Lustration refers to the political and judicial process or setup being adopted to cleanse society of past wrongs committed during authoritarian rule. It is a way of achieving transitional justice in post-authoritarian societies and has been hailed as an important step in the consolidation of democratic rule. Its actual practice includes the screening of public officials who once served in the authoritarian regime, the investigation of state crimes committed during white terror, and the exposure of secret files which covered up corrupt and repressive practices. Lustration in many post-communist and post-authoritarian societies is deemed necessary to consolidate democracy and to create a just government for the future.

In this regard, the absence of lustration in Taiwan offers a noteworthy counter example. With the exception of the 228 Incident investigation, there have been few appeals in Taiwan to investigate the white terror period or to scrutinize the past records of long-serving public officials. This paper attempts to look at the reasons behind the absence of lustration and, more importantly, the implication of such absence for Taiwan’s democratic administration.

**Transition without Justice**

The transition from authoritarian rule in Taiwan began in the 1980s after nearly 40 years of one-party hegemony. Taiwan underwent gradual democratisation since the lifting of the martial law in 1987. Compare with many other nations, democratisation was undertaken in a rather orderly fashion (albeit with fierce public debates, social mobilisation, and power struggle within the ruling party) rather than a sudden collapse of the old regime. There were few dramatic showdowns, no riot, and no military crackdown. The once oppressive, hegemonic, and long-incumbent Kuomintang Party (KMT) was peacefully removed from office by popular vote during the 2000 presidential election. Such seemingly smooth process, however, masks a number of intricate issues. One of these is the question of transitional justice.

In fact, not long after the lifting of the martial law and the death of the KMT strongman Chiang Ching-kuo, the problem of how to deal with the legacy of the authoritarian period began to surface. The new administration needed to distance itself from the abuses of the
past. In particular, it had to address the need of the victims of authoritarian rule for acknowledgement, thereby winning their support for the new regime.

The pursuit of transitional justice requires a redress of state crimes against human rights during the martial law period. The most terrifying state crime in this regard is the 228 Incident and the white terror that followed. On 28 February 1947 riots broke out and spread all over the island of Taiwan when the indigenous population poured out their anger against corruption, discrimination, and high-handed rule of the KMT. In response, the KMT regime launched a massacre. An estimated 18,000 to 28,000 people were killed; more were arrested and executed later during years of white terror. Taiwanese intellectuals, social elites, government critics, and journalists were the primary subjects of the massacre (Lai, Myers and Wei 1991; Phillips 2003). Open discussion of the Incident was a taboo during martial law.

The victims of persecution and white terror were not confined to the indigenous population. Followers of the KMT regime suffered as well. An extreme example was the case of Shen Chen-nan who was found guilty of treason and sentenced to death by the Garrison Command in 1951. Shen was the general manager of Taiwan Sugar Co., the largest state enterprise in Taiwan during the 1950s. He was accused of using his position to strengthen railway facilities, research port and shipping services, improve production facilities, and expand sugar production. Instead of being taken as evidence of technocratic competence, these acts were viewed as an attempt to increase company assets in order to prepare for communist takeover. His plan to construct an irrigation system from underground water to enhance production, rather than taken as a developmental plan, was used as proof of a conspiracy to put the government into financial difficulties by depleting foreign exchange holdings. The charges were never proved beyond reasonable doubt. He was more of a victim of bitter fights between rival political interests within the KMT (Ngo 2005).

In the following 40 years, many such political crimes were indicted in the name of national security. They included charges against advocacy for Taiwan independence, sedition, communist espionage, attempt to organize political opposition, violation of political censorship, etc. Besides unfair and arbitrary trial processes, torture and inhumane treatments in prison were common.

