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POLITICAL OFFENCES IN TAIWAN: LAWS AND PROBLEMS

MING-MIN PENG*

1. AFTER THE ESTABLISHMENT of the Chinese People's Republic in 1949, the Chinese Nationalist Government moved to the island of Taiwan and chose the city of Taipei as its new capital. In the 20 years since then, the Nationalist Government has maintained a state of "national emergency" over the whole area under its control, and administered it under martial law. It is the avowed intention of the Government to perpetuate the present situation until the day of its reconquest of the whole of China, that is, indefinitely.

The situation is unique in modern political and legal history, among other reasons, for the position taken domestically and internationally by the Nationalist Government in the past two decades, the length of the period of "national emergency" maintained and martial law enforced and the degree to which the very existence of the regime hinges on maintaining and prolonging the present state of affairs.

The subject of this study is what the politically restrictive laws in Taiwan are which have been playing the most decisive role in the politics of "national emergency" of the Nationalist Government, how they operate in practice, how they square with the official Chinese Nationalist Constitution and what the impact is of these laws on the Chinese Nationalist legal system.

2. The basic point to be noted is that since 1949 not only the scope of the actual jurisdiction of the Nationalist Government has drastically contracted, but at the same time, the judicial system with which the Government functions has undergone a structural change. On 19 May 1949, in the name of the Peace Preservation Command of

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1 The sphere over which the Nationalist Government exercises effective control was reduced in 1949 from the 3,880,000 square miles and 450 million people of the whole of China to Taiwan proper, the Pescadores and the tiny islands of Quemoy and Matsu off the east coast of China, with combined dimensions of about 13,890 square miles and 11 million people. Of the population of Taiwan, 85 per cent. are native Taiwanese, the rest are Chinese who followed the Nationalist Government to the islands after the Second World War.

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the Chinese Nationalist Army,² a general “state of siege” was proclaimed over the whole area of Taiwan.³ The subsequent social, political and legal consequences of this order have been such that it is of interest to reproduce its full text here:

A. In order to secure public peace and order, a state of siege is hereby declared by this Command over the whole province [of Taiwan], effective from zero hour, 20 May [1949].

B. Effective from the same date, all ports shall be closed and strictly off limits, except the three ports of Keelung, Kaohsiung and Makung which shall remain open under surveillance of this Command, which will regulate the maritime communication lines of this province.

C. During the period of the state of siege, the following regulative and prohibitive rules shall be enforced:

1. Effective from the same date, a general curfew shall be enforced in the ports of Keelung and Kaohsiung every day from 1.00 a.m. to 5.00 a.m., during which all traffic is forbidden except with special permit.

2. All stores and public entertainment places in Keelung and Kaohsiung must be closed by midnight.

3. All stores and hawkers in this province are forbidden to raise commodity prices, to close their businesses, to stockpile the daily necessities or to disrupt the market.

4. All incoming and outgoing travellers must go through procedures as prescribed by this Command and submit to inspection.

5. Public meetings, strikes, demonstrations or petitions are strictly forbidden.

6. Spreading of rumours by letter, slogan or other means is strictly forbidden.

7. Carrying by civilians of arms, ammunition or dangerous articles is strictly forbidden.

8. All inhabitants, whether indoors or outdoors, must carry their identification papers. Those who do not shall be arrested.

² This is the predecessor of the present Garrison Command of the Chinese Nationalist Army.

³ According to Article 39 of the Chinese Nationalist Constitution of 1947, the President may declare martial law only with the approval of, or subject to confirmation by, the Congress (Legislative Yuan), and when the Congress deems it necessary, it may by resolution request the President to terminate martial law. But since 10 May 1948, the National Assembly has given the President the power “during the period of Communist rebellion” to take emergency measures without being subject to the restriction prescribed in this constitutional clause.
D. During the period of the state of siege, those who commit the following acts shall be condemned to death in accordance with law:

1. Circulating rumours and beguiling the public.
2. Inciting the public to riot.
3. Disrupting the money market.
4. Forceful theft or robbery.
5. Striking by workers or traders disrupting public order.
6. Encouraging students to strike or publicly inciting others to commit crime.
7. Destroying traffic or communications, or stealing the materials thereof.
8. Disrupting water supplies, or electric or gas services.
9. Setting fires or causing flood and endangering the public safety.
10. Possessing arms, ammunition or explosives without permission.

Furthermore, this proclamation of the state of siege automatically carried into operation the whole body of martial law promulgated by the Chinese Nationalist Government on 29 November 1934. Thus, in accordance with Article 7 of the Martial Law, local administrative and judicial matters are placed under the charge of the local military commander, to whom both local administrative officials and judges are responsible. Article 8 of the above law further provides that during the period of enforcement of martial law the military organ may try, by itself, certain offences including those against the internal and external security of the state, and those against public order and public safety. Article 11 empowers the military commander, if he deems it necessary, to stop or disperse assemblies, associations, demonstrations or petitions, and put controls on speech, teaching, newspapers, magazines, notices, posters and other publications. The military commander may also restrict or prohibit religious activities; he may prohibit strikes by traders, workers, students and others, and force the strikers to resume work; he may censor mail and telegrams and withhold or confiscate them; he may inspect incoming or outgoing vessels, vehicles, aircraft and other conveyances and stop their traffic or block their primary routes; he may examine doubtful passengers, inspect private weapons, ammunition, arms, firearms or other dangerous

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4 Declaration of the State of Siege, Taiwan Peace Preservation Command, 19 May 1949. The translation of this Declaration is the author's. In later citations, unless otherwise noted, the translations follow those of the Laws of the Republic of China, First Series: Major Laws, trans. and comp. by Law Revision Planning Group, CUSA, The Executive Yuan, The Republic of China (Taipei, Taiwan, 1961).
5 Promulgated on 29 November 1934 and amended on 19 May 1948 and on 14 January 1949.
articles, and withhold or confiscate them; he may carry out an examination of constructions, vessels and doubtful dwelling houses; he may order the inhabitants to evacuate or prohibit them from moving in; he may destroy properties of the people, and conduct inspections, investigations or registrations of civilian foodstuffs and other resources.

It can be said that the main significance of the proclamation of the state of siege in 1949 and the practical effect of the martial law are threefold:

First, by their sweeping generality, they have, since 1949, placed major parts of community life in Taiwan under the control and surveillance of the military authorities, that is, of the Garrison Command of the Chinese Nationalist Army.

