Taiwan's Indigenous Languages Development Act: Democratic Politics, Transitional Justice and the Quest for Diplomatic Recognition

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In May 2017, Taiwan's legislature passed the Indigenous Languages Development Act (ILDA), which came into effect in June of that year. This paper traces the process and context that have led to the act's adoption, and provides an overview of its symbolic and substantive content. In doing so, this paper draws attention to the importance of contextual factors in the act's adoption. The ILDA had been in the works since the early 2000s, and it is only through a piecemeal approach to Indigenous legislation that it came into being. Its ultimate adoption was enabled by a conjuncture of social and political developments, most directly the election of the Democratic Progressive Party in 2016, after a campaign that emphasised issues of transitional justice, decolonisation and reconciliation. The momentum toward these trends has also been influenced by Taiwan's fragile political status. In fact, Taiwan's limited international recognition has incentivised the use of minority rights initiatives, together with the conduct of cultural diplomacy with the country's diplomatic and trade partners sharing Austronesian heritage, as sovereignty-building and soft power projection tools.

Introduction

The passing of the Indigenous Languages Development Act (ILDA) on 26 May 2017 constituted a landmark in the recognition and revitalisation of Indigenous languages and cultures in Taiwan. Symbolically, 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. Substantively, the act created a legal obligation for diverse levels of government to assist in the protection, development, teaching, and availability of public services of/in Indigenous languages. The ILDA, however, did not come without challenges. Process-wise, the ILDA was originally drafted in the early 2000s as part of a pan-ethnic language bill that was eventually defeated. Nonetheless, the ILDA maintained its relevance after the 2005 Indigenous Peoples' Basic Law mandated the adoption of a separate language law. Contextually, the ILDA's ultimate adoption was enabled by the election of the Democratic Progressive Party (DPP) in 2016, which had campaigned on a platform of transitional justice aiming to reverse Taiwan's authoritarian legacy and foster inter-ethnic reconciliation. In other words, it is only through a conjecture of propitious social and political developments that the ILDA finally came into being.

This paper provides an overview of the ILDA and its making, partly guided by a historical institutionalist framework inspired by Cardinal and Sonntag's work on 'State Traditions and Language Regimes'. In doing so, it also draws attention to the importance of understanding language policy-making processes in democracies (Ruckstuhl 2018). As Warhol (2012: 237) points out in reference to the United States' Native American Languages Act (NALA), 'the importance and impact of NALA is found not only by evaluating how NALA has been implemented as an official policy, but by investigating how and why such a policy was established and has endured in a socio-cultural and political context largely hostile to language diversity.' Relatedly, rather than providing a comprehensive analysis of the act's substantive provisions, this paper focuses on the 'symbolic valorization' (Shulist 2018) of Indigenous peoples and cultures that is achieved through language legislation and revitalisation, as these represent 'an expression of linguistic and educational sovereignty' for Indigenous communities (Linn and Oberly 2016). This focus on the symbolic aspects of language policy to the detriment of the more complex and concrete details of language planning and policy is maintained for practical reasons, as a full coverage of those issues would be impossible in a single paper.

By focusing on policy formulation rather than implementation, this paper also brings attention to the multilayeredness of language conditions and policy as shaped by actors and dynamics at different levels, including intra- and international (Walsh 2012; Williams 2007). In the case of Taiwan, we will see that language policy has been deeply influenced by both national and international factors in the context of Taiwan's quest for recognition and China's intensifying efforts to erase Taiwan's sovereignty and annex the island nation. Also relevant is Spolsky's (2004) approach to language policy, in which he identifies (among others) a country's socio- and ethnolinguistic context, its state ideology, and the importance it attributes to issues of diversity and minority rights as important determinants of language policy (Albury 2016: 356). Indeed, issues of minority rights and diversity have been central to Taiwan's state ideology and language policy in recent decades.

Nationally, the logic of party politics, together with Taiwan's experience with multiple episodes and forms of colonialism, have motivated the ongoing transitional justice programme through which the more specific issues of Indigenous rights are being articulated and channeled. For the

DPP, which has been markedly committed to preserving Taiwan's sovereignty, instrumentalising Indigenous heritage has proven particularly useful in articulating and in connecting Taiwan's domestic and international identities. Internationally, Taiwan's quest for recognition and its longstanding diplomatic and non-official relations with other Austronesian island nations have contributed to highlighting the relevance of Indigenous rights and cultural revitalisation to non-Indigenous legislators and voters. In fact, Taiwan's Indigenous population is part of the Austronesian language family, which itself contains approximately 1200 languages and is present over a vast territory that stretches from Madagascar in the West to Polynesia in the East. This includes countries like Madagascar, Indonesia, Malaysia, the Philippines, Taiwan, and New Zealand (Blust 2013: 1-2). In other words, Indigenous Taiwanese are linguistically related to Indonesians, Malays, Filipinos, New Zealand Maori, and Native Hawaiians, to name a few. Of the 17 countries that officially recognise Taiwan (as the Republic of China, ROC), 6 are Pacific island nations with Austronesian heritage (Blundell 2011: 76).[1]

