MEMORY OF JUSTICE

Dealing with Past Violations of Human Rights:
The Politics of Indonesia's Truth and Reconciliation Commission

by

TOMOE OTSU擦

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ABSTRACT

In the last two decades, many countries going through transitional justice have established truth commissions. Unlike conventional war tribunals, most truth commissions are established by the local government and local human rights groups. Truth commissions are still a nascent political choice, yet a sizable literature has developed around it, evaluating its potential as a new institution for dealing with the past and moving towards restorative justice. This work examines four major questions debated in the transitional justice literature over truth versus justice: 1) whether or not a truth commission is an valid alternative mechanism to seeking out retributive justice, 2) whether or not truth commissions are the product of political compromise which avoiding justice, 3) if truth commissions can be the agent of new national identity and national unity founded on the principles of universal human rights, and 4) if amnesty can be legitimized. This work aims to determine to what extent the idea itself of truth commissions has been actualized up to now and what lot it may expect in the future, despite incidental political restrictions and difficulties in the political transition. Despite the common assertion that the goals of truth commissions are to bring about official acknowledgment of the past, restore the dignity of the victims, and achieve reconciliation in divided society, this paper does not intend to evaluate the truth commissions in the past based on these criteria; nor does this work intend to argue what truth commissions can resolve in the transitional justice societies. Rather, this paper seeks to uncover
what social reaction or human emotions truth commissions in the past have evoked
in a divided society. To explore the question, this paper focuses on the distinctive
activities and merits of truth commissions from the standpoint of retributive justice
and looks into the important implication in the interaction between the victims and
the perpetrators, as well as between the audience and those two parties. Roger
Errera, a member of the French Conseil d'Etat, stated that “Memory is the ultimate
form of justice.” Inspired by the statement, this work argues that justice can be
found in the act of pursuing truth, remembering it, and responding to those voices
from the past.
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In the media and in scholarly works, we often hear of ‘peace-building,’
dealing with the past,’ and ‘transitional justice,’ terms which refer to an
intermediary process set in motion after the fall of a repressive regime or at the end
of a war. Actions resulting from the process vary, since those involved in the process
vary in their dedication to justice and in their zeal for reparation. War tribunals are
still the major transitional policy choice, and we have seen many examples: the two
*ad hoc* international war tribunals in the former Yugoslavia and Rwanda, the U.S-
led war trial of Saddam Hussein in Iraq and the Cambodian Genocide Court. In
these cases, justice is political and meted out by the elites and legal professionals.
Retributive justice, however, is not always possible, for different reasons in different
countries: rival political groups may still be fighting for control; the judiciary may
be corrupt; meager financial or human resources may not meet the needs of
institutional reform; the sheer number of victims—sometimes in the tens of
thousands—may impede the process; victims may claim that the perpetrators are in
fact those who should be their protectors in a democratic society—the police, the
military and the political leaders; and lastly, the memory of countless acts of
injustice may remain fresh in people’s minds, thereby hindering the development of
social capital and relation-building in the still-divided society. In the meantime, the
survivors and the victims’ families call out not only for justice but also for truth. How can such troubled countries restore the rule of law and establish peace, especially when an impartial judicial system may take a long time to put in place, if ever? Is there a more practical means to deal with the past? The idea of ‘truth commission’ has emerged as a heuristic, but realistic policy choice to respond these political realities and demands. In the last two decades, many countries going through transitional justice have established truth commissions. Unlike conventional war tribunals, most truth commissions are established by the local government and local human rights groups. Truth commissions are still a nascent political choice, yet a sizable literature has developed around it, evaluating its potential as a new institution for dealing with the past and moving towards restorative justice.

Truth commissions differ from conventional judicial justice or from indemnity in the way it treats perpetrators and victims. In a truth commission, nobody is sentenced or punished, since individual accountability is not its objective. Rather, this new mechanism aims to reveal the suppressed memories of victims and their families in order to analyze whose rights have been violated and why, and thereby identify the historical, political, and economic reasons that drove the former regime to employ violence as a means to control its citizens. By documenting their research and publicizing the report, it is said that truth commissions ultimately aim to bring about official acknowledgment of the injustice and restore the dignity of the victims.
This work examines four major questions debated in the transitional justice literature over truth versus justice: 1) whether or not a truth commission is an valid alternative mechanism to seeking out retributive justice, 2) whether or not truth commissions are the product of political compromise which avoiding justice, 3) if truth commissions can be the agent of new national identity and national unity founded on the principles of universal human rights, and 4) if amnesty can be legitimized. This paper acknowledges some restrictions and problems the past truth commissions faced or created. In some cases, a truth commission has opted for a political compromise. Political compromise, however, is not the focus of the present paper. This work aims to determine to what extent the idea itself of truth commissions has been actualized up to now and what lot it may expect in the future, despite incidental political restrictions and difficulties in the political transition. Despite the common assertion that the goals of truth commissions are to bring about official acknowledgment of the past, restore the dignity of the victims, and achieve reconciliation in divided society, this paper does not intend to evaluate the truth commissions in the past based on these criteria; nor does this work intend to argue what truth commissions can resolve in the transitional justice societies. Rather, this paper seeks to uncover what social reaction or human emotions truth commissions in the past have evoked in a divided society. To explore the question, this paper focuses on the distinctive activities and merits of truth commissions from the standpoint of retributive justice and looks into the important implication in the interaction between the victims and the perpetrators, as well as between the
audience and those two parties. Roger Errera, a member of the French *Conseil d'Etat*, stated that "Memory is the ultimate form of justice." Inspired by the statement, this work argues that justice can be found in the act of pursuing truth, remembering it, and responding to those voices from the past.

This paper is composed of five sections. Chapter II examines the four questions described above. This work critically engages the debate on whether or not truth commissions exist solely to compensate for the absence of impartial, independent justice or if they have merits in and of themselves.

Chapter III analyzes the interactions between victims and the perpetrators in a public hearing provided by a truth commission. Also in this section, this work theorizes the memory of justice.