Second, they have in fact suspended most of the guarantees and protections of individual rights and freedom written into the Chinese Nationalist Constitution. For example, Article 8 of the Constitution, which guarantees personal freedom, Article 10, which guarantees freedom of residence and of change of residence, Article 11, which guarantees freedom of speech, teaching, writing and publication, Article 12, which guarantees freedom of privacy of correspondence, Article 13, which guarantees freedom of religious belief, Article 14, which

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7 Article 8:

Personal freedom shall be guaranteed to the people. Except in case of flagrant delicto as provided by law, no person shall be arrested or detained otherwise than by a judicial or a police organ in accordance with the procedure prescribed by law. No person shall be tried or punished otherwise than by a law court in accordance with the procedure prescribed by law. Any arrest, detention, trial, or punishment which is not in accordance with the procedure prescribed by law may be resisted.

When a person is arrested or detained on suspicion of having committed a crime, the organ making the arrest or detention shall in writing inform the said person and his designated relative or friend of the grounds for his arrest or detention, and shall, within 24 hours, turn him over to a competent court for trial. The said person, or any other person, may petition the competent court that a writ be served within 24 hours on the organ making the arrest for the surrender of the said person for trial.

The court shall not reject the petition mentioned in the preceding paragraph, nor shall it order the organ concerned to make an investigation and report first. The organ concerned shall not refuse to execute, or delay in executing, the writ of the court for the surrender of the said person for trial.

When a person is unlawfully arrested or detained by any organ, he or any other person may petition the court for an investigation. The court shall not reject such a petition, and shall, within 24 hours, investigate the action of the organ concerned and deal with the matter in accordance with law.

8 Article 11: “The people shall have freedom of speech, teaching, writing, and publication.”

9 Article 12: “The people shall have freedom of privacy of correspondence.”

10 Article 13: “The people shall have freedom of religious belief.”
guarantees freedom of assembly and of association, Article 16, which guarantees the right of presenting petitions or lodging complaints—all have been suspended in practice.

Third, the proclamation and the martial law have radically changed the judicial system in Taiwan by also suspending in effect Article 9 of the Chinese Nationalist Constitution which guarantees that except for those in active military service, no person shall be subject to trial by a military tribunal. 3

3. The new judicial situation brought about by the proclamation of the state of siege and the martial law has its deepest impact with regard to political offences committed under the Chinese Nationalist regime in Taiwan. Here political offences are understood as crimes which are incidental to and form a part of political disturbances, including offences consisting in an attack upon the political order of things established in the country where committed, as well as offences committed to obtain any political object. 14 To discuss political offences in Taiwan, some other laws and a judicial interpretation must first be mentioned. These are the Statute for Punishment of Rebellion, and the Statute for Denunciation and Suppression of Rebels, the Military Trial Law and the Judicial Interpretation of the Control of Grand Justices, Number 68, 26 November 1956. Together with the proclamation of the state of siege and the martial law, these laws and the Judicial Interpretation constitute the main legal basis on which the Chinese Nationalist Government tries political offences in Taiwan. Read together, these laws and the Judicial Interpretation shed light on Nationalist policy.
towards political offences since the Government's retreat to Taiwan, and bring into relief the following distinctive features:

1. The enlarged scope of political offences.
2. Increased penalties for political offences.
4. Exceptional provisions and practices for political offences.
5. The political detention system.

(i) **The enlarged scope of political offences**

Before 1949, the main law under the Chinese Nationalist regime which dealt with political offences was the Criminal Code.20 Chapters I and II of Part Two of the Criminal Code are entitled: "Offences Against the Internal Security of the State"21 and "Offences Against the External Security of the State,"22 respectively. But when the state of siege was proclaimed in 1949,23 not only did the text of the proclamation itself provide new categories of political offences which were punishable by death, the martial law24 also carried into operation Article 2 of the Criminal Law of the Armed Forces,25 according to which this law, although applicable only to military personnel under ordinary circumstances, shall also apply to non-military personnel who commit certain political offences during the period of enforcement of martial law. In addition, as mentioned above, two new laws have been enacted since 1949 which are aimed specifically at political offences, namely the Statute for Punishment of Rebellion26 and the Statute for Denunciation and Suppression of Rebels.27 As the above proclamation and laws came successively into effect, the scope of political offences was broadened considerably. At the present time, political offences in Taiwan include, in addition to the ones commonly provided for by laws in many countries, such acts as strike, petition, demonstration, public meeting, spreading of rumours, etc.28

21 Chapter I, Criminal Code.
22 Chapter II, Criminal Code.
23 See n. 4 above.
24 See n. 5 above.
26 See n. 15 above.
27 See n. 16 above.
28 For the acts which, at the present time, constitute political crimes for civilians under Nationalist laws see Appendix, below, p. 491.
(ii) Increased penalties for political offences

The penalties for the new categories of political offences prescribed in the Chinese Nationalist laws after 1949 are remarkably severe and the penalties for certain political offences already written into law prior to 1949 have also been greatly increased. For example, according to Article 100 (I) of the official Criminal Code of the Nationalist Government of 1935, a person who "undertakes to destroy the national polity, seize state territory, change the constitution by illegal means or overthrow the government" may be punished with imprisonment for not less than seven years; however, Article 2 (I) of the Statute for Punishment of Rebellion of 1949 makes capital punishment mandatory for the same offence. Although according to Article 100 (II) of the Criminal Code of 1935, a person who "prepares or conspires to commit the above offence" is punishable with imprisonment for not less than six months and not more than five years, Article 2 (III) of the Statute for Punishment of Rebellion of 1949 prescribes for the same offence a penalty of imprisonment for not less than 10 years. In the same vein, the Statute for Punishment of Rebellion of 1949 makes capital punishment mandatory for the offences prescribed in Articles 101 (I), 103 (I) and 104 (I) of the Criminal Code of 1935; while the Code provides for imprisonment of upwards of seven years. The Statute for Punishment of Rebellion provides a penalty of not less than 10 years’ imprisonment for the

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29 See n. 20 above.
30 I, Article 100, Criminal Code, see n. 20 above.
31 I, Article 2, Statute for Punishment of Rebellion, see n. 15 above.
32 II, Article 100, Criminal Code, see n. 20 above.
33 III, Article 2, Statute for Punishment of Rebellion, see n. 15 above.
34 I, Article 101, Criminal Code: "A person who with violence commits an offence specified in paragraph I of the preceding article [see n. 30 above] shall be punished with imprisonment for life or for not less than seven years; a ringleader shall be punished with death or imprisonment for life."
35 I, Article 103, Criminal Code: "A person who communicates with a foreign state or its agent with intent that such state or another state begin war against the Republic of China shall be punished with death or imprisonment for life."
36 I, Article 104, Criminal Code: "A person who communicates with a foreign state or its agent with intent to subject territory of the Republic of China to such state or another state shall be punished with death or imprisonment for life."
37 See n. 20 above.
38 The last paragraph, Article 2, Statute for Punishment of Rebellion, see n. 15 above.
offences prescribed in Articles 101 (II), 103 (III) and 104 (III) of the Criminal Code, while the Code's penalties range from one to 10 years' imprisonment. Furthermore, according to Article 8 (I) of the Statute for Punishment of Rebellion, in most cases of political offences, all property of the offender shall be confiscated, even when the offender has not yet been formally tried or dies before the trial. This is an additional penalty which did not exist before 1949.

