigenous population and their demands. Furthermore, complications were pointed out, likewise conflicts surrounding the Pingpu Indigenous status as well as the allocation of land, that may not specifically speak for the process' centeredness on the state, but rather indicate the general limitations of Transitional Justice as a societal project. All in all, these aspects speak against the Indigenous Transitional Justice approach as a tool to solely to strengthen the picture of a diverse Taiwan without providing redress. On the other side, the process lacks of stronger investigative or recommendatory powers; the Tao people on Lanyu still face the same situation without large practical changes; and the limitation of Aboriginal land as well as the treatment of the Truku people within the ACC-case proof that the Indigenous concepts and interests were not pivotal in the matter of traditional territory. As a consequence, the last aspects together with the attempts to put the approach on an international level suggest that the DPP is using the Indigenous Transitional Justice process as a tool to gain more legitimacy by creating a picture of a multicultural Taiwan that tries to come to terms with its settler past.

(3) This notion is furthermore supported by the space that is provided to the Indigenous population to influence the process. While consultation of the Indigenous peoples is existent through the CIP or the IJC and even though the CIP holds competences to design measures of the Transitional Justice process, Indigenous representatives within the IJC were left out of crucial deliberations and there are no guarantees that their thoughts and recommendations will be considered. As such, the argument that the state

is strengthening its own legitimacy or sovereignty over the Indigenous population can be confirmed in reference to these findings.

Is the Approach Directed Towards Transforming or Legitimating the Status Quo?

Given these results, this work comes to the conclusion that the Indigenous Transitional Justice approach, as currently designed and conducted by the DPP, is potentially transforming the notion of on-going and past injustices faced by the Indigenous population as harms that need to be remedied and integrated in the Taiwanese historical narratives. As such, it may provide opportunities to challenge dominant historical viewpoints and create more understanding for Indigenous demands from the society as well as governmental agencies. With its aim to provide claims related to cultural rights, self-determination, resource management and traditional territories with more effectiveness, the current relation between the state and the Indigenous population appears to be partly challenged and possibly transformed. However, the lack of a legal foundation or more competences – in contrast to the overarching processes addressing the Martial Law era – and the lack of guarantees that Indigenous voices will be considered within the process rather legitimate the position of the settler state. Here, the relation between the state and the Indigenous population appear to be barely challenged.

Significance and Further Research Interest

With regard to these mixed findings and the particularity of Taiwan with a settler history and a transition from an authoritarian system, the following question, that had been posed for this work's contribution (see Chapter 1.2), appears to be interesting: How can "potential failures" (McMillan, M./Rigney 2018: 763) be overcome? As the first government in Asia to apologize to its Indigenous population (Pan 2017a: 321f.) and due to its progress in improving the rights and living situation of the Indigenous peoples since its democratization, Taiwan's experience may provide starting points for other (Asian) settler countries in general. With regard to its overall Transitional Justice approach, the most significant part proofed to be its embracement of all demands, including on-going and non-personal violence. As a result, the approach is not only designed relatively broad, but, most importantly, it departs from the often-critiqued primacy of individualism. Here, Transitional Justice as such appears to provide a powerful basis for the different Indigenous communities to claim for their rights and

display their history of loss one of harm based on settler migration. By acknowledging its responsibility for a broad array of injustices the Taiwanese state clearly made itself accountable to give some sort of remedy. The Transitional Justice processes' division into an approach focused on the Martial Law era and another strand concentrating on specific Indigenous demands may therefore be an example for other settler contexts.

However, given the central position of the state in defining how much space is given to the Indigenous population, where Indigenous frameworks may be included or not and how much power is given to a committee, the question if Transitional Justice as a practice is able to overcome its failures remains. Concerning the Taiwanese case, where the Indigenous peoples had already achieved many important institutional rights, especially claims to traditional territory, self-determination and cultural rights appear to be important quests. However, the Taiwanese state appeared to be partly reluctant to challenge its overall relation to the Indigenous population within the Indigenous Transitional Justice approach in regard to these matters. This further proofs the general state-centeredness of Transitional Justice and reveals the natural boundaries of Transitional Justice as a societal project that may itself be part of conflicts. Consequently, it prevails questionable if Transitional Justice means are capable to "productively assist to destabilize or challenge the power of the state, even through measures that are designed and implemented by the state" (Henry 2015: 212). To fully answer this question for the Taiwanese case, the effects and the implementation on a local level need to be further evaluated. Due to the limited period of three years, this work, however, falls short in assessing the impact and the actual transformative capacity, that can only be analyzed within the up-coming years. Here, a focus on the Han population, their perception of the current approach and their relation to the Indigenous peoples might reveal the impact of Tsai's emphasis on a 'mutual understanding' and 'societal communication' that has been evaluated as potentially transforming. Furthermore, it remains open how the proposed Aboriginal Justice bill would change the current processes and if it provides the approach with the necessary competences to challenge the settler state through its own designed measures. While this work has tried to provide a comprehensive overview on the approach and Aboriginal reactions, this work's insights remain limited due to the restriction to English data and Indigenous (activists') voices in news articles. It would be therefore enriching to gather in-depth

information about the demands within the Indigenous communities. This could contribute to reveal the main local needs connected to the Transitional Justice approach and to further investigate the elites-without-people hypothesis, thereby answering the question if the activists actually speak for their local communities. Consequently, Taiwan and its still on-going processes of Transitional Justice constitute an interesting area of research whose concrete outcomes still need to be awaited and analyzed.