National and international considerations have also been intertwined in the sense that transitional justice initiatives and leadership on issues of minority rights are deemed to play an important role in consolidating Taiwan's democracy and in legitimating Taiwan's sovereignty in the eyes of democracies. Despite Taiwan's lack of membership in the United Nations (UN), involvement in Indigenous issues have sometimes given Taiwan representatives some level of access to UN institutions. For instance, some Taiwanese Indigenous representatives have participated in the activities of the UN Working Group on Indigenous Populations and the UN Permanent Forum on Indigenous Issues, often via NGOs from member states (Simon 2012: 185). Moreover, the resoluteness of Taiwan's leaders to implement UN treaties and declarations, even without the possibility of signing them formally, has further enhanced the country's credibility as a holder and diffuser of international norms. This was the case, for instance, with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007, the implementation of which was an important campaign issue in the 2008 elections (Simon 2012: 88). Thus, the ILDA saw the light partly as a result of soft power strategies aiming at strengthening Taiwan's identity and securing its political survival.

This paper is divided into four sections. The first section briefly lays out the historical institutionalist framework that informs this study. The second section provides a historical overview of Taiwanese Austronesians and of their relationship with the state up to democratisation in the 1990s. The third section relates how democratisation spurred a new language regime ideology and a new state approach to handing issues of ethnolinguistic diversity. More specifically, this section shows how the combined effect of party politics, transitional justice and Taiwan's quest for recognition have contributed to putting issues of Indigenous recognition at the forefront of identity politics and cultural policy. The fourth and final section traces the process and context that have led to the adoption of the ILDA, and—based on official documents and legislative minutes—analyses its symbolic content and significance. The paper concludes on the need to follow upon the more substantive issues of implementation and effectiveness of the act in the years to come.

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[1] These countries are Kiribati, the Marshall Islands, Nauru, Palau, the Solomon Islands, and Tuvalu.

Theoretical framework and argument

By locating the ILDA within Taiwan's wider processes of party politics, transitional justice and sovereignty building, all of which have evolved over time and been influenced by the evolving institutional context in place, this study adopts a broad historical institutionalist frame of reference. Historical institutionalism is an approach concerned with how institutions constrain the behavior of political actors (Immergut 1998). Central to historical institutionalism is the issue of temporality (Capoccia 2016). In this respect, the concepts of path dependence and critical juncture take a particular importance in the approach. The concept of path dependence basically posits that dynamic processes like policy choices and procedures are highly contingent on previous decisions and established dynamics, themselves influenced by institutions in place. The self-reinforcing logic of path dependence makes departure from established procedures and ideologies increasingly difficult over time (Mahoney 2000). However, critical junctures, such as political regime change, can provide opportunities for fundamental institutional redesign resulting in the creation of new policy pathways.

In their edited volume on 'State traditions and language regimes', Cardinal and Sonntag (2015) use a historical institutionalist framework to explain 'How and why are language policy choices made and how do they come about?' (Sonntag and Cardinal 2015: 3). In a sense, the very concept of state tradition can be understood as a construct that embodies the idea that states conduct their affairs—including language policy and ideology—in ways that are path dependent (Sonntag and Cardinal 2015: 4). Language regimes, on the other hand, refer to 'language practices as well as conceptions of language and language use as projected through state policies and as acted upon by language users' (6). 'State traditions', they add, 'guide and frame those practices' (6). Although this paper is mainly concerned with a single piece of Indigenous language legislation rather than Taiwan's language regime at large, it remains that the making of the ILDA has been heavily informed by past and present language ideologies and practices, and by the broader political and institutional dynamics that define Taiwan's state tradition. To the extent where many governments worldwide have often been reluctant to prioritise issues of Indigenous rights, culture and languages, especially until the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, legislation on these issues can constitute a particularly meaningful and powerful indicator of a state's commitment to certain values and ideologies. Although many countries have made progress on these issues over the past decades, Taiwan has arguably been a leading figure on Indigenous language policy. By looking into the ILDA, this paper also contributes to further delineating and highlighting the ideologies and practices that define Taiwan's consolidating democracy-based state tradition and language regime.