In Chapter IV, this work discusses the Truth and Reconciliation Commission (TRC) in Indonesia and the complexity of the politics of memory in the country. Indonesia's TRC Act was passed in October 2004, but was abolished by the Constitutional Court in December 2006. Indonesia's case demonstrates the complexity of the politics of memory: the legitimacy of the old regime rested on a particular historical representation of history, a narrative which was perpetuated by the new regime.

The author did a practicum at ELSAM (The Institute for Policy Research and Advocacy/ *Lembaga Studi dan Avokasi Masyarakat*) regarding the issue of the Indonesian Truth and Reconciliation Commission from May to August 2007 in
Jakarta. ELSAM is an Indonesian non-governmental organization and has been working on the human rights issues in the country since 1993. This practicum is constituted primarily by literature reviews on transitional justice and the examination of the ELSAM database collection of the interviews with some of the former candidates for the TRC commissioner, Indonesian human rights lawyers, activists, historians and some survivors of 1965-1966 anti-communist campaign, the so-called ‘September 30 Movement/ PKI.’ The purpose of this practicum was to examine how different parties around the TRC perceived the means of dealing with the past, how they positioned the TRC in the process of transitional justice and how they legitimized or de-legitimized the TRC. This work also relies on the literature printed in English, Indonesian newspaper articles (The Jakarta Post), and documentaries about the victims of the September 30 Movement/ PKI to see how the incident has been represented in the country and understand the complexity of the politics of memory. While many human rights agents in the country expect the TRC to become the agent of new national identity and lead to national reconciliation, the survivors of the 1965-1966 incident do not necessarily see the TRC as a reconciliation mechanism, but rather as a political move in which faces have changed but motives remain the same. The survivors of the 1965-1966 incident insisted that it is they suffered as victims rather than as rehabilitated political prisoners and that this should be acknowledged in the public mind as national

1 See the website: http://www.elsam.or.id
2 ‘PKI’ is the abbreviation of the Indonesian Communist Party, which was the first communist party in Southeast Asia.
history. Only then, they feel, would their dignity be restored and their lost citizenship regained. Only then, could the nation truly achieve reconciliation.

In Chapter V, this paper will discuss the problem of historiography, specifically the historical education passed down from the authoritarian regime in Indonesia. The site of the 1965-1966 incident, the public discourse after the fall of Suharto in 1998, and the absence of changes in Indonesian history textbooks all repeat and reinforce the historical narratives that stigmatized victims in the first place, thus perpetuating the legacy of the authoritarian regime. For Indonesians, dealing with the past requires looking critically at their unchanged historiography and making efforts to develop historical consciousness.

Chapter VI inquires into using truth commission findings in educational materials so as to develop historical consciousness and moral awareness. While trials or truth commissions have been held in most countries going through transitional justice, rarely have attempts been made to use the findings to reform educational materials. Truth commissions can instill a new historical consciousness by incorporating their collection of testimonies and historical analysis in textbooks used in schools, one of the few institutions where history becomes relevant to non-elites.

There is little empirical evidence for a positive contribution to transitional justice through collaboration between truth commissions and education systems; in fact, it has only been attempted in one country, Guatemala. This paper supports the
argument by relying on two positive case studies: the case of West Germany, where
the Nazi past has been incorporated into a post-transitional identity rooted in
universal principles; the experience of Guatemala’s Historical Clarification
Commission, whose report has been used as educational material in schools in the
post-transitional-justice society. Future transitional-justice policy should realize the
potential contribution of truth commissions to the reform of historical education,
with changes in both pedagogy and curriculum, in order to address structural
violence. This is the way of transforming individuals’ memories of injustice into the
public memory. When the individual memory becomes a pedagogical force in public
memory, it can be reinforced in the form of official acknowledgment (e.g.
monuments, textbooks, public rituals of atonement) and the restoration of dignity of
the victims.
CHAPTER II
Comparative Review of Truth-Commissions and Trials

2.1: Change of Transitional Justice Discourse

Transitional justice had long referred solely to retributive justice, that is, trials devoted to determining individual accountability in state-sponsored crimes. The accountability of elites was in fact a prerequisite for democracy in previously authoritarian or totalitarian regimes after the Second World War, and we have the examples of the Nuremberg and Tokyo War Tribunals. In this concept of transitional justice, justice would be achieved by removing those highest up.

Unfortunately, by focusing almost exclusively on the perpetrators and thereby insisting on a regime change from above, it paid little attention to reconciliation of victims and perpetrators in a still-divided society.

The global wave of democratization which followed World War II challenged the conventional definition of transitional justice, with more and more people considering ‘restorative justice’ as the crucial element in comprehensive transitional justice and peace-building. Systematic, state-sponsored human-rights violations had been common in the former authoritarian regimes. Institutionalized violence had damaged much of society: it had destroyed rule of law, and it had undermined trust in state authorities, generating a mistrust that sometimes spread even to one’s neighbors. When the old regimes fell, the new democratic regimes were faced with an urgent question, one with both political and moral implications: How best to
confront the crimes of the previous authoritarian administration? How best to ‘deal with the past’? Over last two decades, an increasing number of scholars and human-rights agents have emphasized the need to clarify the nature of the violence and have observed that meting out legal justice does not necessarily reveal the context which legitimized the violence. The notion of ‘truth commissions’ was developed, and since then truth commissions have been held throughout the world.

2.2: What is a ‘Truth-Commission’

Truth commissions were initially created in Uganda (1974) and Bolivia (1982-1984) to investigate state kidnappings. A commission was set up in Argentina in 1983, and by the end of the 1990s many Latin America countries were using or had used similar commissions. Military juntas had hidden the truth, such as whereabouts or the number of ‘disappeared’ people, in order both to instill a sense of terror and to deny the existence of such crimes. As a result, there were multiple versions of ‘the truth’ in those post-authoritarian societies in Latin America. Truth commissions, by revealing what happened to those disappeared people and by establishing an official version of the truth, were considered as important steps towards the next stage of transitional justice.³ The term ‘truth commission’ applies to those institutions that delve into the crimes of former authoritarian regimes.