7. Appendix

7.1 Abbreviations

ACC	Asia Cement Company
ATA	Alliance of Taiwan Aborigines
Basic Law	Indigenous Peoples Basic Law
CIP	Council of Indigenous Peoples
DPP	Democratic Progressive Party
ICTJ	International Center for Transitional Justice
Ill-gotten Properties Act	Act Governing the Settlement of Ill-gotten Properties by Political Parties and Their Affiliate Organizations 2016
IJC	Presidential Office Indigenous Historical Justice and Transitional Justice Committee
IK	Indigenous Knowledge
ILDA	Indigenous Languages Development Act
KMT	Nationalist Party, or Kuomindang
NPP	New Power Party
Taipower	Taiwan Power Company
TRC	Truth and Reconciliation Commission of Canada
Transitional Justice Act	Act on Promoting Transitional Justice 2017
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

7.2 Officially Recognized Indigenous Peoples in Taiwan

Indigenous group[12]	Year of recognition (for groups recognized after Japanese era)	Membership (estimated)
Amis/Pangcah		**208,931**
Paiwan/Payuan		**100,437**
Atayal/Tayal		**89,823**
Bunun		**58,254**
Taroko/Truku	**2004**	**31,412**
Puyuma/Pinuyumayan		**14,084**
Rukai		**13,301**
Seediq	**2008**	**9,962**
Tsou		**6,639**
Saisiyat		**6,597**
Yami/Tao		**4,598**
Kavalan/Kebalan	**2002**	**1,461**
Sakizaya	**2007**	**925**
Thao	**2001**	**779**
Hla'alua	**2014**	**395**
Kanakanavu	**2014**	**330**

Source: Templeman (2018: 466)

[12] It needs to be noted, however, that these categories are among others based on the attempts to systematize the Indigenous tribes during the Japanese colonial rule which were often detached from the actual Indigenous living realities and self-perceptions (Schubert 2013: 524 in footnote 13).

8. References

Act Governing the Settlement of Ill-gotten Properties by Political Parties and Their Affiliate Organizations (Ill-gotten Properties Act) (2016), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0030286, accessed 12 June 2019.

Act on Promoting Transitional Justice (Transitional Justice Act) (2017), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0030296, accessed 12 June 2019.

Ambos, K. (2009) 'The Legal Framework of Transitional Justice. A Systematic Study with a Special Focus on the Role of the ICC', in K. Ambos, J. Large and M. Wierda (eds.) *Building a Future on Peace and Justice. Studies on Transitional Justice, Peace and Development The Nuremberg Declaration on Peace and Justice*, Berlin, Heidelberg: Springer Berlin Heidelberg, pp. 19–103.

Ambos, K., Large, J. and Wierda, M. (eds.) (2009) *Building a Future on Peace and Justice. Studies on Transitional Justice, Peace and Development The Nuremberg Declaration on Peace and Justice*. Berlin, Heidelberg: Springer Berlin Heidelberg.

Annan, K. (2004) 'The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies. Report of the Secretary-General', *United Nations Security Council* S/2004/616.

Arnstein, S.R. (1969) 'A Ladder of Citizen Participation', *Journal of the American Institute of Planners* 35(4): 216–224.

Awi Mona (2007) 'International Perspective on the Constitutionality of Indigenous Peoples' Rights', *Taiwan International Studies Quarterly* 3(2): 85–139.

Balint, J., Evans, J. and McMillan, N. (2014) 'Rethinking Transitional Justice, Redressing Indigenous Harm. A New Conceptual Approach', *International Journal of Transitional Justice* 8(2): 194–216.

Berger, D.N. (ed.) (2019) *The Indigenous World 2019*. Copenhagen: The International Work Group for Indigenous Affairs (IWGIA).

Blatter, J., Janning, F. and Wagemann, C. (2007) *Qualitative Politikanalyse. Eine Einführung in Forschungsansätze und Methoden*. Wiesbaden: VS Verlag für Sozialwissenschaften | GWV Fachverlage GmbH Wiesbaden.

Broch Hansen, K., Jepsen, K. and Jaquelin, P. (eds.) (2017) *The Indigenous World 2017*. Copenhagen: The International Work Group for Indigenous Affairs (IWGIA).

Brown, M.J. (2004) *Is Taiwan Chinese? The Impact of Culture, Power, and Migration on changing Identities*. Berkeley: University of California Press.

Buckley, C. and Horton, C. (2019) Xi Jinping Warns Taiwan That Unification Is the Goal and Force Is an Option, available at https://www.nytimes.com/2019/01/01/world/asia/xi-jinping-taiwan-china.html, accessed 10 June 2019.

Buckley-Zistel, S. (2008) 'Transitional Justice als Weg zu Frieden und Sicherheit. Möglichkeiten und Grenzen', *SFB-Governance Working Paper Series* 15.

Caldwell, E. (2018) 'Transitional Justice Legislation in Taiwan. Before and During the Tsai Administration', *Washington International Law Journal* 27(2): 449–483.

Chang, T.-w. and Hetherington, W. (2017) Lanyu Residents Demand Removal of Nuclear Waste, available at http://www.taipeitimes.com/News/taiwan/archives/2017/08/02/2003675764, accessed 11 June 2019.

Charlton, G.C., Gao, X. and Takahashi, M.A. (2016) 'The Legal Recognition of Indigenous Interests in Japan and Taiwan', *Asia Pacific Law Review* 24(1): 60–82.

Charlton, G.C., Gao, X. and Kuan, D.-W.(D.) (2017) 'The Law Relating to Hunting and Gathering Rights in the Traditional Territories of Taiwan's Indigenous Peoples', *Asia Pacific Law Review* 25(2): 125–148.

Chen, W.-h. (2016) Nuclear Waste Promise Is Empty. Lanyu Aborigines, available at http://www.taipeitimes.com/News/front/archives/2016/08/02/2003652278, accessed 4 April 2019.

Chen, W.-h. (2017a) Aborigines Demand Rights to Land, available at http://www.taipeitimes.com/News/taiwan/archives/2017/03/01/2003665917, accessed 7 March 2019.