As a relatively new democracy, Taiwan is still in the process of defining its state tradition and language regime. Their development goes back not only to Taiwan's democratisation in the 1990s—its most fundamental critical juncture in recent decades—but also to previous colonial structures and policies. In fact, while Taiwan's new state approach to ethnocultural diversity constitutes a significant departure from the old system, it is still very much affected by it. First, many of the initiatives proposed by the DPP-led opposition toward language revitalisation and ethnic equality were aimed at reversing the Mandarin-only policy and the ethnic hierarchy that had

privileged Mainland migrants as administrators of the ROC émigré regime throughout Martial Law (1949-1987). In other words, the authoritarian state tradition may have been a *counter*model in guiding the state's handling of ethnolinguistic issues in the democratic era, but a model nonetheless. Second, unlike other cases where democratisation was violent and revolutionary in nature, Taiwan's democratisation was mainly carried out by the Chinese Nationalist Party (Kuo Min Tang—KMT) from above (Wu and Cheng 2011) (though in response to a strong democratisation movement), which resulted in institutional change taking place incrementally and only partially. In fact, the hitherto authoritarian KMT has remained an important, if not *the* most important, contender in elections after democratisation. Thus, new language policies and ideologies have progressed slowly, and have been very much influenced by the dynamics of party politics (Dupré 2017).

Third, Taiwan's democratisation also coincided and interacted with wider changes in Taiwan's international status. In fact, democratisation was partly a survival strategy by a regime which portrayed itself as the legitimate government of China, but which legitimacy as Chinese representative was receding with the international community's increasingly unopposed recognition of the People's Republic of China (PRC) (Wu and Cheng 2011). Capitalising on human rights issues to portray Taiwan as a democracy deserving sovereignty and diplomatic recognition has been an important aspect of Taiwan's international strategy. 6 of the 17 countries that maintain diplomatic relations with Taiwan (as the ROC) instead of the PRC, and many trading partners that do not have official diplomatic relations with Taiwan but nonetheless support its de facto sovereignty,[2] share Austronesian heritage. In this context, the recognition and promotion of Taiwan's Austronesian Indigenous peoples has played the joint purposes of highlighting Taiwan's commitment to issues of minority rights and redefining Taiwan's identity as a Pacific (and *pacific*) island nation outside of China's political and geocultural orbit. In other words, Taiwan has been trying to bolster its own recognition through the recognition of its Indigenous inhabitants and other minorities.

2. Taiwan's Indigenous population and the state prior to democratisation

Indigenous people account for a little over 2 percent of Taiwan's population of about 23.5 million, and are dispersed on half of the nation's territory (Simon 2010: 728). Sinophone groups, on the other hand, comprise the Hoklo or Minnan people (about 70 percent of Taiwan's population), the Hakka (15 percent) and Chinese Mainlanders (12 percent). According to Blust (2013: 49), there would be 24 acknowledged Austronesian languages in Taiwan, including nine that have already gone extinct, and some more that are bound to become extinct within the next decade. Taiwan entertains a very special relationship with Austronesian languages. Indeed, many see Taiwan as the 'cradle of the Austronesian family' (Simon 2012: 18), as the key to understanding Austronesian origins and spread. Blust (1999; 2013: 30) identifies ten distinct Austronesian language groups, nine of which are found exclusively in Taiwan (in Diamond 2000: 709). The remaining group, which Blust labels 'extra-Formosan', and to which all other (Malayo-Polynesian) Austronesian

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[2] Such non-diplomatic partners include, for instance, Brunei, Indonesia, Malaysia, New Zealand (Maori), the Philippines, Singapore (Malays) and the United States (Native Hawaiians, etc.) (see also note 1).

languages relate, is not found in Taiwan. Combined with archeological evidence that traces the first Neolithic cultures in today's Austronesian-inhabited region to Taiwan about 6500 years ago (Blust 2013: 27), this suggests that Austronesian culture may have largely developed in Taiwan, wherefrom it has spread to other parts of South East Asia and Oceania thousands of years later (Blundell 2011: 77).[3] Some believe that Austronesian people originated from the South China region, and that they eventually settled in other regions by way of Taiwan thanks to advances in ship building (see Ko et al. 2014; Mirabal et al. 2013).

For most of their history on Taiwan, Austronesian inhabitants enjoyed absolute sovereignty over the island, in the sense that they were, except perhaps for occasional temporary Han Chinese settlements or fishing outposts, the only human occupants of the island. This situation began to change in the 17th century, with the creation of trading posts by the Dutch on the western side of the island (and to a lesser extent by the Spanish in the north). Trade and agricultural activities promoted by these foreign powers on Taiwanese soil attracted migrant workers from nearby China, thus resulting in Han Chinese settlements. In 1662, Ming loyalists from southern China put an end to European presence in Taiwan as they invaded the island, which was then annexed by Qing China in 1683. Qing control over Taiwan brought about significant Han migration from southern China, mainly from the southern part of Fujian province (Minnan), and to a lesser extent from eastern Guangdong province (largely inhabited by the Hakka). Han migrants predominantly settled on the western half of the island, so that even after the Qing granted Taiwan provincial status in 1885, the eastern part was almost entirely self-ruled by Indigenous people (Blundell 2011: 82-83). It therefore comes to no surprise that, to this day, 'the largest and most vigorous Formosan languages are those that are located in the least desirable lands.' (Blust 2013: 52)