³ Criag, Kauffman (2005, p.5)

Prior to the TRC in South Africa, truth commissions were considered a preliminary mechanism for future prosecutions. Truth commissions passed information to the public prosecutor’s office both in Argentina, where five generals were sentenced, and in Chile, where Pinochet’s prosecution was gathering evidence.4 In many cases, the former leaders, who were often in the military, demanded indemnity in exchange for a peaceful transition to democracy; and the

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4 Abe Toshihiro (2008, p.45)
new leaders, despite the concessions, had to give the public some sense that justice was being done and that democratic reforms were moving ahead. These were the conditions which led to truth commissions. They would launch a large-scale investigation on past violence by opening a country-wide public hearing, collecting testimonies, and then publicizing the findings.

A truth commission differs from conventional retributive justice: since the clarification of the past requires accounts from both sides, a truth commission “arguably falls in between the purely perpetrator-focused and victim-focused approaches.” Moreover, its major task is not to punish the guilty, but rather to bring about an admission on the part of the state that injustice was committed. It investigates the pattern of state violence during the peculiar time period, instead of focusing on specific cases, and rectifies the distorted, official representation of the past by giving the voice to the victims. A truth commission is granted some powers by its government, such as granting amnesty to perpetrators. It is a special body working within a limited time-frame to investigate and produce a report. Truth commissions usually provide a forum where both victims and perpetrators come forward to tell their stories. By clarifying the past in its broader aspects—economic, political and social structures that made gross human rights violations possible—the commission can help the many victims “to see [that] what happened to them was not done in isolation; to understand why the killings, disappearance, or

Criag (p.5)
6 See Priscilla Hayner (2000). *Unspeakable Truths: Facing the Challenge of Truth Commissions*
massacres happened and to realize that it was not their fault." 7 Many victims in the post-authoritarian regimes are still stigmatized as enemies of the state. Shedding new light on past events both de-legitimizes state violence and restores the victim's identity as citizens.

The work of a truth commission begins with an investigation that requires volunteers to share their experiences with the commissioners. In order to gather as many of the victims' family members, survivors, perpetrators and witnesses as possible, the truth commission distributes pamphlets and posters throughout the country to explain its objectives. Every volunteer's testimony is heard; each story is verified. Once a truth commission has confirmed a given testimony, the survivors and their families will be offered reparation, usually by the state. As well, if a truth commission has confirmed that the perpetrator has cooperated fully, providing a comprehensive account of events, then the perpetrator may apply for amnesty. In South Africa, about 7,000 perpetrators applied for amnesty; and of the 38,000 people claiming to be victims of gross violations of human rights, approximately 22,000 were recognized as such.8

Truth commissions differ from retributive justice in their treatment of victims and perpetrators. Both parties are not necessarily treated as individuals, but both are seen as having suffered political manipulation. 9 In other words, the

7 Lindstrom, Dave (2007, p.3-4)  
8 Abe (p.164)  
9 Nagahara Yoko (2004, p.168)
victims are individuals whose experiences have to be shared by the nation; and restorative justice for the victims requires that state, community, and individuals all participate in the process. By so doing, it is hoped that national reconciliation will be the end result.\textsuperscript{10} When faced with violence committed on a massive scale, those leading truth commissions maintain that people are inherently good whereas those involved in retributive justice take a harsher view of human nature and, since they believe that behavior can only be corrected by punishment, are more interested in establishing responsibility in order to sentence the guilty.

2.3: Truth Commissions: the product of “Human Rights Hegemonic Discourse” or “Political Compromise”? Why are more and more transitional governments adopting truth commissions as a policy choice? Two major hypotheses have been forwarded. One of them is the increasingly popular normative discourse of universal human rights. The language of human rights gave a political voice to victims demanding justice in the 1980s and 1990s.\textsuperscript{11} As well, modern communication-technology has helped international human-rights networks, such as Amnesty International and Human Rights Watch, to reach and support local human rights groups, who, in turn, can encourage victims to speak out against state-organized violence, whether that state be their own or a foreign one.

\textsuperscript{10} Nagahara (p.168)
\textsuperscript{11} Oglesby, Elizabeth (2007, p.192)
New elites and human-rights agents, including truth commissioners, also use the language of human rights to redefine the sense of nation in post-authoritarian regimes. Having witnessed the fall of communist regimes, civil wars, ethnic cleansing and genocide in Asia, Africa, Central and Eastern Europe and Russia, liberal scholars have drawn the conclusion that ethnically or ideologically defined national identity has to be replaced by the concept of universal human rights and constitutionalism to avoid further violence. Indeed, since the 1990s, Richard A. Wilson pointed out that almost all the countries new to democracy “have adopted the language of human rights and the political model of constitutionalism based on rule of law... in this formation, human rights are portrayed as the antithesis of nationalist modes of nation building.”

Truth commissions are expected to create a new national identity and community based on these universal norms.

Thomas Risse argues that the establishment of truth commissions in former authoritarian regimes over the last two decades is one of the signs of a successful socialization of human rights norms. Socialization refers to “the process by which international norms are internalized and implemented domestically.” Risse et al. believe that they have identified a pattern of the socialization of human rights discourse, and they call it the “spiral model.” The theory holds that although claims of human-rights abuses made by local and international groups will be

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12 Wilson, R.A. (2007, p.1)  
15 Ibid (p.17)
initially denied by the government, the mere act of denial has, in fact, legitimized the principles of human rights. Once the state has been thus drawn into the discourse of human rights, it will eventually find itself entrapped in its own rhetoric, and then be forced to concede a more ample forum in which policy makers, and society as a whole, can discuss human rights in the country. Risse et al. argue that human rights discourse, once begun, can go so far as to sway members of the elite, who would then initiate norm change from within. Norm-violating states would eventually “learn to interpret their interests in a new way and consistent with recognizing international human rights norms” to “join the community of human rights—abiding ‘civilized nations.’”