Chen, W.-h. (2017b) Aborigines Decry 'Failed' Rights Promise, available at http://www.taipeitimes.com/News/front/archives/2017/08/02/2003675752, accessed 7 March 2019.

Chen, W.-h. (2017c) Cabinet Bill to Grant Plains Aborigines Official Recognition, available at http://www.taipeitimes.com/News/front/archives/2017/08/18/2003676716, accessed 11 June 2019.

Chen, Y.-f. (2018) Commission Exonerates 1,505 People, available at http://www.taipeitimes.com/News/front/archives/2018/12/10/2003705830, accessed 7 March 2019.

Chen, Y.-f. and Hetherington, W. (2019a) Zhongzheng Road Count Expected to End by September, available at http://www.taipeitimes.com/News/taiwan/archives/2019/04/02/2003712648, accessed 6 June 2019.

Chen, Y.-f. and Hetherington, W. (2019b) Legislator Urges Action on Chiang Kai-shek Statues, available at http://www.taipeitimes.com/News/taiwan/archives/2019/06/04/2003716310, accessed 6 June 2019.

Chen, Y.-f. and Hsiao, S. (2019) More than 2,000 Convictions Overturned, available at http://www.taipeitimes.com/News/front/archives/2019/05/31/2003716081, accessed 6 June 2019.

Chen, Y.-S.(Y.), Kuan, D.-W.(D.), Suchet-Pearson, S. and Howitt, R. (2018) 'Decolonizing Property in Taiwan: Challenging Hegemonic Constructions of Property', *Environment and Planning D: Society and Space* 36(6): 987–1006.

Cheng, H.-t. and Chung, J. (2017) Hakka Made an Official Language, available at http://www.taipeitimes.com/News/taiwan/print/2017/12/30/2003684894, accessed 11 June 2019.

Chi, C.-C. (2016) 'Indigenous Movements and Multicultural Taiwan', in G. Schubert (ed.) *Routledge Handbook of Contemporary Taiwan*, London, New York: Taylor and Francis, pp. 268–279.

Chin, J. and Tsai, T.-h. (2016) Aboriginal Groups Begin March toward Taipei, available at http://www.taipeitimes.com/News/taiwan/archives/2016/07/04/2003650328, accessed 7 March 2019.

Chiu, Y.L. (1989) 'Taiwan`s Aborigines and their Struggle towards Radical Democracy', in K. David and S. Kadirgamar (eds.) *Ethnicity. Identity, Conflict and Crisis*, Hong Kong: Arena Press, pp. 143–154.

Chung, J. (2017) Legislative Yuan Passes Aboriginal Language Act, available at http://www.taipeitimes.com/News/taiwan/archives/2017/05/27/2003671380, accessed 12 June 2019.

Corntassel, J. and Holder, C. (2008) 'Who's Sorry Now? Government Apologies, Truth Commissions, and Indigenous Self-Determination in Australia, Canada, Guatemala, and Peru', *Human Rights Review* 9(4): 465–489.

Council of Indigenous Peoples (CIP) (2017a) Proactive Actions Have Been Taken by Fact-finding Mission of Executive Yuan to Investigate on Lanyu Nuclear Waste Storage, available at https://www.apc.gov.tw/portal/docDetail.html?CID=70818F1EF293C779&DID=0C3331F0EBD318C2D64C38A8A382C773, accessed 3 June 2019.

Council of Indigenous Peoples (CIP) (2017b) Fact-finding Mission of Executive Yuan for Investigation on Lanyu Nuclear Waste Storage Establishment Left for Lanyu to Report the Factfinding Progress, available at https://www.apc.gov.tw/portal/docDetail.html?CID=70818F1EF293C779&DID=0C3331F0EBD318C2BB90E66415223040, accessed 3 June 2019.

David, K. and Kadirgamar, S. (eds.) (1989) *Ethnicity. Identity, Conflict and Crisis*. Hong Kong: Arena Press.

Derichs, C. and Heberer, T. (eds.) (2013) *Die politischen Systeme Ostasiens. Eine Einführung*. Wiesbaden: Springer VS.

Dupré, J.-F. (2017) *Culture Politics and Linguistic Recognition in Taiwan. Ethnicity, National Identity, and the Party System*. Florence: Taylor and Francis.

Education Act for Indigenous Peoples (1998, last amended 2014), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=H0020037, accessed 12 June 2019.

Everington, K. (2019) Taiwan Aborigines' Message to Xi. 'Taiwan is not Part of China', available at https://www.taiwannews.com.tw/en/news/3612726, accessed 12 May 2019.

Eversole, R., McNeish, J.-A. and Cimadamore, A.D. (eds.) (2005) *Indigenous Peoples and Poverty. An International Perspective*. London: Zed Books.

Executive Yuan (2016a) Indigenous Peoples Policy. Indigenous Peoples Day Marks Beginning of Social Reconciliation and Harmony, available at https://english.ey.gov.tw/News_Hot_Topic.aspx?n=0BC7678FB5835474&sms=9018EA493CF5E711, accessed 12 May 2019.

Executive Yuan (2016b) Policy Guidelines. Premier Lin Chuan's Oral Policy Report to 2nd Session of 9th Legislature, available at https://english.ey.gov.tw/News_Content.aspx?n=6E2983DDAD43236A&sms=F7286BF67FBB9F1F&s=402333AEAD96FAAC, accessed 12 June 2019.

Executive Yuan (2017a) Policy Guidelines. Premier Lin Chuan's Oral Policy Report to 3rd Session of 9th Legislature, available at https://english.ey.gov.tw/News_Content.aspx?n=6E2983DDAD43236A&sms=F7286BF67FBB9F1F&s=F3EBF89CD4C042A3, accessed 12 June 2019.