(iii) Military trial of political offences and its summary character

By virtue of the proclamation of the state of siege on 19 May 1949, and Articles 7 and 8 of the Martial Law, which were brought into operation by the proclamation, political offences have been placed since 1949 under the jurisdiction of a military court. The procedure for courtmartial is provided by the Military Trial Law. As prescribed in Part Two, Chapters II and III of this law, the military trial consists of two instances. But verbal arguments upon law and facts are made only at the first instance. The second (final) instance is expedited only in writing, without verbal arguments. This summary system is a deviation from ordinary judicial procedure applied to civilians in Taiwan.

(iv) Exceptional provisions and practices for political offences

In addition to the summary nature of the military trial of political offences, particular legislation and judicial interpretations have been made, or practices established, to give the Government maximum freedom in prosecuting and punishing political offenders. These special rules have the effect of excluding political offences from the application of certain established legal principles incorporated into the Chinese Nationalist judicial system for the protection of the defendant. As a result:

39 II, Article 101, Criminal Code: "A person who prepares or conspires to commit an offence specified in the preceding paragraph [see n. 34 above] shall be punished with imprisonment for not less than one and not more than seven years."
40 III, Article 103, Criminal Code: "A person who prepares or conspires to commit an offence specified in Paragraph I [see n. 35 above] shall be punished with imprisonment for not less than three and not more than 10 years."
41 III, Article 104, Criminal Code: "A person who prepares or conspires to commit an offence specified in Paragraph I [see n. 36 above] shall be punished with imprisonment for not less than three and not more than 10 years."
42 See n. 20 above.
43 Article 8, Statute for Punishment of Rebellion, see n. 15 above.
44 See n. 4 above.
45 See n. 5 above.
46 Military Trial Law, promulgated on 7 July 1956, effective from 1 October 1956, amended on 24 December 1956.
47 Articles 136 to 186, Military Trial Law.
48 Articles 187 to 216, Military Trial Law.
49 Article 199, Military Trial Law.
1. The limitation on the right of prosecution is not applicable in practice to cases of political offences. According to Article 80 of the Criminal Code, the right of prosecution of criminal offences is barred by limitation if not exercised within a certain period of time (the length of which varies from one to 20 years according to the relative gravity of the crime). But this limitation was struck down in effect by the Judicial Interpretation mentioned above, which ruled that, once committed, a political offence should be regarded as still in a "state of continuity" until it is prosecuted. This Interpretation leaves no room for application of the provisions in the Criminal Code on the limitation of the right of prosecution. Accordingly, the military courts have been prosecuting and gaining convictions in trials of political offences committed more than two decades ago.

2. The principle of prohibition of ex post facto law is not applicable to political offences. This prohibition has been accepted by the Chinese Nationalist Criminal Code, Article 1 of which expressly provides that "an act is punishable only if expressly so provided by the law in force at the time of its commission." Article 2 (I) additionally provides that if the law at the time of the act and the law at the time of the trial are different, the law most favourable to the offender shall apply. Nevertheless this principle has been in fact nullified with regard to political offences. The Statute for Punishment of Rebellion, after stipulating in Article 8 (I), the confiscation of offenders' property as an additional penalty for most cases of political offences, goes further and in Article 8 (III), expressly excludes in this regard the application of the protection of Article 2 (I) of the Criminal Code. In more general terms, the foregoing Judicial Interpretation of the Council of Grand Justices, with its conception of the "continuity" of political offence, has struck down in practice the prohibition of ex post facto law for political offences, making it possible for the military courts to apply law retrospectively to an act committed prior to the enactment of the law. Accordingly, the military courts have been freely prosecuting and convicting political offenders for acts committed before

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50 Article 80, Criminal Code.
51 See n. 18, 19 above.
52 The wording of the Judicial Interpretation is: "Whoever once belonged to a rebellious organization shall be regarded as continually belonging to such until he surrenders himself." The Nationalist Government and its courts have always considered any dissent to be necessarily linked to a wide anti-governmental conspiracy, real or imaginary, and in their view any political offender is, by definition, a member of a "rebellious organization." So the above interpretation in fact covers the whole range of political offences.
53 E.g., the cases of Fan Tzu-wen, Kuo I-tung (Po-yang), Ch'ui Hsiao-p'ing, Ma Cheng-hai, Lo Heng, Chiang Hai-jung and Shih Yu-wei.
54 See n. 20 above.
the passage of laws. With the limitation on the right of prosecution and the prohibition of ex post facto law both lacking in practice, the Government has indeed great freedom in dealing with the opposition.

3. The immunities and privileges of the members of legislatures are not recognized with regard to political offences. Article 73 of the Chinese Nationalist Constitution,\(^{55}\) provides that “No member of the Legislative Yuan shall be held responsible outside the Yuan for opinions expressed or votes cast in the Yuan,” and Article 74 of the Constitution further states, “No member of the Legislative Yuan shall, except in case of flagrante delicto, be arrested or detained without the permission of the Legislative Yuan.” Similar provisions are found in Articles 33 and 34 of the Constitution of the Provincial Assembly of Taiwan,\(^{56}\) and in Articles 40 and 42 of the Constitution of City and County Councils in Taiwan.\(^{57}\) Articles 32, 33, 101 and 102 of the Chinese Nationalist Constitution\(^{58}\) accord the same immunities and privileges to the members of the National Assembly and to the members of the Control Yuan. However, as a matter of practice, those immunities and privileges are not recognized with regard to political offences. When a member of the legislature, central or provincial, is suspected of a political offence, he is arrested without the permission of the legislature even if it is not flagrante delicto or even if the legislature is in session. A member of the legislature is held criminally responsible for an opinion expressed in it if the opinion constitutes a political offence according to the laws mentioned above.\(^{59}\)

4. No remission of punishment is accorded to political offenders under age. According to Article 18 (I) of the Criminal Code, “an act committed by a person who has not completed the fourteenth year of his age is not punishable.” However, this provision is not applied in cases of political offence. In a recent case, two persons were convicted and sentenced to prison terms for the acts they committed 25 years ago when they were less than 14 years old.\(^{60}\)

5. The leniencies given to a criminal offender’s family who has shielded the offender are not applicable to political offences. While according to Article 164 of the Criminal Code,\(^{61}\) a person who shields or attempts to shield an offender is punishable, Article 167 of the same code provides that if an offender’s spouse, or relative by marriage within

\(^{55}\) See n. 6 above.