Many scholars, however, refute this ‘hegemonic discourse’ theory, arguing that truth commissions do not come from an altruistic appreciation of human rights but rather are the product of political compromise. This hypothesis focuses on the balance of power between the former and the new regimes in the so-called “third-wave democratization.” Luc Huyse has done comparative studies of transitional-justice policy choice between post-WWII and the Third-Wave democratizing

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17 The term is coined by Samuel P. Huntington in his The Third Wave: Democratization in the Late Twenty Century (University of Oklahoma 1991). Third Wave referred to the widespread international trend that pushed about 35 non-democratic countries toward democratic political system during 1970s and 1980s. Huntington examined those countries that had gone through the political transition during the period; most of the case studies he examined are concentrated in Asia and Latin America.
countries. Huyse argues that when a regime was abruptly and violently ended by an occupying force or civil war, there would be “almost no political limits”\textsuperscript{18} to satisfy the victors’ desire for justice. For instance, in the post-WWII period, the Allies were able to de-legitimatize the old regimes in Germany and Japan and demonstrate the victors’ moral supremacy because their resounding military victory left little resistance from the former totalitarian regimes.

Rarely though have third-wave democratizing countries experienced such the absolute victory over the former regime: political concessions were gained through peace accords or the power of the old regime had simply diminished over time. The new leadership found its reform initiatives limited by the residual presence of the old regime: perpetrators were still powerful enough to elude and impede justice, and they could even upset the nascent democratization process if the politics of accountability threatened to look too deeply into the crimes of the past. As a result, when these former authoritarian regimes sought a way of dealing with the past, they tend to prioritize a ‘peaceful transition’ to democracy over the ‘reconciliation’ of a divided society. In this political transitional process, Huyse argued, “the need to avoid confrontation becomes the rationale for exchanging criminal persecution...,” because “the successor government and its democracy are too vulnerable to discard clemency.”\textsuperscript{19} Huyse also claims that if the balance of power between the old regime

\begin{flushright}
\textsuperscript{18} Huyse, Luc (1995, p.76)
\textsuperscript{19} Ibid (p.76)
\end{flushright}
and the new government is fragile, a truth-telling strategy to reveal the full extent of the crimes committed by the former regime would be the least risky solution. 20

Huyse’s argument is supported by many transitional-justice scholars. 21 They agree that the choice of strategy for dealing with the past depends largely on the balance of power between the weakened remains of the old elite and rising strength of the new elite. In negotiations, the balance of power will decides ‘when,’ ‘how,’ and ‘why’ the new regime will seek out transitional justice, and which mechanism(s) will be used to that end: tribunals, truth commissions, purges—or nothing at all. 22 This is the dominant hypothesis in the scholarly works of transitional-justice policy choice. Both truth commissions and human rights discourse are seen as a political compromise or a pragmatic political tool to legitimize the current regime. As more countries choose to use truth commissions, the debate intensifies as to which mechanism—trial or truth commission—is more effective in the establishment of rule of law and of a democratic political culture. This debate converged in the discussion of ‘truth versus justice.’

20 Huyse (p.78)
22 Whitehead, Laurence (1989, p.13)
2.4: Advocates of Truth Commissions

In general, advocates of truth commissions claim that a clarification of the past and an acknowledgement of state crimes are necessary steps: the new government can showcase its transition to democracy and restore national unity. They also argue that an over-zealous commitment to criminal prosecution would endanger the democratization process by provoking hostility and would also widen the rift between victims and perpetrators. Furthermore, they insist that it is impossible to deal with mass-scale crimes through retributive justice because so many people had been involved in the violence—many of them unwillingly—and because much of the evidence had destroyed by the old regime. Consequently, they assert that it would be extremely difficult to collect enough fresh evidence to open criminal proceedings to define the perpetrators and the innocent. What is needed, according to those advocates, is reconciliation between the divided social groups so as to move toward national unity by revealing the truth, clarifying the past, and moving on towards a shared future.23

2.5: Truth over justice?

Many legal realist scholars are skeptical, however, about the impact of truth commissions in the establishment of rule of law and in democratization, the end

23 Nagahara (p.159)
goals in transitional justice. Those legal scholars assert that the prevention of human rights violations can be achieved only if political actors, including the perpetrators from the previous regime, realize that such unlawful acts would certainly be punished by law. For instance, Samuel Huntington argues that prosecution is “necessary to assert the supremacy of democratic values and norms and to encourage the public to believe in them.” 24 Likewise, Whitehead argues that democratic values can be implanted only once the new regime has investigated, publicized and prosecuted the perpetrators because it could demonstrate the defeat of the old regime and thereby gain credibility from the population. Only in this way, Laurence Whitehead argues, can the new regime consolidate democracy. 25 In sum, those realist scholars claim that truth commissions sacrifice justice in the name of ‘truth,’ and that this is little more than as a result of a teetering balance of power between the new and old regimes. For them, a truth commission is not a reconciliation mechanism, but the product of a political compromise that ensures a smooth transfer of power. They point out that past truth-commissions were only mandated to submit recommendations for institutional reforms; acting on them, however, depended upon political commitment. So far, none of the governments that have established a truth commission has fully responded to the recommendations made by the commissions, obscuring the meaning of a truth commission.