Not long after the end of martial law, the taboo over the 228 Incident was broken. There was widespread demand for a fair judgement of the Incident and an impartial investigation of the actual happenings. A task force was set up by the government in 1990 to investigate the truth about the Incident. The task force finished its report in 1992. Besides giving detailed account of the causes and consequences of the incident, the report held a number of key officials (including Taiwan Governor Chen Yi, Garrison Command Chief Peng Meng-chi, and President Chiang Kai-shek) responsible for wrong doings (二二八事件小组 1994). Eventually KMT chairman and President Lee Teng-hui apologised to the public in 1995 at a ceremony commemorating the 48th anniversary of 228. A new legislation was passed at the same time to deal with compensation for victims. Under the provisions of the law, a 228 Incident Memorial Foundation was set up to verify victim’s
claims, to offer compensation in terms of money, and to restore the victim’s reputation. The Foundation is also entrusted with the power to investigate the “truth”. Government departments or officials who refuse to turn over documents and files or deliberately obstruct the investigation are punishable by law. The Foundation publishes findings regularly and takes an active part in promoting awareness. The law also made 28 February a national holiday called Peace Memorial Day. Peace monuments have been erected in every county and city throughout the island.

A further action to redress state terror was the passing of another legislation authorizing the setting up of the Foundation for Compensating Improper Verdicts on Sedition and Communist Espionage Cases during the Martial Law Period in 1998. The Foundation is responsible for investigating cases of complaint against sedition charges and confiscation of properties during the martial law period and offering compensation to victims. Until the end of 2006, 7668 cases have been scrutinised, of which 6255 have received cash compensations. This figure stands in addition to the cases investigated by the 228 Foundation. By the end of 2004, more than 2200 cases of death, missing, and arrest during the 228 Incident have been confirmed by the Foundation. Over 9000 victims or families have received compensations amounting to NT$7.2 billion in total. However, many observers have pointed out that these figures hardly do justice to the extent of state crime. In the absence of reliable estimations, some claim that as many as 80,000 people were victimised during the massacre and the white terror. Many of them died young and left with no family members to seek justice and compensation after 50 years.

Despite the possession of investigation power, the two Foundations made no attempt to identify the perpetuators. Not a single case has been brought to court; none of the office bearers of the authoritarian regime was put to trial or made to stand in any hearings. No incumbent bureaucrat was purged because of his/her connection to any state crimes. In other words, the Taiwan approach avoids any lustration practices. Lustration in many countries include either the prosecution of perpetrators, the purge of collaborators of the former abusive regime from future public service, and/or investigations and hearings by truth commissions with a view to reconcile or forgive. The Taiwan approach, in contrast, offers compensation to victims without seeking to find out who should bear the responsibility for individual cases of crime and inhumanity. There is no intention to prosecute and punish the perpetrators. All former government officials are allowed to remain in office. KMT political elites remain active in political activities and public service.

The experience of Eastern European countries, some Latin American countries and South Africa suggests that there are three major alternatives to lustration: criminal prosecution, unconditional amnesty, and truth and reconciliation (Huyse 1995). Taiwan does not follow any one of these. Since the abusers remain unknown, there is no question of criminal prosecution. It is also not a kind of unconditional amnesty because there is no one to be pardoned. The truth is only half told; without the oppressor it is uncertain whom the victims can reconcile with. One is left to doubt about the nature and extent of justice achieved in such circumstances. At the same time, we are also left with the questions why Taiwan adopts such a strategy, how we can account for the absence the
avoidance of lustration practice and, more importantly, what the implications will be on the subsequent democratic governance.

**Reasons for the Absence of Lustration**

Huntington (1991) argues that the nature of democratic transition and the power balance during and after the transition determine the way a democratised government pursues crimes committed by the former authoritarian regime. If democratisation was initiated by the old elites or if the transition resulted from negotiation with the former dictator, the former elites are likely to retain much political leverage during and after the transition. Redress of past crimes is then unlikely in such case.