\(^{56}\) Constitution of the Provincial Assembly of Taiwan, promulgated on 26 August 1959.

\(^{57}\) Constitution of City and County Councils, promulgated on 21 November 1963, amended on 4 June 1966.

\(^{58}\) See n. 6 above.

\(^{59}\) E.g., the cases of Lin Shui-ch'üan, Sung Lin-k'ang and Ma Cheng-feng.

\(^{60}\) The case of the brothers Mou Shao-heng and Mou Ch'i-yü.

\(^{61}\) See n. 20 above.
the third degree of relationship, or relative by blood within the fifth degree of relationship shields the offender, his penalty shall be reduced or remitted. This provision has been nullified with regard to the political offender by Article 4 of the Statute for Denunciation and Suppression of Rebels which stipulates that everyone is under an obligation to denounce "rebels," and by Article 9 of the same statute which prescribes a penalty of imprisonment for one to seven years for anyone who knowingly fails to denounce a "rebel." Basing their decisions on these articles, the military courts have been prosecuting and convicting the spouses, parents, children, brothers, sisters and close relatives of political offenders for having failed to denounce them.

6. The system of release on parole is not applicable to political offenders. The system of release on parole is incorporated into Chapter X, Part One, of the Criminal Code, which is entitled "Conditional Release." Nevertheless, it is well-established practice that this system is not applicable to political offenders, who must serve the full term of their penalties.

(v) The political detention system

According to Article 8 (I) (b) of the Statute for Denunciation and Suppression of Rebels, "those who commit lesser [political] offences and need reform shall be sent for reform." As supplement to this, two administrative orders have been issued, namely the Measures for Control of Hooligans During the Enforcement of Martial Law in Taiwan and the Measures for the Reform of Rebels During the Period of Communist Rebellion. Accordingly, when one is not formally convicted on the basis of any of the laws mentioned in the foregoing paragraphs, one is still subject to the possibility of internment by an order from the Garrison Command. As a matter of practice, the order for internment is given when the Government, while having suspicions concerning a person's thought or behaviour, is unable to find sufficient basis for formal prosecution and conviction, and simply decides to "reform" the person's thoughts. This order is carried out by the Garrison Command without need for any judicial procedure and without any means of appeal for

62 See n. 16 above.
63 E.g., the case of Mrs. Su Tung-ch'i.
64 See n. 20 above.
65 See n. 16 above.
66 Measures for the Control of Hooligans During the Enforcement of Martial Law in Taiwan, jointly issued by the Taiwan Provincial Government and the Taiwan Peace Preservation Command (i.e., the predecessor of the present Taiwan Garrison Command) on 30 April 1952.
67 Measures for the Reform of Rebels During the Period of Communist Rebellion, issued by the Executive Yuan on 4 May 1957 and amended on 3 December 1957.
the detained.68 The period of internment is three years for one term, renewable indefinitely. Thus this system of political internment may in fact amount to life imprisonment without trial. When the question of the constitutionality of the above Measures is raised, the Government sometimes turns to the Peace Preservation Measures prescribed in Part One, Chapter XII of the Criminal Code 69 to justify the detention system. But those provisions in the Criminal Code are applicable, by their own words, only to one who is a minor, or one who is insane, feeble-minded, deaf and dumb or alcoholic, or one who takes opium, morphine injections, cocaine or heroin, or one who makes the commission of crime a habit or profession, or commits an offence because of habits of loitering or vagrancy (Articles 86-90, Criminal Code). It would require a very tortuous interpretation of language—or a sense of humour—to advance the above provisions as legal basis for political detention. The truth is that this system is an extra-legal method used by the Nationalist Government to cope efficiently with political opposition.

4. The Chinese Nationalist Government justifies the adoption of the above laws and measures on the grounds that it is at war with the Chinese Communist Government and that those laws and measures are necessary for the maintenance of security and order in Taiwan. Before commenting further on the technical characteristics of the laws, it would be useful here to appraise the whole set of Chinese Nationalist laws concerning political offences in a broader context. Seen in perspective against the legal status of Taiwan itself and the position of the Chinese Nationalist Government therein, these laws reveal some remarkable peculiarities.

First, there is the legal status of Taiwan. The Cairo Declaration of 1943 stated that “Formosa [Taiwan] and the Pescadores” were to be “restored to the Republic of China.” This intention was reaffirmed by the Potsdam Declaration of 26 July 1945 and the Instrument of Surrender by Japan. The basic assumption of the Allied Powers at that time was that the people of Taiwan desired to be incorporated into China. But the Civil War in China following the end of the Pacific War, the establishment of the Communist Government in 1949 and the open revolts of the inhabitants in Taiwan against the Chinese Nationalist Government after its taking over of the island brought about a basic change which compels a reappraisal of the whole situation. The involvement of Taiwan and the Pescadores in the Chinese Civil War was never foreseen or even contemplated by the co-signers of the Cairo Declaration. This is a typical case in which the principle of rebus sic stantibus is bound to be invoked as a basis for re-examination of an existing international agreement. Moreover, the Cairo Declaration was no more than a wartime statement