24 Huntington, Samuel (1991, p.213)
25 Whitehead (2001, p.84)
Furthermore, the realist scholars criticize that the policy makers and the advocates of truth commissions tend to be obsessed with the concern of the national stability. If stability is the primary concern, the realist scholars argue that securing the impunity of the perpetrators and the closure of the past would be a better strategy. For the realist scholars, the languages of 'national unity,' 'reconciliation' and 'peaceful coexistence' are convenient rhetoric for a pragmatic political choice. Such the concern has also been expressed by international human rights community. For instance, Reed Brody from Human Rights Watch expressed his concern that "truth is increasingly used as a soft option for avoiding justice."\textsuperscript{26} Likewise, Whitehead expresses his anxiety that because of the optional availability of truth commissions as alternative to retributive justice, "there is a danger that judicial reform—which is essential for democratization—will be forgotten."\textsuperscript{27} It is true that many of the advocates of truth commissions do not make a clear or logical connection between the truth-revealing and justice. It is also not clear whether or not recent truth commissions, especially those bearing the name 'truth and reconciliation commission,' are an alternative or a complement to judicial justice. What is needed is an examination of the intention of the elites who favor a truth commission over trials.

\textsuperscript{26} Linton, Suzannah (2004, p.89)
\textsuperscript{27} Ibid (p.82)
2.6: Debates over Amnesty

The criticisms forwarded by realist scholars also target the amnesty clause in past truth-commission legislation. Many advocates of truth commissions insist that amnesty is essential to collect the accounts of perpetrators, accounts which advocates believe are as important as those of victims, and without which an impartial account of the violence would be impossible.\(^{28}\) According to this view, amnesty is the sole incentive for the perpetrators to come forward, and their testimonies are not intended to give special treatment to perpetrators, but rather to get a complete picture of the acts committed and, in so doing, relieve the victims; consequently, amnesty is supposed, ultimately, to benefit the victims and to serve restorative justice.\(^{29}\) However, realist scholars maintain that amnesty is the decisive proof of a political compromise struck between the old regime and the new government since, in the end, amnesty, by definition, lets the perpetrators go free. Juan Mendez, an eminent Argentinean jurist, notes that amnesty is “the most extreme form of tokenism... [it] results when a truth commission is proposed as an alternative to criminal prosecution and not as a step in the direction of accountability.”\(^{30}\) Because of the persistent and continuing use of amnesty clauses in truth commissions, many scholars claim that the power and the ethic of truth commissions are merely symbolic, and not at all substantial. This criticisms

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\(^{28}\) Allen, Jonathan (1999, p.315)
\(^{29}\) Villa-Vicencio, Charles and Erik Doxtader (2003, p.68-76)
\(^{30}\) Cited from Linton (2004, p.89)
questions the *raison d'être* of truth commissions in transitional justice. To refute it, it would be necessary to know what aspects of the truth commission have been appreciated by the victims, what challenges the commissioners and human rights activists faced, and what has disappointed victims who had held higher expectations of justice.

### 2.7: Evaluation of Major Truth Commissions in the Past

A survey of the truth commissions in the past shows, as one might well imagine, mixed results. A Swiss-based human-rights study center (CODEPU) conducted research on the impact truth-commission results in Argentina, Chile, El Salvador, Guatemala, and South Africa. It also examined how key terms, such as 'reconciliation' and 'justice,' are perceived by commissioners and victims. Among the varied commissions, only the Truth and Reconciliation Commission (TRC) in South African was established by legislative decree and, after public debate, approved of by the majority of the population. The other cases were either the result of peace accords between the government and the armed opposition, such as in El Salvador and Guatemala; or a decline in power of the old regime, as was the case in Argentina.

Despite diverse political backgrounds and transitional processes, several common challenges were shared by the five truth commissions. Firstly, in all of them, the military or other remnants of the former regime denied access to critical
documents that would have incriminated state institutions or proved systematic violation of human rights. Even after the commissions’ reports were published, state officials either denied or dismissed the crimes as no more than “excessive actions” taken for “the sake of national security.” As well, those interviewed generally agreed that the establishment of the truth commissions was a response to international pressure, rather than a result of political will within the country. A human rights activist noted, “...the commissions were created as a means to avoid justice or as mechanisms that were easier to deal with...” These voices from the victims and the human rights activists tend to vindicate at least some of the realists’ concerns.

On the other hand, victims and the human rights activists appreciated the efforts of truth commissions in bringing public recognition of the systematic human-rights violations. One relative of a victim from a rural area in Guatemala mentioned, “I like the report because this way so much pain and blood is not lost...” Likewise, four indigenous people from Guatemala said, “our pain and our word were honored.” A female South African survivor noted, “I never thought that these secrets would come out in the public. I thought that world was coming to an end... I feel like a person again.” Those survivors from different countries

31 APT and CODEPU (June 2002, p.17)
32 Ibid (p.8)
33 Ibid (p. 15)
34 Ibid (p.35)
35 Ibid (p.35)
36 Ibid (p.35)
appreciated the official acknowledgment of their suffering and dignity restored to them by the truth commissions.

The general reactions to reports published by truth commissions vary from country to country. In Guatemala, the report “had a very strong public impact... but here, that lasted for one week, and a week later that it was over.”37 In contrast, in Chile, the impact and the appreciation of the report increased as time went by, especially when Augusto Pinochet was detained in London. After Pinochet’s arrest, some sectors that had previously denied the report came to recognize the commission’s findings. One activist in Chile remarked that “one of the major contributions [of the report produced by the truth commission] is that cases were ‘registered.’ It is the re-vindication of the name of the victim, because they are no longer considered terrorists, but victims of human-rights violations.”38 Another Chilean activist said, “the commission makes the truth official... permitting it to be accepted by the collective consciousness. It then becomes the framework for all state decisions to confront reparations and the moral debt.”39 In Argentina, a victim noted that the report was “the most read book in the history of Argentina. I feel that CONADEP [Argentina’s truth commission] is still having an impact on new generations.”40 In those transitional countries, the state had regarded the victims as state enemies in order to justify the crimes committed against them.

37 APT and CODEPU (p.17)
38 Ibid (p.21)
39 Ibid (p.21)
40 Ibid (p.22)
Consequently, the acknowledgment of their suffering and a recognition of their status as victims rather than as enemies are a significant outcome of truth commissions. These voices also indicate that the impact of truth commission reports can be sustained and that memory can be preserved, two of the most challenging tasks in post-truth-commission societies. Lastly, the prosecution of human rights violators by a newly-legitimized judiciary can increase the appreciation of the truth commission's work.