Although many cases have been found in contradiction with Huntington’s thesis, Taiwan seems to conform to his suggestion. Political liberalisation was essentially an incremental process negotiated between the ruling KMT and the political opposition. It began in the early 1980s when spontaneous mass movements launched by farmers, workers, students, aborigines, and urban residents spread over the island, demanding social reforms that redressed the issues of income redistribution, environmental degradation, labour relations, and urban-rural disparities. The wave of social movements eventually converged to become a political movement for constitutional reform, and succeeded in forcing the long ruling KMT regime to undertake further political liberalisation and democratisation (Ngo 1993). Eventually the martial law was lifted in 1987 under the decision of Chiang Ching-kuo. Opposition parties were also legalised. The opening up of the authoritarian system unravelled a process in which old and new interests sought ways of constituting or reconstituting themselves in the emerging system (Ngo 2006). In particular, this occurred at a time when strongman Chiang Ching-kuo died unexpectedly, leaving a power vacuum in the ruling KMT for bitter political struggle. In his attempt to consolidate power, Chiang’s successor Lee Teng-hui, an indigenous Taiwanese without strong political backing within the party, allied with Taiwanese business and local power factions to combat his rivals in the KMT leadership. He spearheaded a drive to reform the elected legislature and to allow for directly elected presidency. In 1991 the original delegates of the legislature (who had been elected to represent the mainland constituencies before 1947) were forced to resign and new elections were held. Lee also became the first elected president who ran under KMT candidacy and won 54 per cent of the popular vote in 1996.

The democratisation process was not characterised by radical political rupture. The constitution was amended seven times between 1991 and 2005, allowing for incremental changes based on a slow process of political compromise. There was a strong continuity of political elites. Many of these elites were former state bureaucrats. Over the years the KMT managed to secure the support of local power factions by exchanging spoils and privileges with votes. The KMT remained in power even after the parliamentary re-elections and the first presidential election. After it lost the presidency and the right to form the government in 2000, it remains to be the most powerful opposition party and still controls the majority in the legislature.
As such, the power balance during and after the democratic transition constitutes an
important factor for the absence of lustration in Taiwan. The firm control of the KMT
over the legislature and the strong support it gets from a substantial section of the
population made any attempts to rectify the past legacies very difficult. Many
institutional legacies and power networks have been brought forward. Patrimonial
practices remained firmly in place, or have simply been coupled to electoral
arrangements. There is thus no question of the possibility to outlaw the party, even with
its past history of repression. Equally impossible is the attempt to restrict political
participation of the party, seek punishment of individual KMT leaders for administering
the white terror, or scrutinise long-serving government officials for partisan bias.

Besides the nature of democratic transition and its resulting power balance, observers
have suggested another factor for the lack of strong demand for transitional justice in
Taiwan: the developmental success of the KMT regime (吴乃德 2006/07). Taiwan has
been hailed as an exemplary case of the East Asian miracle. Ironically, economic takeoff
in Taiwan occurred during the high tide of the white terror period. The state machinery –
while ruling with an iron fist – promoted capital accumulation, prioritised strategic
investments, nurtured market competitors, and shaped industrial restructuring. Because of
that, the dictatorial apparatus has been credited with such institutional qualities as
meritocratic tradition, political autonomy, technocratic insulation and social
embeddedness (Wade 1990). These institutional qualities are said in turn to have derived
from the authoritarian nature of the regime.

We can qualify this argument with the ambivalent attitude of the general populace
towards the state bureaucracy. The bureaucracy was at the same time applauded for its
developmental capacity while condemned for its being used as an instrument of
repression, ethnic domination, and economic exaction. It is not easy to dissociate political
excesses of the authoritarian regime from the economic growth and political stability
achieved under strong rule.

There may also be geo-political considerations to the absence of lustration. The existence
of an imminent external threat from communist China has prevented a genuine
demobilisation of the martial law regime. The military and the intelligence organs remain
central to national security. The newly elected Democratic Progressive Party (DPP)
administration has been careful not to undermine the armed forces, although many of the
abuses were committed by the same armed forces during martial law. Public inquiry over
the military and Garrison Command will not only reveal the chain of command involved
in the abuses, but will also likely to expose security information regarding Taiwan’s
defense against mainland China. We cannot say in more decisive terms how important
such consideration will be since there is little information over civil-military relations
after democratisation. More research is obviously needed in this regard.