It is only after decades of brutal military expeditions by the Japanese following Taiwan's cession to Japan in 1895 that the eastern half of the island was subjugated. In the early 20th century, a system of 'chiefdoms and band councils' partly inspired from the North American reservation system was first set up by the Japanese colonial administration (Simon 2010: 730). Simon (2010: 730) points out that whereas many of these groups had a more egalitarian social organisation and did not have a concept of chief, the Japanese forced tribes to adopt a more hierarchical organisation by naming chiefs in implementing their reservation system. Many groups were also forced to relocate or to adopt a sedentary way of life. It is also at that time that Japanese anthropologists laid the groundwork for the study of Taiwanese Indigenous peoples' history, ethnicity and culture, sometimes influencing policy-makers and Indigenous peoples' identities by initiating the (sometimes questionable) classification of Indigenous tribes (Harrison 2001; Tierney 2010; van Bekhoven 2016). Overall, through the experience of Japanese colonialism, Indigenous people were progressively incorporated and institutionalised into the framework of a modern state. As posited by historical institutionalists, early conceptions, categorisations and policies of/on Austronesian inhabitants would have an enduring influence on Taiwan's state tradition.

In the decades following the takeover by the ROC in 1945, further advances in Indigenous policy were rather scarce (Harrison 2001). For one, reforms in the land autonomy system and in

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[3] As Blundell (2011: 76-77) points out, this 'out of Taiwan' theory refers to cultural spread, in particular language, rather than population spread. In fact, other theories (Oppenheimer and Richards 2008) suggest that much of the Austronesian population may have genetic roots in the Indonesia region. Blundell stands firm on the idea that 'Austronesian' should merely refers to a linguistic rather than a genetic category, although it is not uncommon to grant the term ethnic attributes and to talk of Austronesian ethnicity and ancestry.

administrative divisions on Indigenous territory generally denoted the government's Republican Chinese and assimilationist ideology (Simon 2010). Traditional social organisation was further disrupted by the government's policy of forcing Indigenous people to adopt Chinese names and to register as households, which contributed to inculcating patrilinear practices and values (Simon 2010: 729). The KMT-led ROC regime was fundamentally undemocratic, imposing one of the longest periods of Martial Law ever recorded (1949-87). However, partially competitive elections were regularly held at local level in an effort to bolster the regime's legitimacy, and as an opportunity to coopt local elites and pre-empt dissent (Wu and Cheng 2011). Thus, the period of KMT dictatorship also coincided with the introduction of electoral politics in Indigenous areas. Local leadership in these areas was largely restricted to Indigenous leaders, although such measures were once again more about cooptation and control than self-determination and autonomy rights. As Templeman (2018) points out, although the participation of Indigenous leaders in party politics has in some ways fragmented and weakened the Indigenous movement, Indigenous legislators have been able to secure substantial concessions from the government to the profit of pan-Indigenous interests (see next section).

Indigenous Recognition: Party Politics, Transitional Justice and the Sovereignty Quest

Democratisation in the early 1990s was an important critical juncture in contemporary Taiwan. Indeed, it is in the context of oppositional politics in the late 1970s and in the 1980s, largely driven by the *Dangwai* democracy movement (the ancestor of the DPP), that the Indigenous movement took shape. In the field of ethnolinguistic relations and policy, democratisation reinforced calls for a reversal of the KMT's assimilationist cultural policies, including its strict imposition of Mandarin on the local population (see for instance Dupré 2017; Hsiau 1997; Scott and Tiun 2007; Wu 2011). With democratisation, Taiwan's post-war authoritarian and Republican Chinese state tradition transited toward a Taiwanised regime in which local cultures and identities, alongside issues of human rights, ethnic equality and social diversity, were moved to the forefront of politics. Many advances were made on Indigenous policy under KMT administrations in the 1990s, both before and after the first presidential election in 1996. Through the decade, Indigenous quotas were introduced in the legislature (1991 and 1997) and the constitution was revised so as to recognise Austronesian inhabitants as Indigenous Peoples (1994 and 1997) (Simon 2017: 240). A momentous development was the creation of the Council of Aboriginal Affairs in 1996, which became the Council of Indigenous Peoples (CIP) in 2002. This Ministry-level Council, headed by members of the Indigenous community, has played an important role in defining objectives and carrying out cultural revitalisation projects. An Indigenous Peoples Education Law was also passed in 1998.

Especially for the DPP, Taiwan's foremost democratisation and sovereignty force, the celebration of Taiwan's diversity served the combined purposes of accelerating Taiwanisation and de-Sinicisation, and of enhancing Taiwan's sovereignty and its international recognition as a democratic state. Although the KMT played an important role in laying the foundations of Taiwanisation and transitional justice, it has also hindered their progress when opposition-sponsored initiatives challenged the party's legitimacy and its Chinese cultural legacy. Thus, the extent of Taiwanisation and transitional justice, including aspects of Indigenous cultural revitalisation and recognition, was deeply influenced by the dynamics of party politics. Indeed, the most tangible advance in Taiwanisation and transitional justice were enabled by the DPP's

formation of a majority government in 2016, for the first time since democratisation. This section relates how the interplay of developments in party politics, transitional justice and Taiwan's quest for sovereignty influenced the dynamics of Indigenous politics in a path dependent fashion, and ultimately enabled the making and enactment of the ILDA.