68 E.g., the cases of Fu Chen (Chung-mei), Yen Ming-sheng, Yu Hsi-ming.
69 See n. 20 above.
of the expectation of the four Allied Powers at the time when the war was still going on, its outcome uncertain, with Japan still in firm possession of Taiwan. Therefore, the above expectation could have no legal effect unless it were incorporated into a peace treaty with Japan. The Peace Treaty signed between Japan and the Allied Powers in 1952 and the Peace Treaty signed between the Nationalist Government and Japan in 1952 merely stated that Japan renounced "all right, title and claim to Formosa and the Pescadores," but nowhere did these treaties specify the beneficiary of the Japanese renunciation. On the other hand, the Atlantic Charter of 1941 stated that there should be "no territorial changes that do not accord with the freely expressed wishes of the people concerned." Article 1 of the United Nations Charter provides that "the principle of equal rights and self-determination of peoples" should be one of the basic guiding principles of international relations, and the Charter further stipulates in Article 103 that in the event of conflict between the obligations of the members of the United Nations under the Charter and their obligations under any other international agreements, the obligations under the Charter shall prevail. In view of the foregoing, so far as Taiwan is concerned, the Cairo Declaration and the Potsdam Declaration not only lack legal effect, they violate the letter and spirit of the United Nations Charter and must be regarded as superseded by the latter. Therefore, from the point of view of international law, it can only be said that Taiwan was detached from Japan, but has not been attached to any other country. That is, Taiwan's international legal status has been undetermined since the end of the Second World War.70

Second, there is the position of the Chinese Nationalist Government. This Government was asked to accept the Japanese surrender in Taiwan and the Pescadores on behalf of the allied powers in 1945, and continues to constitute an army of belligerent occupation on the islands. This status

of occupation army has not been altered either by the peace treaties
with Japan, or by the Mutual Defence Treaty between the United States
and the Republic of China. Therefore the present position of the
Nationalist Government in Taiwan can only be defined as an exiled
government which administers on behalf of allied powers a former
colonial territory detached from Japan, and to which, by international
law, the local inhabitants are not bound by any duty of allegiance.71

Third, there is the perpetual nature of the purported “state of
siege” proclaimed by the Nationalist Government over Taiwan. Clinging
to the fiction that it is the sole legitimate government of all China,
the Nationalist Government views the Communist victory in China as
nothing but a “state of Communist rebellion.” Therefore, the “national
emergency” or “martial law” declared by the Government when it was
evicted from China must last as long as the “period of Communist
rebellion,” that is, until the Nationalist Government “recovers” the
Chinese Mainland. The permanent character of the “state of siege,”
“national emergency” or “martial law” in Taiwan resulting from this
position also gives foundation to the charge that the Government’s
tenacious refusal to accept reality and its exertions to perpetuate
indefinitely this two-decade-old abnormality are simply grossly cynical
devices to suspend the constitutional guarantees, deny political freedom
and suppress the legitimate aspirations of the local population, all for
the convenience of the authoritarian control of the regime.

Fourth, the local inhabitants have not participated to a fair and
reasonable degree in the making of the laws in question. Of the 1,500-odd
members of the National Assembly which resolved to give the President
extraordinary emergency powers, the representatives of the people of
Taiwan numbered 32; of about 460 members of the Legislative Yuan
which passed the above special laws, the representatives from Taiwan
numbered 17. The paradoxical fact is that it is the inhabitants in
Taiwan who are now bearing the brunt of those laws which were enacted
purportedly to cope with a “Communist rebellion” in which they had
no part. Since the Nationalist Government was exiled to Taiwan 21
years ago, any attempt to point out the fact that the war between the
Nationalist and the Communist Chinese has become verbal rather than
military and the situation has become well stabilized, to urge the
Government to face and accept reality, to demand that the Government
normalize the situation and restore civil liberties, or to suggest that the
political future of Taiwan should be determined in accordance with
the principle of self-determination by all inhabitants in Taiwan has been

71 Cf. Articles 67-68, Geneva Convention Relative to the Protection of Civilian Persons
in Time of War, 12 August 1949, T.I.A.S. No. 3365; and also J. G. Starke, Introduc-
regarded by the regime as the gravest of political offences and dealt with as sedition in accordance with the laws discussed above.

In brief, the peculiar situation in Taiwan with regard to political crime may be summarized as follows: in a former colony over which the sovereignty is still undetermined, an exiled government continues to enforce, for an indefinite period, emergency laws on political offences which were originally aimed at opponents in a civil war, and which are now turned instead to the local inhabitants who had no part in the civil war and who did not participate in the making of the laws.

5. Some comments are now called for about the laws themselves and problems related to them. It should be noted that it is a fine point in international law to try to define how far and how long an occupational government is entitled, in administering a territory of unsettled legal status on behalf of its allies, to enforce upon local inhabitants who owe no legal allegiance to it a set of highly political "emergency" laws which presuppose the absolute allegiance of those subject to them. It should also be pointed out that in view of the actual situation the laws discussed above are no longer to be regarded as exceptional, temporary legislation amidst a short-term national crisis; rather they have become regular, permanent norms rigidly and severely imposed on political life in Taiwan.

The question of the constitutionality itself of some of those laws can readily be raised. Article 9 of the Constitution reads: "Except those in active military service, no person shall be subject to trial by a military court." The provision is flat and without qualification. It can only be interpreted to mean that a civilian shall be tried by a military court under no circumstances. Not even the proclamation of the state of siege or the enforcement of the martial law can make an exception to this clause. Article 171 of the Constitution further provides: "Laws that are in conflict with the Constitution shall be null and void." In view of these provisions in the Constitution, Article 8 of the Martial Law and Article 2 of the Criminal Law of the Armed Forces, which place certain offences committed by civilians under the jurisdiction of the military courts, are in flagrant conflict with the Constitution and must be considered as null and void. Again, by Article 8 of the Constitution,

Personal freedom shall be guaranteed. Except in case of flagrante delicto as provided by law, no person shall be arrested or detained otherwise than by a law court in accordance with the procedure prescribed by law. No person shall be tried or punished otherwise than by a law court in accordance with the procedure prescribed by

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72 See n. 6 above.
73 See n. 5 above.
74 See n. 25 above.
law. Any arrest, detention, trial, or punishment which is not in accordance with the procedure prescribed by law may be resisted.

Nevertheless, the system of political detention has been established and carried out by administrative order, not by legislation, and has the effect of detaining a person for an unlimited period without trial by a law court in accordance with the procedure prescribed by law. The unconstitutionality of this system is too obvious to warrant further comment.