Executive Yuan (2017b) Policy Guidelines. Premier Lai Ching-te's Oral Policy Report to 4th Session of 9th Legislature, available at https://english.ey.gov.tw/News_Content.aspx?n=6E2983DDAD43236A&sms=F7286BF67FBB9F1F&s=4D452EABD43393D8, accessed 12 June 2019.

Executive Yuan (2017c) Structure & Functions, available at https://english.ey.gov.tw/cp.aspx?n=0B5424E21E6FF0A5, accessed 12 June 2019.

Executive Yuan (2018) Developing Indigenous Languages, available at https://english.ey.gov.tw/News_Hot_Topic.aspx?n=FCED0CD25E744ED6&sms=6E74DB4B1FA2EB90, accessed 3 April 2019.

Fan, M.-F. (2006) 'Environmental Justice and Nuclear Waste Conflicts in Taiwan', *Environmental Politics* 15(3): 417–434.

Freeman, M. (2000) 'Transitional Justice. Fundamental Goals and Unavoidable Complications', *Manitoba Law Journal* 28(1): 113–121.

Galtung, J. (1969) 'Violence, Peace, and Peace Research', *Journal of Peace Research* 6(3): 167–191.

Gerber, A. (2016a) Review of Aboriginal Justice Legislation Put on Hold, available at http://www.taipeitimes.com/News/taiwan/archives/2016/06/30/2003650031, accessed 7 March 2019.

Gerber, A. (2016b) Protesters Call for Recognition of the Pingpu, available at http://www.taipeitimes.com/News/taiwan/archives/2016/07/16/2003651136, accessed 7 March 2019.

Gerber, A. (2016c) Aboriginal Groups Put Pressure on Tsai, available at http://www.taipeitimes.com/News/front/archives/2016/07/31/2003652139, accessed 7 March 2019.

Gerber, A. (2016d) Apology Failed to Explicitly Acknowledge Aboriginal Sovereignty. Demonstrators, available at http://www.taipeitimes.com/News/front/archives/2016/08/02/2003652279, accessed 7 March 2019.

Gerber, A. (2017a) Over 100 Urge Cancelation of Mining Rights Extension, available at http://www.taipeitimes.com/News/taiwan/archives/2017/04/13/2003668631, accessed 7 March 2019.

Gerber, A. (2017b) Aborigine Campaigners Demand Action from Tsai Ing-wen, Not the Legislature, available at http://www.taipeitimes.com/News/taiwan/archives/2017/05/09/2003670231, accessed 7 March 2019.

Gerber, A. (2017c) Aboriginal Groups Urge Revisions, available at http://www.taipeitimes.com/News/taiwan/archives/2017/06/29/2003673519, accessed 7 March 2019.

Gerber, A. (2017d) Aboriginal Boundary Changes Ruled Out, available at http://www.taipeitimes.com/News/taiwan/archives/2017/07/25/2003675254, accessed 7 March 2019.

Gerber, A. (2017e) Aboriginal Group Tracking Tsai's Promises, available at http://www.taipeitimes.com/News/taiwan/archives/2017/08/04/2003675889, accessed 7 March 2019.

Gerber, A. and Loa, I.-s. (2016) Tsai Surprises Protesting Aborigines, available at http://www.taipeitimes.com/News/front/archives/2016/08/04/2003652406, accessed 7 March 2019.

Gerring, J. (2004) 'What Is a Case Study and What Is It Good for?', *The American Political Science Review* 98(2): 341–354.

Gerring, J. (2012) *Social Science Methodology. A Unified Framework*. Cambridge: Cambridge Univ. Press.

Gibney, M., Howard-Hassmann, R.E., Coicaud, J.-M. and Steiner, N. (eds.) (2008) *The Age of Apology. Facing Up to the Past*. Philadelphia: University of Pennsylvania Press.

Gready, P. and Robins, S. (2014) 'From Transitional to Transformative Justice. A New Agenda for Practice', *International Journal of Transitional Justice* 8(3): 339–361.

Han, C. (2017) Taiwan in Time. Chasing away 'Evil Spirits', available at http://www.taipeitimes.com/News/feat/archives/2017/02/19/2003665262, accessed 18 March 2019.

Hayner, P.B. (2011) *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions*. New York, NY: Routledge.

Henry, N. (2015) 'From Reconciliation to Transitional Justice. The Contours of Redress Politics in Established Democracies', *International Journal of Transitional Justice* 9(2): 199–218.

Hetherington, W. (2017) Draft Aboriginal Land and Seas Bill Delivered. Nawi, available at http://www.taipeitimes.com/News/taiwan/archives/2017/05/31/2003671627, accessed 7 March 2019.

Hirano, K., Veracini, L. and Roy, T.-A. (2018) 'Vanishing Natives and Taiwan's Settler-Colonial Unconsciousness', *Critical Asian Studies* 50(2): 196–218.

Hobbs, H. (2016) 'Locating the Logic of Transitional Justice in Liberal Democracies. Native Title in Australia', *UNSW Law Journal* 39(2): 512–552.

Hsieh, S.-C. (1994) 'From Shanbao to Yuanzhumin. Taiwanese Aborigines in Transition', in M.A. Rubinstein (ed.) *The Other Taiwan. 1945 to the Present*, Armonk, NY: Sharpe, pp. 404–421.

Hsieh, J. (2006) *Collective Rights of Indigenous Peoples. Identity-Based Movement of Plain Indigeous in Taiwan*. New York, London: Routledge.

Hsieh, J. (2016) 'Silent Crusade? Indigenous Women in Taiwanese Indigenous Movements', *Lektora* 22: 67–82.

Hsu, C. (2002) Yu Apologizes for Island's Nuclear Woes, available at http://www.taipeitimes.com/News/front/archives/2002/04/10/0000131239, accessed 3 June 2019.