Party politics and Indigenous politics: a strained relationship

Indigenous people have maintained a complex and somewhat paradoxical relationship with political parties. In line with historical institutionalist assumptions, the nature of this relationship largely owes to early patterns of interethnic relations and political ideologies as they were articulated by political parties. Although the DPP has arguably been putting much more efforts on issues of Indigenous recognition and cultural revitalisation, Indigenous people have typically joined and cast their vote for the KMT and affiliated parties in much more significant numbers (Simon 2012; Templeman 2018; van Bekhoven 2016). In fact, a history of multiple colonialisms and historical feuds between early Han settlers and Indigenous peoples facilitated the latter's allegiance to the KMT regime and the Mainland minority that dominated it, as it was seen as an intermediary between Indigenous peoples and the Hoklo majority. In the early decades of democratisation, many Indigenous people were suspicious of the DPP's idea of ethnic equality, which many saw, as most the KMT did, as a disingenuous attempt by the Hoklo majority to reclaim its place as ethnocultural majority through discourses of multiculturalism and equality (Simon 2010: 727).

At the same time, at critical moments the DPP has been quite successful in securing support from opposition legislators of Indigenous origins on issues of Indigenous rights, especially when the latter held the balance of power in deeply divided legislatures (Templeman 2018). This was the case with the creation of the Council of Aboriginal Affairs in 1996 (Templeman 2018: 15). Other major developments that point to successful coordination between Indigenous politicians and the DPP were the Indigenous Basic Law (IPBL) of 2005 (Templeman 2018; van Bekhoven 2016: 228), and of course the ILDA in 2017. In fact, these two laws are interrelated. The IPBL was 'enacted for the purposes of protecting the fundamental rights of Indigenous peoples, promoting their subsistence and development and building inter-ethnic relations based on co-existence and prosperity.' (Council of Indigenous Peoples 2005, Article 1) The 35-Article legislation provides a legal basis to a comprehensive set of issues including autonomous Indigenous governance, Indigenous-central government relations, cultural protection, revitalisation and transmission, and Indigenous people's welfare, to name a few. Many articles cover issues of Indigenous languages, with Article 9 mentioning that 'The development of indigenous languages shall be stipulated by law', thus implying that a separate language law would eventually be adopted. The IPBL, however, was also an attempt by the DPP to make up for its failure to develop and pass a much-anticipated Indigenous Self-Determination Law, which would have drastically altered Indigenous-state relations and brought more tangible and substantive effects on Indigenous communities.

During the 2008 electoral campaign, the KMT's promises on matters of Indigenous autonomy may have played an important role in the party's success in Indigenous areas, where it obtained about 86.7% of the vote (Simon 2012: 88). However, a series of mishaps during the campaign and early in Ma Ying-jeou's presidency seem to have contributed to a drift away from the camp among many Indigenous voters. In December 2007, Ma came under fire for comments he made in a speech to

an Indigenous audience, which were deemed disparaging and patronising (Loa 2007). In 2009, the Ma administration was heavily criticised for its poor response to Typhoon Morakot, which devastated parts of the island and made over 700 victims, many (if not most) of them Indigenous. In the aftermath of the typhoon, rebuilding and resettlement plans and procedures were also heavily criticised by Indigenous communities. In 2010 and 2011, drafts for an Indigenous Peoples Self-Government Act were criticised as falling far below the expectations of Indigenous communities.

Like language, self-government was meant to be legislated upon, as prescribed by the IPBL: 'The 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. The relevant issues shall be stipulated by laws' (Article 4). Although the government allegedly continued to work on the self-governance bill during Ma's second term (2012-2016), the law never saw the light. As Templeman (2018: 16) points out: 'after a burst of legislation during the Chen Shui-bian era, no new laws on indigenous affairs were passed during President Ma's eight years in office.' This can partly be explained by the state's retreat from most issues that can be deemed identity-related in that period. Unlike the KMT in 1996 and the DPP in 2005, Ma benefitted from a strong majority in parliament, and Indigenous legislators were probably not in a position to influence the government.

Transitional justice and decolonisation

Perhaps more significant than multicultural policy for Indigenous politics have been initiatives regarding transitional justice. Once again, developments in transitional justice have been interrelated in a path dependent way, and go back to parties' ideologies and relation with state institutions during democratisation. Up until the 2000s, many of the measures toward transitional justice centred on the period of White Terror under the KMT dictatorship, and were of relatively limited reach. The fact that democratisation was initiated from above by the KMT partly explains the government's initial reluctance in sponsoring far-reaching transitional justice measures. As Rowen and Rowen (2017: 100-101) note, much of the transitional justice initiatives as sponsored by the KMT in the 1990s were characterised by a 'forget the past' attitude, in which some of the regime's excesses were acknowledged, and some victims compensated, but perpetrators were never brought to justice.