Another point should be made regarding the wording of the laws. Whether or not this is the intention, the language used in them is often so broad and ambiguous that it is hardly possible to define the exact meaning. Thus, in interpretation and application of the laws, great discretion can be exercised by the military court itself. For instance, Article 8 (1) (b) of the Statute for Denunciation and Suppression of Rebels reads: "Those who commit lesser [political] offences and need reform shall be sent for reform." This clause has been implemented by administrative orders. But nowhere are the terms “lesser political offences” and “need reform” defined, so that whether or not a person should be subject to political detention is completely at the discretion of the security organ. For those who “circulate rumours and beguile the public,” capital punishment is mandatory according to Paragraph D (1) of the Proclamation of the State of Siege of 1949, and those who “circulate rumours or transmit unfounded information to disturb public order and peace and beguile the people” are punishable by from seven years' to life imprisonment according to Article 6 of the Statute for Punishment of Rebellion. Since the terms “rumour” and “beguile” are too vague to be defined, the military courts have been able freely to define as “rumour” or “unfounded information” any material unflattering to the Government and inflict penalties on anyone so convicted. According to Article 7 of the Statute for Punishment of Rebellion, those who “make propaganda in favour of rebels by letter, book or speech” are punishable by imprisonment for not less than seven years. And since the Nationalist Government considers itself still in a state of war with the Communist Government, any criticism or attack, verbal or written, on the Government is automatically judged by the military courts to be “propaganda in favour of rebels.” According to Article 5 of the Statute for Punishment of Rebellion, those who “participate in a rebellious organization or meeting” are punishable by life imprisonment or imprisonment for not less than 10 years, and the court’s interpretation of the term “organization” is so broad that a medical doctor was indicted under this article because she had once been recruited to work (i.e., “participate”) in a Communist public clinic

75 See n. 16 above.
For those who "disrupt the money market," capital punishment is mandatory by Paragraph D (3) of the Proclamation of the State of Siege, and the terms "disrupt" and "money market" are so vague and broad that they could in effect cover the whole range of transactions. In fact, the military courts consider themselves empowered to try under this article any trader who raises commodity prices "unreasonably." \(^{77}\)

Upon reading the laws, one is struck both by the severity of the penalties prescribed and by apparent imbalances or contradictions among those penalties. For instance, the Proclamation of the State of Siege prescribes mandatory capital punishment for anyone who "circulates rumours and beguiles the public... strikes or encourages students to strike... incites the public to riot... disrupts the money market" (Paragraph D, the Proclamation of the State of Siege). \(^{78}\) Capital punishment for the sort of offences mentioned above is rather stern, but equally peculiar is that much lighter penalties are provided for apparently far more grave offences, such as "to prepare or conspire to destroy the national polity, seize state territory, change the constitution by illegal means or overthrow the Government" (punishable by imprisonment for not less than 10 years, Article 2 (III), Statute for Punishment of Rebellion); "to prepare or conspire to deliver a government army to rebels or lead an army to surrender to rebels" (punishable by imprisonment for not less than three years and not more than 10 years, Article 3 (II), Statute for Punishment of Rebellion); "to prepare or conspire to communicate with a foreign state or its agent with intent that such state or another state begin war against the Republic of China" (punishable by imprisonment for not less than 10 years, Article 2 (III), Statute for Punishment of Rebellion); or "to prepare or conspire to communicate with a foreign state or its agent with intent to subject territory of the Republic of China to such state or another state" (punishable by imprisonment for not less than 10 years, Article 2 (III), Statute for Punishment of Rebellion). On the other hand, penalties prescribed for similar offences sometimes vary according to different laws: Paragraph D of the Proclamation of the State of Siege provides mandatory capital punishment for a person who "circulates rumours and beguiles the public," while according to Article 6 of the Statute for Punishment of Rebellion, a person who "circulates rumours or transmits unfounded information to disturb public peace and order and beguiles the people" is

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\(^{76}\) She lived in the cell next to the author's in 1965 in the Taiwan Garrison Command prison at Ching-tao Road in Taipei.

\(^{77}\) It has become a practice of the Garrison Command, when commodity prices rise, publicly to warn traders of possible indictment and "severe punishment" under this law.

\(^{78}\) See n. 4 above.
punishable with imprisonment for life or for not less than seven years. Thus a military court is free to invoke either of these two clauses to render its sentence for the same offence. This perhaps reflects the state of confusion during the period when the Nationalist Government was evicted from Mainland China, when these laws were enacted with panicky haste.

The character of the military court is overwhelmingly political. It is true that Article 80 of the Chinese Nationalist Constitution reads: "Judges shall be above partisanship and shall, in accordance with law, hold trials independently, free from any interference," and Article 160 of the Military Trial Law states: "A court-martial shall independently perform its functions of trial, free from any interference whatsoever." Article 19 of the same law also reads: "No military law enforcement officer shall, during his term of office, participate in any partisan activities." Judicial independence, however, is something the Nationalist Government in its half-century’s history has never achieved in a civil court, let alone in a military one. The officer-judge of a military court is anxious only to prove his loyalty to the regime by subjecting his decisions to government policy. Independence of the military court is rendered even more unthinkable by the very quality of the officer-judges themselves, and by the fact that the court is administratively an integral part of, and tightly controlled by, the omnipotent Garrison Command of Taiwan, headquarters of secret intelligence services whose responsibility is to assure the island’s security in the broadest sense of the word. As a matter of fact, before its delivery, the court’s decision on a political case must be "approved" by the security organ which arrested and investigated the defendants and which reserves the right to ask the court to alter its planned sentence, usually to the defendant’s disadvantage. The courts always presume the defendant’s guilt by taking the position that if one were not guilty he would not have been arrested and brought to the court. As the defendant has no right to withhold facts, he is compelled to keep building up the case against himself. Under these conditions, when a defendant is brought to trial, he is as good as convicted.

It may be of some socio-criminological interest to note that certain traditional Chinese penal conceptions have emerged in the Nationalist Government’s methods for dealing with political offences. This gives the whole matter a certain Oriental flavour:

1. The system of denunciation. The duty of citizens, backed up by legal sanctions, to denounce political offenders has been formally incorporated into the Statute for Denunciation and Suppression of Rebels. Article 4 of the Statute prescribes: "Whoever discovers a rebel..."
or suspect must secretly denounce him to local authorities or security organs. The authority concerned shall keep secret the identity of the denouncer." Article 9 of the Statute further provides: "Whoever fails to denounce or shields a rebel or suspect shall be punished with imprisonment for not less than one and not more than seven years." As indicated above, because of these provisions, the leniencies accorded by the Criminal Code to a criminal offender's family who has shielded the offender are denied to the political offender's family.