A further complication is the problem of identity politics. Democratisation in Taiwan has
meshed intimately with the rise of identity politics (Wachman 1994). During the
authoritarian rule, the KMT staffed the entire state machinery with its followers who
retreated from mainland China. Subsequently, anti-authoritarian struggle was mobilised
in terms of anti-ethnic domination. Democratisation was strategically equated to majority rule by Taiwanese. More complicated still, since the KMT regime claimed its legitimacy upon its unrepresentativeness of the Taiwan populace and its goal of unifying the whole of China, anti-KMT rule became coupled with the Taiwan independence movement in order to undermine the KMT. The DPP has been a strong advocate of Taiwan independence. Its winning of presidential office in 2000 let open the pandora’s box about the sovereign status of Taiwan. Power contention between antagonistic supporters of the old and new regimes was taken up in the guise of the strife between Taiwan’s independence from China and its unification with China. Such strife ties democratic reform to Taiwan’s sovereign status. But beneath the surface of sovereign contention and identity politics, political interests are at stake because the move towards denouncing the provincial status of Taiwan will threaten the survival of the old elites who present themselves as the guarding force of one-China. “Taiwanisation” on the other hand will benefit those who see themselves as representatives of the indigenous Taiwanese population.

In this regard, transitional justice, whether in the form of lustration or truth commission, touches upon a sensitive serve in identity politics. On the one hand, advocacy for lustration is criticised as an excuse of the pro-independents to get rid of KMT associates. On the other hand, the absence of lustration is seen as a conspiracy of the old KMT elites to retain their political hegemony and to prevent a genuine Taiwanisation of the polity (徐永明 2006, 楊長鎮 2006).

This last point brings us to the question of the social and political implications of lustration or the absence of lustration. Either way seems to produce its own set of problems. In general, observers have doubt about the effects of lustration in promoting trustworthy governance. Horne and Levi (2004) warn that it is not unusual for lustration campaigns to turn into witch hunts. Others have suggested that the absence of lustration contributes to bureaucratic and elite continuity which in turn is conducive to the establishment and strengthening of democratic institutions (Higley et al. 2002). The following discussions will examine this question in more details.

Political Allegiance and Trustworthy Government

While some observers have argued that there is a need to have some break from the past in order to construct a new set of institutions which ensure human rights and fair processes, others have warned against the danger of lustration for building trustworthy government (Stinchcombe 1995). In the case of Taiwan, the construction of trustworthiness takes a different turn. Before the DPP administration can embark on the project of building trustworthy governance, it first has to face the trustworthiness of the huge government bureaucracy which it inherited from the past. In this regard, the absence of lustration constitutes an important setback.

The question hinges upon the continuity of the civil service and its trustworthiness. On the face of it this should not be a controversial question. There has been a broad consensus in Taiwan that the continuity of the civil service is a corner-stone of the
democratic transition. News media, social activists, intellectuals, and political elites alike have agreed that the civil service system should remain unchanged in the wake of the change in administration. Many have emphasised the importance of ensuring administrative stability, political neutrality, job security, and professionalism of the civil service in future development.

Under such consensus, the idea of lustration carries a negative meaning. Bureaucratic purges have been seen as serving partisan interests and hence destructive to the stability and neutrality of the civil service system. The newly elected president Chen Shui-bian has made repeated appeals to the civil service about his determination to continue with the existing personnel and system. As a result, lustration received little attention in the wake of such overwhelming social demand for stability and continuity.

However, it soon becomes clear that the idea of continuity is anything but straightforward. A number of problems surfaced. These include: the question of state allegiance versus partisan loyalty, the imbalance in ethnic composition, and the ability of the new administration to command civil servants. These problems are the direct result of KMT legacies.