The second stage in transitional justice coincided with Chen Shui-bian's DPP presidency, as the party managed to defeat the KMT in 2000 and form a minority government until 2008 (Rowen and Rowen 2017: 101-103). During that period, transitional justice largely took the form of cultural Taiwanisation. Under KMT authoritarianism, decolonisation had usually been understood as de-Japanisation. To many Taiwan nationalists, however, including many DPP figures and supporters, KMT rule was itself a form of colonial rule. In this sense, cultural Taiwanisation and de-Sinicisation could be considered integral components of decolonisation and transitional justice. Mother tongues were made compulsory in schools, and funding was made available for the creation of numerous Taiwan Studies, Hakka Studies and Indigenous Studies programmes and research centres. For the DPP and affiliated parties, minority cultures fulfilled the combined aims of breaking with Chinese cultural legacy on Taiwan and fostering a progressive image.

The election of DPP candidate Tsai Ing-wen as president in January 2016, together with the party's success in gaining a majority of seats in the legislature, finally provided an opportunity for substantial change. Tsai Ing-wen, a female politician who identifies as being of mixed Hakka and Indigenous ancestry, campaigned on a highly progressive platform emphasising, among others, issues of LGBT rights, Indigenous rights, social fairness, and transitional justice. Tsai's transitional justice agenda was largely targeted at the period of KMT dictatorship (Rowen and Rowen 2017: 97). For the DPP, transitional justice involved decolonising Taiwan from its KMT-ROC heritage and stripping the KMT from what were considered 'ill-gotten assets.' However, Tsai's vision of decolonisation was arguably more comprehensive, and also incorporated Indigenous accounts of Han colonisation. Therefore, transitional justice involved going further back in history and setting the record straight on many chapters of Han-Indigenous relations (Rowen and Rowen 2017: 98). It is in this spirit that, on 1 August 2016, President Tsai Ing-wen made a formal apology to Taiwan's Indigenous people for their mistreatment by Han settlers over the past four centuries, and announced the establishment of a separate Indigenous Historical Justice and Transitional Justice Committee, which began its work at the end of 2016 (Caldwell 2018). As part of her apology, Tsai promised to 'step up the pace and submit for legislative deliberation three acts of great importance to indigenous peoples: the Indigenous Peoples Self-Government Act, the Indigenous Peoples Land and Sea Areas Act, and the Indigenous Languages Development Act.' (Office of the President 2016). The ILDA, therefore, has been an integral part of the DPP's transitional justice programme.

Human rights, Austronesian cultural diplomacy, and Taiwan's quest for recognition

The ongoing transitional justice project in the form of a Truth and Reconciliation Commission also fulfils purposes that are not exclusively domestic, but also international (Rowen and Rowen 2017). Symbolically, the decolonisation of the ROC state involves a level of delegitimisation of the KMT's imposed Chinese legacy on Taiwan (Rowen and Rowen 2017: 105). Moreover, by decolonising Taiwan in accordance with the international democratic principles of transitional justice (rather than, for instance, the retributive 'justice' of ethnonationalism), and for the purpose of further democratisation, Tsai's project accentuates the gap between Taiwan and China's authoritarian mode of governance. In doing so, Tsai has been 'legitimating Taiwan as a democratic nation worthy of protection and international recognition, as well as increased trade' (Rowen and Rowen 2017: 110). For Taiwan nationalists, Austronesian heritage has constituted a practical refutation of China's historical, ethnocultural and political claims over Taiwan.

The role played by Austronesian heritage in Taiwan's diplomacy and quest for international recognition is not merely ideological, but also very concrete and practical. Unsurprisingly, Austronesian heritage was emphasised particularly strongly under Chen Shui-bian's DPP presidency in the 2000s, during which international meetings were held in Taiwan, leading to *Taipei's Declaration of Austronesian Leaders* in 2002, the adoption of a Draft Charter of the *Forum of Austronesian Cooperation and Exchange* in 2003, and ultimately the establishment of the Austronesian Forum in 2007 (Council of Indigenous Peoples 2007, in Blundell 2011: 76). The Forum was meant to bring together Kiribati, the Marshall Islands, Nauru, Palau, the Philippines, the Solomon Islands, Tuvalu, and Taiwan, as 'a platform for understanding Austronesian peoples' political, social, economic and cultural developments, as well as build a compact and orderly network to enhance the world's awareness and respect of indigenous people.' Taiwan also

sponsored *Taiwan-Pacific Allies Summits* in different island-nations so as 'to build a consolidated "democratic community" among the nations of the Pacific including, if not modeled on Taiwan's democracy. This multilateral strategy aimed to improve the regional image by promoting better governance and progress in a range of fields' (Blundell 2011: 85).