2. The system of collective responsibility and guilt by association. There is a strong tendency on the part of the Government to adhere to the conception of collective responsibility and guilt by association in dealing with political offences. The "guarantee" system has been widely adopted as a security measure. Students above the junior high-school level, teachers in all public and private schools at all levels, all military personnel, civil servants, office and factory workers and persons associated with any kind of organization are required by law to offer at least two guarantors to the effect that the guarantee holds and will hold "pure and correct thoughts," is not and will not be engaged in any "anti-governmental" activity, and that the guarantors will accept "severe punishment" if the guarantee fails to live up to the terms of this guarantee. Article 5 of the Statute for Denunciation and Suppression of Rebels provides:

The heads of chia, li and lin must constantly and vigilantly make security checks of the dwellings in their areas. All personnel in offices, military units, schools, factories and all other organizations must have at least two security-guarantors. If anyone is discovered to be a rebel, his guarantors and direct superior shall be severely punished.

The same rule applies to any person applying for a passport or exit permit.

When someone is arrested or imprisoned for a political offence, he will not be released even if found not guilty, or even if he has served the full term of his sentence without offering guarantors for his future behaviour and thoughts.

On the other hand, as a matter of practice, the members of the family, relatives and close friends of political offenders are automatically considered to be co-conspirators and suspects and are subject to various

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82 Id.

83 For security and administrative reasons, all dwellings in Taiwan are organized by law into certain units and put under police supervision. The basic unit is the lin, which consists of about 10 households; above it is the li, made up of about 10 lin; according to the statutes, the chia is the next unit above this, but the unit actually in use in Taiwan is called the ch'u. Each unit has its own head who is responsible to the police and supervises the members of the households under his jurisdiction.
kinds of punishment and harassment, such as arrest, imprisonment, refusal of loans, denial of passports and exit permits, dismissal from public or private office, etc.

3. The monetary reward system. Monetary rewards are given on a case-by-case basis to the security agents, investigators, prosecutors and judges of the military court who have dealt with a case of political offence. The amount of the prize is in proportion to the severity of the sentence rendered. At present, a reward of about U.S. $5,000 is given for each death sentence rendered, to be distributed among all persons involved. The amount of the prize decreases on a graduated scale according to whether the sentence is life imprisonment, 15 years' imprisonment, etc., down to three years' imprisonment, which is the starting-point of the reward system.

4. The requirement of public repentance. Every effort is made to make each political prisoner repent publicly in the court and thank the Government for giving him the opportunity to repent. Although public repentance will not necessarily lighten his sentence, this seems to have become a matter of face for the regime.

The protection of a defendant's rights is provided for in the Chinese Nationalist laws. For example, Article 8 of the Constitution, quoted above, contains such provisions, and the Law of Habeas Corpus further states:

Article 1. If a person is unlawfully arrested or detained by any organization other than a court, he himself or another person may apply to the district court at the place of arrest or detention or the high court having jurisdiction over the district court for issuing a writ of habeas corpus.

Article 2. When a person is arrested or detained, the executing organization shall immediately notify in writing the said person and his designated relative or friend of the reason for his arrest or detention. Such notification shall be made not later than 24 hours.

Although the Government has never made public the details of this what may be called built-in incentive system, its existence is common knowledge in Taiwan. During the period of 1964-65 when the author was in prison in Taipei, and of 1965-69 when he was under security surveillance, all the security agents of various ranks he talked to, including Major Wang of the Political Warfare Department of the Garrison Command, Mr. Wang, head of the Public Information Department of Investigation Bureau, Ministry of Justice, and Mr. Liu, who was assigned to the surveillance of the author, freely, and with a certain air of pride, admitted the existence of this reward system and apparently believed it was an efficient and reasonable way to operate the security apparatus.

The person arrested or his friend or relative may also request the notification specified in the preceding paragraph.

Article 5. If the court deems the application justifiable, it shall issue a writ of habeas corpus within 24 hours to the organization executing the arrest or detention, and at the same time notify thereof the organization immediately superior thereto.

Article 7. The organization executing the arrest or detention shall, after receiving the writ of habeas corpus, hand over the person arrested or detained within 24 hours. If it has sent the person arrested or detained to another organization prior to the receipt of the writ of habeas corpus, it shall immediately reply to the court to this effect and, at the same time, forward the writ of habeas corpus to the organization to which the person has been sent. The latter shall hand over the person directly to the competent court within 24 hours. If the court sends for the person arrested or detained, he shall be handed over immediately.

Article 8. If the court, after examining the person arrested or detained, finds the arrest or detention unjustifiable, it shall release him immediately.

The above provisions are quite adequate, but they have not been enforced, despite the Government’s repeated public assurances of its willingness to abide by the law. In fact, a political offender, once arrested, is without exception held strictly incommunicado for from several months to several years. It is only after a formal charge is made and indictment drawn up against him that the prisoner is allowed to hire and see any lawyer. For more serious cases, the prisoner is not allowed to see any lawyer even after formal indictment. The trial is secret.

According to Article 98 of the Code of Criminal Procedure\(^\text{87}\) and Article 109 of the Military Trial Law,\(^\text{88}\) when an accused person is examined, no violence, threat, inducement, fraud or other improper means shall be used. But in fact all those means are commonly used against an accused. The third-degree method too is often adopted.

5. Until the 1950s, political offenders often simply disappeared or were executed en masse after roll-call without trial. Although the public execution of political offenders is rare today and efforts are made to maintain the appearance of legality, the situation has remained substantially unchanged. There are two basic factors which contribute to this situation.

First, the Chinese Nationalist regime bases its very existence on fiction and myth. The fiction that the Government in Taiwan is the sole legitimate government of all China and the myth that this Government

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\(^{88}\) See n. 46 above.
will in the near future "recover" the Mainland of China constitute the foundation of the Government and its state policy. From this position, the regime has proclaimed a state of siege and imposed martial law for the past two decades, and is resolved to maintain this state for an indefinite period of time in the future. This permanent state of "national crisis" has had a fatal impact on political life in Taiwan.

Second, there is no real intention on the part of the Nationalist regime to abide by its own laws in the matter of political offences. It is too readily inclined to take recourse to extra-legal means in dealing with critics and opposition.
APPENDIX

Acts Constituting Political Crimes for Civilians under Nationalist Laws

1. Strikes, demonstrations, petitions or public meetings (C and D, Proclamation of 19 May 1949).

2. Encouraging students to strike (D, Proclamation of 19 May 1949).

3. Spreading of rumours by letter, slogan or other means (C, Proclamation of 19 May 1949).

4. Undertaking to destroy the national polity, seize state territory, change the constitution by illegal means, or overthrow the Government (Article 100 [I], Criminal Code; Article 2 [I], Statute for Punishment of Rebellion).