The survey also demonstrates two other important results that should be taken into account. First, while the majority of the human rights activists and the commissioners from these five countries claim that justice means the official recognition of the truth, a number of victims and survivors claim that justice implies reparation. Some survivors said that “justice does not exist for the poor” unless financial compensation has been conceded. The other critical comment those interviewed made is that the truth established by the truth commissions does not meet the criteria of legal investigation because of its narrative style and its generalization of the events as the pattern of violence. Some Chilean public official said that “the report only established a social truth” and does not, as such, constitute legal justice. In the conclusion, the authors of the CODEPU survey claimed that the report made by the truth commissions should be adequately

41 APT and CODEPU (p.24)
42 Ibid (p.23)
channeled to the courts, since the acts in the report are crimes and the crimes must be tried. 43

Overall, the survey demonstrates that all parties, be they victims' groups or human-rights activists, appreciate the official acknowledgment of past crimes and identify this acknowledgment as the greatest contribution made by their truth commission. On the other hand, both groups express frustration that the report would not be extend to future trials. Another finding was that the definition of justice differs between the victims and activists involved in the truth commissions. While the latter group seems to believe that the official acknowledgment was equivalent to justice, the former group claims that the public acknowledgment was the first step towards justice and that reparations for what they had lost would have been the conclusive step.

2.8: Critics of the Realists and of Retributive Justice

Ideally, both a truth commission and criminal justice would go hand-in-hand in every transitional-justice country. Each mechanism has advantages and disadvantages, and can be complementary if each institution is well-designed for comprehensive transitional justice. Unfortunately, political realities rarely allow such an option, and ‘what is possible’ inevitably prevails over ‘what is necessary.’ To

43 APT and CODEPU (P.45)
be effective, the resulting judiciary must have autonomy from political pressures in order to safeguard justice and avoid the possibility of state interference. Furthermore, the investigation of the state crimes requires skilled legal experts because state-organized violence is extremely complicated, involving hundreds, if not thousands of participants. In post-authoritarian states, such an impartial, qualified judiciary is usually difficult to find. The realist scholars' criticisms of truth commissions are reasonable; still, a question remains: what if an impartial trial is politically infeasible? Should the victims' families wait until the judicial system has been reformed or until the international community eventually establishes an ad hoc international tribunal or hybrid one? Above all, is the culture of impunity the sole negative legacy of the previous regime or can it be eradicated only by the reform of judicial institutions?

2.9: Culture of Denial

Dealing with the past of an authoritarian regime requires moving beyond denial. In authoritarian states, official denial is formulated into a distorted representation of the past which effectively blocks any other interpretation from entering the public sphere. In many cases, official propaganda justified state violence by condemning the victims as subversives who threatened the safety of the country: by striking back, the state had saved the country.
Denial is also present in any society that tacitly agrees upon what to know, remember and forget without any critical thinking.\footnote{Cohen, Stanley (2001, p.11)} People usually know what has gone on in their community or society—neighbors witness kidnappings; rumors circulate; torture victims return home\footnote{Ibid (p.12)} The government knows that the society is aware of what state agents have done, yet nobody talks about it. Stanley Cohen calls this collective silence a “culture of denial,”\footnote{Ibid (p.101)} which refers to the collective actions, such as “turning a collective blind eyes, leaving horrors unexamined or normalized as being part of the rhythm of everyday life.”\footnote{Ibid (p.101)} A culture of denial is the legacy of the authoritarian regime and cannot be undone until the knowledge of the past violence becomes an official acknowledgment of state crimes. Cohen, by using an idea from philosopher Thomas Nagal, points out that the victims’ desire to tell the truth lays “precisely between knowledge and acknowledgment.”\footnote{Ibid (p.225)} The survivors are addressing their account of suffering not only to the state but also to a society that had ignored the victims, sometimes for decades. The survivors want the whole society to acknowledge their suffering not merely as a ‘tragedy’ but rather as an experience that the nation has to share and learn from. While many advocates of truth commissions claim that truth-telling has a healing effect on the traumatized victims, these victims are also trying to heal the paralyzed capacity of moral judgment in the society. It is not only victims who need healing, but also the
nation's lost sensitivity towards others' suffering and injustice which must be restored.

2.10: Ethics of Evil

Another legacy of authoritarian regimes is an "ethics of evil." Dimitrjevic defines the term as the "broad endorsement of state violence among the population in the form of complicity, collaboration, or 'passive support of many,' ranging from those at the top to 'ordinary men.'" Both the culture of denial and the ethics of evil are the tenacious hold-over from the previous regime's politics, a legacy that will not fade away simply because the old regime has been replaced or because some individual prosecutions have been handed down in the courts. Starting over requires investigations into the role of state-supported violence and into the particular ideology consolidated under the old regime by seeking whose legal rights were violated by whom, and then how, when, and why. Such an investigation would reveal the historical, political and economic contexts that convinced the old elites that they could benefit from the use of violence. Dimitrjevic redefines 'confronting the legacy of the authoritarian regime':

The principle point of justification [of confronting the legacies of violence] should not be condemnation, ascription of guilt, paving the way for political

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49 Dimitrjevic, Nenad (June 2006, p.371)
50 Ibid (p.372)
51 Crocker, David A (2000, p.100)
apologies, or even reconciliation. It should rather be understood as the reconstruction of motivational pattern of a behavior that in the recent past led to a massive violation of human rights and universal moral values. The practical-political objective of such a reflection would be to enable the citizen to regain their recently and severely damaged capacity to distinguish between right and wrong, just and unjust. If such a goal were not accomplished, the liberal values proclaimed by the proto-democratic regime change could easily slide into ritual facades without any legitimizing and practical authority.\textsuperscript{52}

Successful transitional justice requires not only the strong judicial system, but also the moral awareness of the population. Truth commissions can restore the lost sense of justice in a society by revealing how rule of law and democracy principles had been done away with. To be sure, impartial retributive justice is the ideal form of transitional justice. Yet, legal justice cannot engage in an in-depth investigation of the legacies of an authoritarian regime. To establish a feasible, impartial judicial system that will advance democratic ideals, people need to understand the violence employed and to what ends, that is to say, how that violence fit into in the former regime’s vision of the nation, including particular social and economic policies. Citizens need to see how the culture of denial and the ethics of evil came to permeate their day-to-day. Conventional trials, given their focus on individual guilt, cannot investigate issues that require nation-wide dialogue. After testimonies have been gathered, citizens can reflect on past events and learn to appreciate the value of the universal principles of democracy, human rights, and rule of law. Truth commissions can institutionalize these activities, taking them from an individual level and raising them to the broader, national level.