Quite tellingly, the Forum was suspended from 2008 onward, with the onset of Ma Ying-jeou's KMT administration and its alignment with China, although other national and international Indigenous and Austronesian conferences continued to be held. In May 2018, however, it was announced that the Austronesian Forum would resume, with the addition of four heavy weights on the international scene: Indonesia, Malaysia, Guam and Hawaii (Salmonsen 2018). Despite a stall under Ma's presidency, Indigenous policy generally evolved in a path dependent fashion. Overall, the interrelated dynamics of party politics, transitional justice and cultural diplomacy were informed and conducted on the basis of conflicting state traditions as embodied and acted upon by parties. These dynamics provided the context in which the ILDA was drafted and adopted.

The Making of the ILDA

At a more micro level, the path dependent aspect of language policy making was particularly evident in the drafting process of the ILDA. In fact, the ILDA was in many ways a by-product of previous developments (and failures) in language and Indigenous policy. The making of the ILDA goes back one and a half decades, to the beginning of Chen's Shui-bian's DPP presidency. Chen had campaigned on a platform of ethnic equality, and one of his objectives was the adoption of a Language Equality Law. This law aimed to symbolically recognise the languages of all Taiwanese ethnic groups as equal national languages, and was in this sense representative of the DPP's early vision of transitional justice. In the early 2000s the National Languages Committee solicited proposals from different ethnolinguistic committees, including the CIP, to be used as a basis for the drafting of a pan-ethnic language law. In drafting the ILDA, the CIP found inspiration in existing domestic legislation on Indigenous affairs, including the Additional Articles of the Constitution and the Indigenous Peoples Education Law, to name a few (Dupré 2017: 148). Ultimately, the law draft was put aside in favour of the LEL, which failed to be adopted, and the eventual enactment of the ILDA was instead mandated by the IPBL of 2005. No concrete steps appear to have been taken by the Ma administration to actually pass the act between 2008 and 2016.

After her victory in January 2016, Tsai was quick to deliver on her promises for transitional justice and reconciliation. The executive released a draft of the ILDA on 9 December 2016, and within six months, all three readings had been completed (the third reading took place on 8 and 10 May 2017). The bill was finally passed on 26 May 2017. For the meetings, which took place under the auspices of Internal Affairs, a total of seven versions were presented as a basis for discussion, including the one already endorsed by the Executive Yuan. The DPP, represented by legislator Kolas Yotaka and 20 signatories, presented one version. The New Power Party (NPP), a recently established, progressive party close to the DPP, also presented one. The KMT presented four. Draft representatives were legislators of Indigenous origins. Members in attendance, who included activists and scholars, reviewed all clauses one by one. While there is no space here for a detailed

analysis of these debates and of the act's content in their entirety, some aspects are particularly interesting for our purpose.

The first three articles, which lay out 'the goals of enacting this Act, meanings of terms and competent authorities' (Council of Indigenous Peoples 2017), were particularly contentious, and an entire day was spent before a consensus could be reached on them. Particularly significant is Article 1, which states that:

> Indigenous languages are national languages. To carry out historical justice, promote the preservation and development of indigenous languages, and secure indigenous language usage and heritage, this act is enacted according to the provisions of Article 10, Section 11 of the Amendment of the Constitution and Article 9, Section 3 of the Indigenous Peoples Basic Law.

In discussions on this article, three points were particularly noteworthy. The first one was the recognition of Indigenous languages as national languages. Debates on this topic drew attention to the National Languages Development Law (NLDL) that was being drafted (Legislative Gazette 2017: 325). Ami Tai from the Ministry of Culture confirmed that the law was being drafted, but that there was no consensus as to whether Indigenous languages would be individually spelled out or lumped into a broader 'Indigenous languages' category (326). Some legislators believed an attempt should have been made to coordinate between the two laws on this matter. Notably, Sra Kacaw (KMT) believed that, if the NLDL was to lump Indigenous languages under a common umbrella, it was preferable for the ILDA to spell them separately (327). At the end they were not, probably for matters of practicality: Indigenous languages and their dialects are not fully inventoried, their borders are contested, and they often do not align with either self-proclaimed or recognised groups. There was however a consensus for designating Indigenous languages as national languages in the ILDA, especially since, as Kung Wen-chi (KMT) correctly pointed out, 'the ILDA will probably be passed first' (327).[4] As meeting Chairman Pasuya Yao (DPP) echoed, 'for a period of time, Hakka, Taiwanese [i.e. Hoklo/Minnan] or other languages won't be national languages, only Indigenous languages will be national languages' (329). This, to many Indigenous legislators, was particularly meaningful.