Hsu, S. (2017) Committee Debates Delineation of Aboriginal Lands, available at http://www.taipeitimes.com/News/taiwan/archives/2017/03/21/2003667177, accessed 7 March 2019.

Huang, C.-L. (G.), Gray, T. and Bell, D. (2013) 'Environmental Justice of Nuclear Waste Policy in Taiwan. Taipower, Government, and Local Community', *Environment, Development and Sustainability* 15(6): 1555–1571.

Huang, S.-M. and Liu, S.-H. (2016) 'Discrimination and Incorporation of Taiwanese Indigenous Austronesian Peoples', *Asian Ethnicity* 17(2): 294–312.

Hwang, J.-Y. (2016) 'Transitional Justice in Post-war Taiwan', in G. Schubert (ed.) *Routledge Handbook of Contemporary Taiwan*, London, New York: Taylor and Francis, pp. 169–183.

ICTJ (International Center for Transitional Justice) (2012) *Strengthening Indigenous Rights through Truth Commissions. A Practitioner's Resource*. New York: ICTJ (International Center for Transitional Justice).

ICTJ (International Center for Transitional Justice) (2018a) What is Transitional Justice?, available at https://www.ictj.org/about/transitional-justice, accessed 20 November 2018.

ICTJ (International Center for Transitional Justice) (2018b) Reparations, available at https://www.ictj.org/our-work/transitional-justice-issues/reparations, accessed 20 November 2018.

ICTJ (International Center for Transitional Justice) (2018c) Institutional Reform, available at https://www.ictj.org/our-work/transitional-justice-issues/institutional-reform, accessed 20 November 2018.

IJC-Guidelines (2016), available at https://indigenous-justice.president.gov.tw/EN/Page/47, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2016a) President Tsai Approves Guidelines for Establishment of the Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5096, accessed 7 March 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2016b) President Tsai Attends Preparatory Meeting for Presidential

Office Committee on Indigenous Justice, available at https://english.president.gov.tw/NEWS/5051, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017a) President Tsai Presides over First Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5113, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017b) Press Conference held after First Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5114, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017c) President Tsai Presides over Second Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5166, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017d) Press Conference Following Second Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5169, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017e) President Tsai Presides over Third Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5222, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017f) Presidential Office Indigenous Historical Justice and Transitional Justice Committee Post-Meeting Press Conference, available at https://english.president.gov.tw/NEWS/5223, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017g) President Tsai Presides over Fourth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice, available at https://english.president.gov.tw/NEWS/5315, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017h) Post-Meeting Press Conference, Fourth Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5316, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2017i) Official Webpage. Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://indigenous-justice.president.gov.tw/EN, accessed 12 June 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018a) President Tsai Presides over Fifth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/News/5357, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018b) Presidential Office News Release Following Fifth Meeting of the Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/News/5358, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018c) President Tsai Presides over Sixth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5441, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018d) Presidential Office News Release Following Sixth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5442, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018e) President Tsai Presides over Seventh Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5532, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018f) Presidential Office News Release Following Seventh Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5535/, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018g) President Tsai Presides over Eighth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/News/5614, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2018h) Presidential Office News Release Following Eighth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/NEWS/5615, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2019a) President Tsai Presides over Ninth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/News/5660, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2019b) Presidential Office News Release Following Ninth Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committee, available at https://english.president.gov.tw/News/5662, accessed 11 May 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2019c) President Tsai Presides over 10th Meeting of Presidential

Office Indigenous Historical Justice and Transitional Justice Committe, available at https://english.president.gov.tw/News/5757, accessed 25 June 2019.

IJC (Presidential Office Indigenous Historical Justice and Transitional Justice Committee) (2019d) Presidential Office News Release Following 10th Meeting of Presidential Office Indigenous Historical Justice and Transitional Justice Committe, available at https://english.president.gov.tw/News/5758, accessed 25 June 2019.

Indigenous Languages Development Act (ILDA) (2017), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0130037, accessed 12 June 2019.

Indigenous Peoples Basic Law (Basic Law) (2005, last amended 2018), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0130003, accessed 12 June 2019.

Ishahavut, S. and Mayaw, B. (2017) Justice for Aborigines No Priority, available at http://www.taipeitimes.com/News/editorials/archives/2017/04/17/2003668862, accessed 7 March 2019.

Iwabuchi, K., Kim, H.M. and Hsia, H.-C. (eds.) (2016) *Multiculturalism in East Asia. A Transnational Exploration of Japan, South Korea and Taiwan*. London, New York: Rowman & Littlefield International.

Jacobs, B.J. (2017) 'Indigenous Reconciliation? The Case of Taiwan', *Georgetown Journal of Asian Affairs* 3(2): 31–36.

Jahn, D. (2013) *Einführung in die vergleichende Politikwissenschaft*. Wiesbaden: VS Verlag für Sozialwissenschaften.

James, M. (2008) 'Wrestling with the Past. Apologies, Quasi-Apologies and Non-Apologies in Canada', in M. Gibney, R.E. Howard-Hassmann, J.-M. Coicaud and N. Steiner (eds.) *The Age of Apology. Facing Up to the Past,* Philadelphia: University of Pennsylvania Press, pp. 137–153.

Jaquelin-Andersen, P. (ed.) (2018) *The Indigenous World 2018*. Copenhagen: The International Work Group for Indigenous Affairs (IWGIA).

Jung, C. (2009) 'Transitional Justice for Indigenous People in a Non-Transitional Society'(ICTJ Research Brief).

Jung, C. (2016) 'Walls and Bridges. Competing Agendas in Transitional Justice', in P. Macklem and D. Sanderson (eds.) *From Recognition to Reconciliation. Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights,* Toronto: University of Toronto Press, pp. 357–388.