\textsuperscript{52} Dimitrijevic (p.374)
2.11: Critics of the Human-Rights Hegemonic-Discourse Theory

Existing transitional justice policies in democratizing countries have emphasized universal human rights by ratifying international human-rights treaties or by creating Human Rights Courts to mend the mutilated relations between state and society, and also to be acknowledged as members of the international community or, as Risse says, to become “civilized nation[s].” Truth commissions have attempted to satisfy the demands of victims by defining past violence as a ‘gross violations of human rights.’ By so doing, the truth commissions rationalize the violence, socialize the concept of human rights, and ultimately lay the foundation for a new national identity based upon human rights—one of the principles of democracy. As a result, some scholars argue that the role of the truth-commissions has shifted from that of a truth finder to that of a new agent of nationalism.53

It seems natural that a truth commission would define violence as the gross violation of human rights since, by using human rights as leverage for legitimacy, the commission can challenge the state’s actions and satisfy the victims’ demands. If, at the same time, however, the truth commission is granting amnesty to perpetrators of human rights violations, then the argument enshrined in the supreme value of human rights is obviously undermined. In the international standard, human rights are the legal weapon to fight against impunity. The

53 See Grandin, Whitehead and Wilson.
realization of the importance of universal human rights has evolved into the establishment of the Genocide Convention, International Criminal Court (ICC) and International Court of Justice (ICJ), all of which were established to punish individual perpetrators in the name of gross human rights violation. Wilson points out though that truth commissioners and policy makers have used human rights discourse for restorative justice and for pardons which benefit rather than punish the perpetrators. Wilson thus reasons that ‘human rights’ appeared to the new leadership and truth commissioners as something inclusive that could “incorporate any moral or ideological position.” If his argument holds true, then the hegemonic theory is not valid because it has failed to examine the intentionality of those advocating institutionalized human rights in transitional justice countries.

Favoring human rights discourse in these transitional countries is also attributable to the fact that most truth commissioners have been lawyers. The new discourse of rights-oriented ideology or political culture in these transitional countries was initially introduced by new political actors, such as intellectuals and human rights lawyers who have access to transnational human rights networks. It is true that the language of human rights did empower the victims to demand justice all over the world and has led to dramatic social movements. However, the problem is that many reports produced by the truth commissions in the past have

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54 Wilson (p.xvi)
55 Ibid (p.5)
56 Grandin, Greg (Feb 2005, p.48) and Wilson (p.60-61)
presented the history of the authoritarian regime against a "dark backdrop," rather than identifying the source of the state-organized violence and the historical development that led to the authoritarian regime. Human rights discourse alone cannot fully examine the nature of violence, which requires historical analysis, as well as political and sociological studies. Without the participation of historians and other social scientists, reports made by a truth commission may not have an overarching historical narrative that demonstrates the causal relationships between the violence and other fragmented factors in society.

Another flaw in the hegemonic-discourse theory is its uncritical assumption of the existence of a fixed set of normative principles. According to the hegemonic-discourse theory, or Risse's 'spiral theory,' the concept of universal human rights can be universal only if there is an international consensus. The transmission of international norm to the norm-violators is thus *sine qua non* in the validity of this theory, since it largely relies on their claim for 'quantitative' universality. In other words, their assumption is based upon "X is universal if and only if X is recognized to be normative by all people at all times." The problem, Anthony J. Langlois suggests, is that "such X has not existed." Langlois does not dismiss the universality of human rights; he rather argues that the universality of human rights is not its norm *per se*, but lays in "the universal human capacity for all moral

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57 Grandin (p.48)
56 Langlois, Anthony J. (2001, p.144)
69 Ibid (p.144)
judgment about behavior with other people, one's self and one's environment. 60

Langlois claims:

The determination of which values should inhabit human rights discourse emerges not out of foundationalist liberal philosophy, but out of a certain way of living together with other people, a certain mode of human behavior, certain social practices and skills. This was the way in which the human rights discourse initially developed: it is through this process of shared living that human rights evolved from the limited rights of man and citizens to the vast array of rights that presently exist. 61

In transitional justice, human rights require moral awareness, which cannot be 'implanted' by new elites or imposed by foreign governments or a transnational community. As well, human rights discourse cannot be socialized from above. The internalization of human rights has to be the consequence of a constant struggle, an attempt to co-exist in diverse human situations which moves towards faithfulness between individuals and communities. This process requires facing up to the past and scrutinizing history to uncover the roots of the undemocratic regime and the political culture that destroyed human relations. Through this process of dealing with the past, the people can find reconciliation and develop a sense of community and identity. If the reconciliation or restoration of human relations is the ultimate goal, truth commissions should emphasize the universal capacity of moral judgment by clarifying the role of violence in the undemocratic regimes that consolidated themselves by destroying human relations; truth commissions should not be the

60 Langlois (p.147)
61 Ibid (p.140)
agents of new nationalism. The next section further defines the role and the primary tasks of truth commissions.
The previous section discussed the debate over which transitional justice mechanism is more effective in instilling democracy and the rule of law. On one hand, Realist scholars maintain that justice is the only way to end the culture of impunity, and they see truth commissions or the act of pursuing the truth as a passive compromise that avoids justice. On the other hand, advocates of truth commissions claim that a divided society needs healing; priority should be given to a peaceful coexistence through an official acknowledgment of the past and sharing the collective memory. This section focuses on the distinct activities of truth commissions: collecting testimonies, opening public hearings, and pursuing truth rather than identifying individual responsibilities. This work explores what these activities have demonstrated and indicated to us so far. As well, this paper questions whether or not pursuing truth is avoiding justice. Ultimately, it defines the role of truth commissions in order to justify the distinct merit of truth commissions and demonstrate that memory is the ultimate form of justice.