The second point of significance was the ILDA's contextualisation as a matter of transitional and historical justice, an addition that was proposed by the NPP. Kawlo Iyun Pacidal (NPP) justified this emphasis on historical justice by arguing that it would remind people—especially non-Indigenous—of the rationale behind the act, which could otherwise be interpreted as 'yet another special right' for Indigenous peoples. Stressing historical justice, she believed, was tantamount to stating that 'We in this country recognise that in our former history Indigenous people were harmed, this is a way to recognise our historical attitude' (327). Some opposition legislators, such as Ciwas Ali (May Chin) from the Non-Partisan Solidarity Union (a minor party in the KMT camp), supported the NPP's emphasis on 'historical' and 'transitional justice', since the ILDA was being enacted in the context of Tsai Ing-wen's transitional justice programme.

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[4] All quotes from legislative debates are the author's translation.

Finally, and relatedly, the third point of contention concerned the legal source and the rationale of the act, which was originally planned to stem from the IPBL. In discussing the first article, Kung Wen-chi brought attention to the need of mentioning Article 10 of the Additional Articles of the constitution (323-324), part of which mentions that:

> The State affirms cultural pluralism and shall actively preserve and foster the development of aboriginal languages and cultures.

> The State shall, in accordance with the will of the ethnic groups, safeguard the status and political participation of the aborigines. The State shall also guarantee and provide assistance and encouragement for aboriginal education, culture, transportation, water conservation, health and medical care, economic activity, land, and social welfare, measures for which shall be established by law.

> (Republic of China 2005)

Kung believed the constitution, with its special emphasis on the need to promote Indigenous culture, made for a stronger basis for the ILDA than the IPBL alone: 'The reason why Indigenous languages have to be legislated upon separately is that Section 11 of Article 10 of the Additional Articles of the Constitution rules so, perhaps people will say, "why aren't Minnanyu [Hoklo], Kejiayu [Hakka] listed? Why do we need to legislate on Indigenous languages separately?"' (Legislative Gazette 2017: 325) In other words, referring to the constitution enabled the ILDA to actualise constitutional provisions on Indigenous rights, which further justified the act's adoption.

The remaining articles are more concerned with practical elements of language revitalisation, and make for provisions that are arguably quite extensive (for the full content in English, see Council of Indigenous Peoples 2017). Overall, the ILDA arguably reaches a fair balance between symbolic and substantive provisions. Although the issue of diplomatic recognition was not explicitly mentioned in the act—after all, the act was not *about* diplomacy—other contextual factors, namely historical and transitional justice, were entrenched in it. Moreover, it could be argued that listing Austronesian languages as national languages is not only a matter of internal recognition, but also one than involves redefining Taiwan's cultural identity with a view to projecting it on the international scene. With regard to party politics, the drafting process and the debates on the ILDA show that under the right circumstances, Indigenous interests can find their way above party divisions. Most importantly, the ILDA did not take form in an institutional and legal vacuum. The ILDA was long in the making, and previous laws, policies and political developments were instrumental in its drafting and adoption.

Conclusion

This paper has traced the process and overviewed the content of Taiwan's Indigenous Languages Development Act, arguing that the act came into being as a result of the interaction between party politics, transitional justice, and Taiwan's precarious international status, all of which have influenced Taiwan's approach to language policy-making. On a theoretical level, this paper suggests that democratisation—Taiwan's foremost critical juncture in recent decades—has set Taiwan on a new policy pathway emphasising Taiwan's diversity. In this respect, the departure

from an authoritarian government-imposed Mandarin-only policy to the recognition of Indigenous languages as national languages in a Language Act by and for Indigenous people, in a span of just a few decades, is remarkable. It is even more so considering that many established democracies still have a questionable record on issues in Indigenous rights, recognition and valorisation. As van Bekhoven (2016: 225) points out, 'Taiwan is one of the few Asian States that accepts the concept of "indigenous peoples", using a term proposed by the aboriginal population itself, and has incorporated it in its Constitution and laws.' Other exceptions are Japan and the Philippines. Interestingly, China denies the existence of Indigenous populations proper on its territory, even though it claims Taiwan as its own. Taiwan's experience with Japanese colonialism had a significant influence on conceptualisations of Taiwanese Austronesian inhabitants as *Indigenous* people, with lasting consequences. The ILDA constitutes a reinforcement of this legacy.

At the same time, however, state recognition also perpetuates and even institutionalises categories of coloniser and colonised, and, by the same token, colonialism (Alfred and Corntassel 2005; Haque and Patrick 2015; van Bekhoven 2016). It is important to remember that progress on issues of Indigenous culture revival and recognition was partly—if not largely—achieved thanks to the DPP instrumentalising Indigenous issues as a way further its broader political interests and ideology on Taiwan identity and sovereignty. While instrumentalisation and genuine respect and commitment need not be contradictory, more time will be needed to assess the nature and extent of the progress that is being achieved. The ILDA is only the first, the most symbolic, and arguably the easiest step in the revitalisation of Indigenous languages, and its implementation will be a far better indicator of the direction Taiwan's democratic state tradition is headed toward. The litmus test will be enactment and implementation of even more far-reaching initiatives, namely the actualisation of Indigenous autonomy and self-government, which has been the main point of contention between Indigenous activists and the state.

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