5. Preparing or conspiring to commit the above offence (Article 100 [II], Criminal Code; Article 2 [III], Statute for Punishment of Rebellion).

6. Committing the offence prescribed in (4) above with violence (Article 101 [I], Criminal Code; Article 2 [I], Statute for Punishment of Rebellion).

7. Preparing or conspiring to commit the above offence (Article 101 [II], Criminal Code; Article 2 [III], Statute for Punishment of Rebellion).

8. Communicating with a foreign state or its agent with the intent that such state or another state shall begin war against the Republic of China (Article 103 [I], Criminal Code; Article 2 [I], Statute for Punishment of Rebellion).

9. Attempting to commit the above offence (Article 103 [II], Criminal Code; Article 2 [II], Statute for Punishment of Rebellion).

10. Preparing or conspiring to commit the offence prescribed in (8) above (Article 103 [III], Criminal Code; Article 2 [III], Statute for Punishment of Rebellion).

11. Communicating with a foreign state or its agent with intent to subject territory of the Republic of China to such state or another state (Article 104 [I], Criminal Code; Article 2 [I], Statute for Punishment of Rebellion).

12. Attempting to commit the above offence (Article 104 [II], Criminal Code; Article 2 [II], Statute for Punishment of Rebellion).

13. Preparing or conspiring to commit the offence prescribed in (11) above (Article 104 [III], Criminal Code; Article 2 [III], Statute for Punishment of Rebellion).

14. (A citizen of the Republic of China) serving in the armed forces of an enemy or bearing arms for an enemy against the Republic of China or against an ally of the Republic of China (Article 105 [I], Criminal Code).

15. Attempting to commit the above offences (Article 105 [II], Criminal Code).

16. Preparing or conspiring to commit the offence prescribed in (14) above (Article 105 [III], Criminal Code).

17. Rendering military aid to an enemy or causing injury to the military interests of the Republic of China or its ally during a war with a foreign state or when a war is imminent (Article 106 [I], Criminal Code).

18. Attempting to commit the above offence (Article 106 [II], Criminal Code).

19. Preparing or conspiring to commit the offence prescribed in (17) above (Article 106 [III], Criminal Code).

20. Disclosing or delivering a document, plan, piece of information or other thing of a secret nature concerning the defence of the Republic of China (Article 109 [I], Criminal Code).

21. Disclosing or delivering to a foreign state or to its agent a document, plan, piece of information or other thing mentioned above (Article 109 [II], Criminal Code).

22. Attempting to commit the offence prescribed in (20) or (21) above (Article 109 [III], Criminal Code).
(23) Preparing or conspiring to commit the offence prescribed in (20) or (21) above (Article 109 [IV], Criminal Code).

(24) Searching out or gathering a document, plan, piece of information, or other thing mentioned in (20) above (Article 111 [I], Criminal Code).

(25) Attempting to commit the above offence (Article 111 [III], Criminal Code).

(26) Preparing or conspiring to commit the offence prescribed in (24) above (Article 111 [III], Criminal Code).

(27) Secretly agreeing without authority with a foreign government or its agent on matters which require the authorization of the Government (Article 113, Criminal Code).

(28) Participating in a rebellious organization or meeting (Article 5, Statute for Punishment of Rebellion).

(29) Circulating rumours or transmitting unfounded information to disturb public peace and order and beguile the people (Article 6, Statute for Punishment of Rebellion).

(30) Making propaganda in favour of rebels by letter, book or speech (Article 7, Statute for Punishment of Rebellion).

(31) Delivering an army to rebels (Article 3 [II], Statute for Punishment of Rebellion).

(32) Attempting to commit the above offence (Article 3 [III], Statute for Punishment of Rebellion).

(33) Delivering to rebels fortresses, military ports, ships, aviation materials, railroad cars, arms, ammunition, telegraphic and communication materials, military constructions or war munitions (Article 4 [I] [a], Statute for Punishment of Rebellion).

(34) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(35) Divulging or delivering to rebels military or political secret papers, charts, information or articles (Article 4 [II] [b], Statute for Punishment of Rebellion).

(36) Attempting to commit the above offence (Article 4 [III], Statute for the Punishment of Rebellion).

(37) Recruiting soldiers or workers for rebels (Article 4 [I] [c], Statute for Punishment of Rebellion).

(38) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(39) Purchasing, transporting or making arms, ammunition or other materials for rebels (Article 4 [I] [d], Statute for Punishment of Rebellion).

(40) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(41) Acting as guide or searching, collecting or transmitting military secrets for rebels (Article 4 [I] [e], Statute for Punishment of Rebellion).

(42) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(43) Collecting money or articles for rebels, or supplying money or capital to rebels (Article 4 [II] [f], Statute for Punishment of Rebellion).

(44) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(45) Protecting or shielding rebels (Article 4 [I] [g], Statute for Punishment of Rebellion).

(46) Attempting to commit the above offence (Article 4 [III], Statute for Punishment of Rebellion).

(47) Inciting students, workers or traders to strike or to disrupt the public peace and order or disrupting the money market under rebel direction or in favour of rebels (Article 4 [I] [j], Statute for Punishment of Rebellion).
(48) Attempting to commit the above offence (Article 4 [II], Statute for Punishment of Rebellion).

(49) Failing knowingly to denounce rebels (Article 9, Statute for Denunciation and Suppression of Rebels).

(50) Knowingly shielding, purchasing, keeping, making brokerage of, transporting or administering under an assumed name rebel property (Article 13, Statute for Denunciation and Suppression of Rebels).

(51) Serving as a spy for an enemy or rendering aid to an enemy's spy (Article 18 [b], Criminal Law of the Armed Forces).

(52) Acting as a guide or supplying topographical information to an enemy (Article 18 [d], Criminal Law of the Armed Forces).

(53) Acting as a pilot for an enemy or enabling through fraudulent means an enemy to enter a naval base or other defence establishment (Article 18 [e], Criminal Law of the Armed Forces).

(54) Rendering aid to an enemy to the detriment of the military interest of one's country (Article 20, Criminal Law of the Armed Forces).

(55) Inciting an army to rebel (Article 21, Criminal Law of the Armed Forces).

(56) Attempting to commit the above offences (51), (52), (53) and (54) (Article 22, Criminal Law of the Armed Forces).

(57) Preparing or conspiring to commit the above offences (51), (52), (53) and (54) (Article 23, Criminal Law of the Armed Forces).