During the half a century of KMT rule, the civil service had been staffed overwhelmingly by followers of the KMT who retreated from mainland China. Even among those recruited after 1949, a huge proportion came from mainland families. The KMT government policy had a systemic bias in this regard, under the so-called regional quota selection system (分區定額擇優錄取制). Although the recruitment of civil servants was supposedly based on open examination, candidates who passed the examination were selected in proportion to regional quotas. In essence, this means that although the majority of candidates were born in Taiwan, their chance of being selected depended not only on their examination results but also on the quota allocated to “provincial origins”. Candidates whose parents retreated from mainland China could make use of the quota allocated to their particular provinces where they had never lived before. This has resulted in the creation and continuation of a civil service overwhelmingly staffed by mainlanders or their offspring. The system lasted until 1991.

The ethnic bias within the civil service is only one side of the coin. Equally problematic is the fact that before the change in government in 2000, the overwhelming majority of civil servants were KMT members. One study estimated that as many as 95 per cent of all bureau heads were party members (余致力 2002). Even among low ranking section heads, as many as 70 per cent were KMT members. At the same time, during the five decades of KMT rule, civil servants (party and non-party members alike) were obliged to obey strict party discipline. Civil service examination included ideological test such as the Three People’s Principles. Government officials were subjected to loyalty assessment in order to get promotion. Special party offices were established in schools, government bureaux, state enterprises, and the army to monitor the behaviour of civil servants. Their reports had direct implication for job promotion and dismissal. In addition, promotion to high ranking positions usually required attendance in “revolutionary practice training”.
Furthermore, the KMT used to select capable technocratic civil servants for political appointments. Professional civil servants became the major source of politicians. The result was not only a mixing up of political and administrative appointments in the civil service, but more importantly the confusion between governmental accountability and party responsibility. In order to get promoted to political ranks, many government officials actively engaged in KMT election campaigns during elections, in contrary to the principle of political neutrality. It also accounts for the high proportion of KMT membership in the civil service. All these raise serious doubt about the neutrality of the civil service and its subject of allegiance.

The question of allegiance caught the attention of the DPP government shortly after the regime change. Conflicts between incoming DPP ministerial office bearers and incumbent executive heads soon came to the open (see, for example, the reports in 聯合報, 13 August 2000; 1 September 2000; 27 September 2000; 27 October 2000; 21 October 2000; 16 January 2001). Government ministers and elected legislators accused incumbent administrators for partisan bias and for bureaucratic red tape, resistance to policy change, and sabotaging the new government. The latter criticised the government for using the civil service as a scapegoat for its policy failure. The war of words was accompanied by resignation, removal, and dismissal.

In spite of the conflicts, strong public support for bureaucratic continuity makes any radical change to the civil service politically undesirable. In fact, the change in government after the 2000 election has already created much anxiety among civil servants (especially those who were party members of the KMT) about their job security. Their anxiety in turn aroused social concern about the continuity of the state bureaucracy (see for instance 聯合報, 19 and 27 March 2000; 新生報, 15 April 2000; 工商時報, 25 May 2000). This was fuelled by mutual accusations between supporters of the new and old administrations. Supporters of the new administration criticised the outgoing government for planting party members into various posts shortly before the handover. KMT followers in return attacked the new government for extensive reshuffle and removal of professional civil servants. They accused the new government for exercising political purge, and warned that the purge severely undermined the morale as well as the professional neutrality of civil servants.

In such circumstances, while vowing to uphold the existing civil service system, the DPP government has taken painstaking efforts to strengthen its control over the civil service. In the first year of its rule, several hundred high ranking positions changed heads. The DPP party has also been actively recruiting bureau heads and government officials as party members. This has raised public alarm about the intention of the DPP administration. Critics have accused the DPP government of replacing KMT-domination in the civil service with DPP domination. The DPP defended by arguing that personnel reshuffle is a normal exercise during change of government, and that civil servants should place their allegiance towards the state and above any partisan interests.