Kamali, M. (2001) 'Accountability for Human Rights Violations. A Comparison of Transitional Justice in East Germany and South Africa', *Columbia Journal of Transnational Law* 40(89): 89–141.

Krüger, A.K. and Scheuzger, S. (2018) 'Globale Verbreitung von Wahrheitskommissionen als Instrument der Transitional Justice. Genese, Entwicklung, Verbreitung', in A. Mihr, G. Pickel and S. Pickel (eds.) *Handbuch Transitional Justice. Aufarbeitung von Unrecht - hin zur Rechtsstaatlichkeit und Demokratie,* Wiesbaden: Springer Fachmedien Wiesbaden, pp. 127–148.

Ku, K.-h. (2005) 'Rights to Recognition. Minority/Indigenous Politics in the Emerging Taiwanese Nationalism', *Social Analysis* 49(2): 99–121.

Kuan, D.-W.(D.) (2016) 'Multiculturalism and Indigenous Peoples. A Critical Review of the Experience in Taiwan', in K. Iwabuchi, H.M. Kim and H.-C. Hsia (eds.) *Multiculturalism in East Asia. A Transnational Exploration of Japan, South Korea and Taiwan,* London, New York: Rowman & Littlefield International, pp. 203–220.

Leebaw, B.A. (2008) 'The Irreconcilable Goals of Transitional Justice', *Human Rights Quarterly* 30: 95–118.

Liao, G. (2016) Investigation. Lanyu Chosen as Temporary Nuclear Waste Storage Site, available at https://www.taiwannews.com.tw/en/news/3028440, accessed 3 June 2019.

Lightfood, S. (2015) 'Settler-State Apologies to Indigenous Peoples. A Normative Framework and Comparative Assessment', *Native American and Indigenous Studies* 2(1): 15–39.

Lin, S. (2017) Legislative Yuan to Address Bills on Transitional Justice, available at http://www.taipeitimes.com/News/taiwan/archives/2017/12/01/2003683241, accessed 7 March 2019.

Lin, S. (2018) Cabinet Passes Aboriginal Justice Bill, available at http://www.taipeitimes.com/News/taiwan/archives/2018/05/11/2003692891, accessed 7 March 2019.

Liu, P.-c. (2018) Police Station Renamed for Thao, available at http://www.taipeitimes.com/News/taiwan/archives/2018/10/05/2003701777, accessed 7 March 2019.

Loa, I.-s. (2011) Tao March against Lanyu Nuclear Leak, available at http://www.taipeitimes.com/News/taiwan/archives/2011/12/31/2003522065, accessed 15 March 2019.

Loa, I.-s. (2012a) Tao Protest against Nuclear Facility, available at http://www.taipeitimes.com/News/front/archives/2012/02/21/2003525985, accessed 15 March 2019.

Loa, I.-s. (2012b) Lanyu's Residents Grudgingly Accept Nuclear Storage, available at http://www.taipeitimes.com/News/taiwan/archives/2012/03/19/2003528162, accessed 15 March 2019.

Loa, I.-s. (2012c) Tao Protest Against Nuclear Waste, available at http://www.taipeitimes.com/News/front/archives/2012/03/02/2003526783, accessed 15 March 2019.

Loa, I.-s. (2015) Tsai Promises to Fight for Pingpu Legal Recognition, available at http://www.taipeitimes.com/News/taiwan/archives/2015/08/02/2003624461, accessed 15 March 2019.

Loa, I.-s. (2016) Cabinet Vows to Act on Aboriginal Demands, available at http://www.taipeitimes.com/News/taiwan/archives/2016/07/15/2003651067, accessed 7 March 2019.

Macklem, P. and Sanderson, D. (eds.) (2016) *From Recognition to Reconciliation. Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights*. Toronto: University of Toronto Press.

Maxon, A. (2018a) Tsai Promises More Efforts on Aboriginal Rights, available at http://www.taipeitimes.com/News/front/archives/2018/08/02/2003697820, accessed 7 March 2019.

Maxon, A. (2018b) Aborigines Urge Tsai to Deliver on Vow, available at http://www.taipeitimes.com/News/taiwan/archives/2018/08/01/2003697771, accessed 7 March 2019.

Maxon, A. (2019a) Aborigines Vow to Keep on Protesting after Taipei Police Tear Down Camp, available at http://www.taipeitimes.com/News/taiwan/archives/2019/01/23/2003708473, accessed 7 March 2019.

Maxon, A. (2019b) Council Promises to Reinstate Thao Territory, available at http://www.taipeitimes.com/News/taiwan/archives/2019/01/29/2003708853, accessed 4 June 2019.

McEvoy, K. and McConnachie, K. (2013) 'Victims and Transitional Justice', *Social & Legal Studies* 22(4): 489–513.

McMillan, M. and Rigney, S. (2018) 'Race, Reconciliation, and Justice in Australia. From Denial to Acknowledgment', *Ethnic and Racial Studies* 41(4): 759–777.

Mihr, A., Pickel, G. and Pickel, S. (eds.) (2018) *Handbuch Transitional Justice. Aufarbeitung von Unrecht - hin zur Rechtsstaatlichkeit und Demokratie*. Wiesbaden: Springer Fachmedien Wiesbaden.

Moses, A.D. (2011) 'Official Apologies, Reconciliation, and Settler Colonialism. Australian Indigenous Alterity and Political Agency', *Citizenship Studies* 15(2): 145–159.

n. A. (2016a) President Issues Apology to Aborigines, available at http://www.taipeitimes.com/News/front/archives/2016/08/02/2003652277, accessed 7 March 2019.

n. A. (2016b) President to Visit Orchid Island, available at http://www.taipeitimes.com/News/taiwan/archives/2016/08/15/2003653167, accessed 7 March 2019.

n. A. (2019) Aborigines to Get Greater Say in Education Planning, available at http://www.taipeitimes.com/News/taiwan/archives/2019/05/11/2003714947, accessed 15 May 2019.

Nagy, R. (2008) 'Transitional Justice as Global Project. Critical Reflections', *Third World Quarterly* 29(2): 275–289.

Nagy, R. (2013) 'The Scope and Bounds of Transitional Justice and the Canadian Truth and Reconciliation Commission', *International Journal of Transitional Justice* 7(1): 52–73.

Nesterova, Y. and Jackson, L. (2018) 'Understanding the “Local” in Indigenous Taiwan', *International Education Journal: Comparative Perspectives* 17(3): 55–66.

Ní Aoláin, F. and Campbell, C. (2005) 'The Paradox of Transition in Conflicted Democracies', *Human Rights Quarterly* 27: 172–213.

Orford, A. (2006) 'Commissioning the Truth', *Columbia Journal of Gender and Law* 15(3): 851–884.

Organization Act of the Council of Indigenous Peoples (2014), available at https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0000172, accessed 12 June 2019.

Pan, A.J. (2016) Pingpu Recognized under Act for Indigenous Peoples, available at http://www.taipeitimes.com/News/taiwan/archives/2016/10/08/2003656743, accessed 7 March 2019.

Pan, A.J. (2017a) 'Taiwan', in K. Broch Hansen, K. Jepsen and P. Jaquelin (eds.) *The Indigenous World 2017,* Copenhagen: The International Work Group for Indigenous Affairs (IWGIA), 320-326.

Pan, A.J. (2017b) Legislators Urge Recognition of Siraya, available at http://www.taipeitimes.com/News/taiwan/archives/2017/11/24/2003682833, accessed 12 June 2019.

Pan, A.J. (2018) 'Taiwan', in P. Jaquelin-Andersen (ed.) *The Indigenous World 2018*, Copenhagen: The International Work Group for Indigenous Affairs (IWGIA), pp. 272–293.

Pan, A.J. (2019a) 'Taiwan', in D.N. Berger (ed.) *The Indigenous World 2019,* Copenhagen: The International Work Group for Indigenous Affairs (IWGIA), pp. 302–310.

Pan, A.J. (2019b) Siraya Leaders Tell Court That Council Is Denying Recognition, available at http://www.taipeitimes.com/News/taiwan/archives/2019/02/27/2003710501, accessed 12 June 2019.

Pasuya Poiconu (2011) 'Taiwan', in K. Wessendorf (ed.) *The Indigenous World 2011*, Copenhagen: The International Work Group for Indigenous Affairs (IWGIA), pp. 256–261.

Pasuya Poiconu (2017) Aborigines Fighting for Their Land, available at http://www.taipeitimes.com/News/editorials/archives/2017/06/12/2003672386, accessed 7 March 2019.

Robins, S. (2011) 'Towards Victim-Centred Transitional Justice. Understanding the Needs of Families of the Disappeared in Postconflict Nepal', *International Journal of Transitional Justice* 5(1): 75–98.

Robins, S. (2017) 'Failing Victims? The Limits of Transitional Justice in Addressing the Needs of Victims of Violations', *Human Rights and International Legal Discourse*: 41–58.

Rowen, I. and Rowen, J. (2017) 'Taiwan's Truth and Reconciliation Committee. The Geopolitics of Transitional Justice in a Contested State', *International Journal of Transitional Justice* 11(1): 92–112.

Rubinstein, M.A. (ed.) (1994) *The Other Taiwan. 1945 to the Present*. Armonk, NY: Sharpe.

Rudolph, M. (2006) 'From Forced Assimilation to Cultural Revitalization. Taiwan's Aborigines and Their Role in Taiwan Nativism', in B. Sautman (ed.) *Cultural Genocide and Asian State Peripheries,* New York: Palgrave Macmillan, pp. 63–101.

Rudolph, M. (2015) 'Authenticating Performances. Rituals of Taiwan's Aborigines Under the Impact of Nativism and Multiculturalism', *Archív Orientalní* 83(2): 343–374.

Rupeljengan, L. (2016) Justice for Aborigines. Beyond Koxinga, available at http://www.taipeitimes.com/News/editorials/archives/2016/08/13/2003653007, accessed 7 March 2019.

Sautman, B. (ed.) (2006) *Cultural Genocide and Asian State Peripheries*. New York: Palgrave Macmillan.

Schneider, N. (2018) 'Transitional Justice. Historische Aufarbeitung und Geschichtsschreibung', in A. Mihr, G. Pickel and S. Pickel (eds.) *Handbuch Transitional Justice. Aufarbeitung von Unrecht - hin zur Rechtsstaatlichkeit und Demokratie,* Wiesbaden: Springer Fachmedien Wiesbaden, pp. 105–124.

Schubert, G. (ed.) (2016) *Routledge Handbook of Contemporary Taiwan*. London, New York: Taylor and Francis.

Schubert, G. (2013) 'Das Politische System Taiwans', in C. Derichs and T. Heberer (eds.) *Die politischen Systeme Ostasiens. Eine Einführung,* Wiesbaden: Springer VS, pp. 505–547.

Simon, S. (2005) 'Scarred Landscapes & Tattooed Faces. Poverty, Identity & Land Conflict in a Taiwanese Indigenous Community', in R. Eversole, J.-A. McNeish and A.D. Cimadamore (eds.) *Indigenous Peoples and Poverty. An International Perspective,* London: Zed Books, pp. 53–68.

Simon, S. (2007) 'Paths to Autonomy. Aboriginality and the Nation in Taiwan', in C. Storm and M. Harrison (eds.) *The Margins of Becoming. Identity and Culture in Taiwan,* Wiesbaden: Harrassowitz, pp. 221–240.