To further ensure the loyalty of the civil service, the DPP government amended the Appointment of Civil Servants Law (公務人員任用法) to include a procedure to
scrutinise the conduct and allegiance of civil servants (公務人員品德與忠誠特殊查核辦法). The proposed procedure aroused strong public uproar about the possibility of abusing it as an instrument of selective purges. It stirred up the memory of the people about political purges during the white terror era. In response to the social pressure, the government modified the procedure and narrowed the scope to include only those civil servants who involved in national security and major public interests (涉及國家安全或重大利益公務人員查核辦法). This change fails to silence oppositions because one of the criteria of political scrutiny is the place of birth and lineage of individual civil servants.

The controversy in fact highlights the problem of building a trustworthy government in the absence of lustration. Although long-serving government bureaucrats are free from the fear of witch hunt, they are not spared from the stigma of being the collaborators of dictatorship. In the absence of any fair and open inquiries, individual officials have not given the opportunity to clear and dissociate themselves from the wrong doings of the past regime and to become trusted servants of the new regime. Instead, innocent officials are not differentiated from die-hard implementers of authoritarianism. They have to bear the same weight of collective sin on their shoulder. A trustworthy state bureaucracy is difficult to build upon such ground.

A further complication is that the debate over civil service allegiance has not been staged in terms of transitional justice or government trustworthiness. Instead, the debate has proceeded in the unsettling discourse about the status of Taiwan. When the DPP government accuses the old bureaucracy for failing to uphold their allegiance towards the state, critics have pointed out that the DPP government has appointed officials and public office bearers who do not recognise the sovereign status of the Republic of China or who attempt to change it (高朗, 龔意琦 2002). This leads immediately to endless debates over the criteria of allegiance. Those civil servants who are anti-independents or sympathisers of the KMT are most loyal to the Republic of China and to the existing constitution. But they are seen as loyal to the old regime by the pro-independent DPP government. Critics therefore ask: Allegiance to whom? Republic of China? Taiwan? The constitution? The president? The majority will? They ask who should be in charge of the scrutiny, how to ensure their impartiality, and how to prevent selective purges due to partisan interests (國家政策研究基金會 2002). Many have expressed worry that the emphasis on allegiance and governmental procedures to scrutinise civil service loyalty will further aggravate ethnic antagonism and fuel identity politics with social polarisation.

In brief, the newly elected government is faced with tough constraints in its attempt to reform and rejuvenate the civil service. Both the existing law and the strong social consensus work to protect incumbent civil servants in their offices. Attempts to rectify the ethnic balance and partisan bias of civil servants have been linked to the issue of sovereignty and identity politics and hence met with severe opposition. In such circumstances, the DPP resorts to individualistic rather than systemic changes. The new ruling party rekindles the old patrimonial practices which it once condemned, but merely replacing its own men with those of the KMT.

**Conclusion**
Democratisation in Taiwan unveils the problems of a state bureaucracy inherited from the authoritarian era. That bureaucracy, once applauded for its developmental capacity, was also an instrument of repression, ethnic domination, and economic exaction. Democratisation without lustration has failed to provide an opportunity for rectification. Compensation to victims without identifying the perpetrators has not increased the trustworthiness of the new administration.

This does not mean in the absence of lustration the state bureaucracy has been preserved in its entirety during democritisation. Were this the case it would have been less problematic. Elsewhere I have argued that the state capacity for policy making and economic management has been undermined due to the change in the coordination function of the regime, while patrimonial relations, partisan bias and spoliatory practices have survived the regime change (Ngo 2004, 吳德榮 2006).

All in all, the strong continuity of the political elites, the stability of the political institutions, and the unsettling sovereign status of Taiwan have brought forward problems of the past into the present. In the absence of lustration, old forms of relation and control still inhabit the institutional edifice of the new regime. This apparently is the price to pay for an orderly and incremental transition.
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