Simon, S. (2010) 'Negotiating Power. Elections and the Constitution of Indigenous Taiwan', *American Ethnologist* 37(4): 726–740.

Simon, S. (2016) 'From the Village to the United Nations and Back Again. Aboriginal Taiwan and International Indigenism', *Taiwan Journal of Indigenous Studies* 9(3): 49–89.

Skaar, E. (2012) 'Reconciliation in a Transitional Justice Perspective', *Transitional Justice Review*: 54–103.

Status Act For Indigenous Peoples (2001, last amended 2008), available at https://law.moj.gov.tw/ENG/LawClass/LawHistory.aspx?pcode=D0130001, accessed 12 June 2019.

Storm, C. and Harrison, M. (eds.) (2007) *The Margins of Becoming. Identity and Culture in Taiwan*. Wiesbaden: Harrassowitz.

Straßner, V. (2018) 'Vergangenheitspolitik, Transitional Justice und Versöhnung. Begriffliche und konzeptionelle Annäherungen', in A. Mihr, G. Pickel and S. Pickel (eds.) *Handbuch Transitional Justice. Aufarbeitung von Unrecht - hin zur Rechtsstaatlichkeit und Demokratie*, Wiesbaden: Springer Fachmedien Wiesbaden, pp. 201–231.

Taiwan Association of University Professors (2017) Respect Integrity of Aboriginal Land, available at http://www.taipeitimes.com/News/editorials/archives/2017/03/24/2003667353, accessed 7 March 2019.

Teitel, R.G. (2003) 'Transitional Justice Genealogy', *Harvard Human Rights Journal* 16 (2003): 69–94.

Templeman, K. (2018) 'When Do Electoral Quotas Advance Indigenous Representation? Evidence from the Taiwanese Legislature', *Ethnopolitics* 17(5): 461–484.

Triponel, A. and Pearson, S. (2010) 'What Do You Think Should Happen? Public Participation in Transitional Justice', *Pace International Law Review* 22(1): 103–144.

Tsai, I.-w. (2015) Tsai Ing-wen`s Five Major Reforms, available at http://iing.tw/en/21, accessed 11 June 2019.

Tsai, I.-w. (2016a) Inaugural Address of ROC 14th-Term President Tsai Ing-wen, available at https://english.president.gov.tw/News/4893, accessed 12 May 2019.

Tsai, I.-w. (2016b) President Tsai Apologizes to Indigenous Peoples on Behalf of Government, available at https://english.president.gov.tw/NEWS/4950, accessed 27 June 2018.

Tsai, I.-w. (2017) President Tsai attends 2017 National Administrative Conference for Indigenous Peoples, available at https://english.president.gov.tw/News/5184, accessed 10 June 2019.

Tsai, I.-w. (2018) President Tsai attends Austronesian Forum 2018, available at https://english.president.gov.tw/News/5464, accessed 10 June 2019.

Tung, C.-k. and Chung, J. (2019) Aborigines Stand by Kolas over Koxinga Ceremony, available at http://www.taipeitimes.com/News/taiwan/archives/2019/05/04/2003714536, accessed 2 June 2019.

van Bekhoven, J. (2017) *Unraveling the Double Oppression of Indigenous Societies in Taiwan. The Rights to Land and Self-Government of Indigenous Peoples*. Conference Paper.

van Evera, S. (1997) *Guide to Methods for Students of Political Science*. Ithaca, NY: Cornell University Press.

Waldorf, L. (2012) 'Anticipating the Past', *Social & Legal Studies* 21(2): 171–186.

Wang, C.-c. and Hetherington, W. (2018) Protesters Call for Closure of Hualien Quarry, available at http://www.taipeitimes.com/News/taiwan/archives/2018/03/01/2003688480, accessed 7 March 2019.

Wang, W.-C. (V.) and Ku, C.-y. (S.) (2005) 'Transitional Justice and Prospect of Democratic Consolidation in Taiwan. Democracy and Justice in Newly Democratized Countries', *Politics Faculty Publications and Presentations* 28: 1–36.

Warren, D.M. (1991) 'Using Indigenous Knowledge in Agricultural Development', *World Bank Discussion Papers*(127): 1–46.

Weiffen, B. (2018) 'Transitional Justice. Eine konzeptionelle Auseinandersetzung', in A. Mihr, G. Pickel and S. Pickel (eds.) *Handbuch Transitional Justice. Aufarbeitung von Unrecht - hin zur Rechtsstaatlichkeit und Demokratie,* Wiesbaden: Springer Fachmedien Wiesbaden, pp. 83–104.

Wessendorf, K. (ed.) (2011) *The Indigenous World 2011*. Copenhagen: The International Work Group for Indigenous Affairs (IWGIA).

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

Wolfe, P. (1999) *Settler Colonialism and the Transformation of Anthropology. The Politics and Poetics of an Ethnographic Event*. London: Cassell.

Wu, N. (2005) 'Transition Without Justice, or Justice Without History. Transitional Justice in Taiwan', *Taiwan Journal of Democracy* 1(1): 77–102.

Wu, P.-w. and Hetherington, W. (2017) Protesters Decry Aboriginal Committee, available at http://www.taipeitimes.com/News/front/archives/2017/03/20/2003667102, accessed 7 March 2019.

Yin, R.K. (1989) *Case Study Research. Design and Methods*. Rev. ed. Newbury Park: Sage.

Yin, R.K. (2009) *Case Study Research. Design and Methods*. 4. ed. Los Angeles: Sage.

Zhang, M.-y. (2016) Tsai Honest in Apology to Nation’s Aborgines, available at http://www.taipeitimes.com/News/editorials/archives/2016/08/08/2003652669, accessed 4 April 2019.