3.1: Recognition of Pluralistic ‘Truth’

In truth commissions, ‘truth’ does not refer to an official, exclusive truth; ‘truth-revealing’ means disclosing the pluralistic elements of truth. Truth
commissions in the past have attempted to achieve four kinds, or stages, of truth: 1) factual or forensic truth, 2) personal and narrative truth, 3) social truth or dialogue truth, and 4) restorative truth. Factual or forensic truth means finding out who did what against whom, when, where and how. It can also go further: who was involved in the incident and in which context it took place. The validity of this type of truth is determined by the balance of probabilities. If the evidence that favors the alleged fact is greater than all evidence against it, the fact is accepted as true.

Furthermore, truth commissions are expected to clarify the historical context where the violence was systematically employed by the authority. By so doing, Michael Ignatieff says, truth commissions can “reduce the number of lies that can be circulated unchallenged in public discourse. In Argentina, its work has made it impossible to claim, for example, that the military did not throw half-dead victims into the sea from helicopters.” It can also undermine revisionist claims on the historical facts.

The second type of truth, ‘personal and narrative truth,’ reflects particularly well the principle of truth commissions: the victim-oriented approach. Much of personal and narrative truth has been revealed in public hearings, another unique feature of truth commissions. The most significant effect generated by a public hearing is perhaps the demonstration of the actual existence of ‘unspeakable’ and ‘indescribable’ memories. Some survivors come to the hearing out of a desire to

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63 Ignatieff, Michael (1996, p.111)
speak out but, unable to put their emotions and experiences into words, can only remain silent or cry. Silence and tears go undocumented, yet eloquently express unbearable suffering and convey unspeakable truth to the audience. In addition, many survivors no longer remember the exact details and unintentionally distort past events. Naturally, any false testimony, be intentionally false or not, is inadmissible in a trial, since the testimony that is accepted will set the impartial measure of sentence and reparations. Still, in public hearings in truth commissions, the audience can observe that the victim’s distorted memories are the consequence of the long suppression of their memories and the coercive silence imposed by authority. In the public hearing, the audience share not only what those witnesses describe, but also the truth that are not linguistically expressed, and thus cannot be documented.

While the first two kinds of truth are heard from the victims and understood by the audience, the third type of truth ‘dialogue and social truth’ focuses on the dialogue between victims and perpetrators in the public hearing. This confrontational dialogue was set up to hear the different motivations and interpretations shaped by the participants’ social status or identity (e.g., occupation, ethnicity, or religion). Some South African truth commissioners initially assumed that the dialogue would lead to mutual understanding, but soon realized their mistake. Let us look at one example from the South African hearing, in which a

64 Abe (p.98)
victim confronted the secret police who had tortured him. The victim questioned the former secret police if he tortured people with a wet-bag (a soaking-wet fabric bag used to suffocate by putting it over the victim's head), which was actually used to torture the victim himself. When the former secret police admitted it, the victim asked the police how possibly he could commit such atrocity. The victim asked, emotionally, “You [tortured] again and again. You heard the screams and groans of so many people... Are you really human being?” The former secret police answered:

Many people have asked me the exactly same thing, and I ask myself the same question. I have seen a psychiatrist to know what kind of human being I am. I have taken medicine and been treated by the doctor. What I can say now is... I happened to be born and grown up as privileged white South African in the white community in Cape Town. I was not crazy. I obtained high education and owned a house and did not want to lose anything I had built. Like you did, I have been looking for the answer: what kind of human being I am.

Yet, the former police never defended himself or apologized; rather he asked the victim, “I want to hear your honest answer, too. It is true that I had tortured you only until you confessed, isn't it? Am I correct? Could you answer my question?”

The former police officer wanted the audience to know that he did not torture anybody without any reason, and did so only to follow orders. If the claim was admitted, the former secret police could obtain the amnesty. These dialogues

65 Abe (p.101). Abe attended a number of the public hearings in South Africa and collected the testimonies for his research.
67 Ibid
demonstrate that both sides have a 'truth' that neither of them would compromise with the other. At the same time, this confrontational dialogue extracted the truth and the emotional struggle of both individuals; otherwise it would have never been revealed. As well, these uncompromised truths show the pluralistic nature of the truth and the complexity of historical interpretation. Yet, none of the past truth commissions, including the South African, has figured out how to deal with these multiple truths.

Lastly and likewise, it is 'restorative truth' that none of the truth commissions in the past has ever achieved. It is open to question whether or not truth-revealing actually heals the victims and the society. Abe defines restorative truth as some forms of the symbolic commemoration of the past because it can transform the knowledge of the systematic violence and injustice into the official acknowledgment and shared truth.\(^{68}\) Abe's remark shares Stanley Cohen's assertion of the end of the culture of denial by transforming the knowledge into the acknowledgment. Likewise, Judith Lewis Herman also claims that the social reaction to the traumatized people can determine whether or not their trauma would be healed. To make a positive result, the society has to acknowledge their suffering to heal the wounded relationship or division between the victims and the society. When the society acknowledges their suffering, the traumatized people

\(^{68}\) Abe (p.104)
could rehabilitate the sense of justice and the trust toward the society.⁶⁹

Restorative truth requires us to think how the society demonstrates its acknowledgment of truth. Sending the reparations to the victims' families and the survivors can be one of the ways of restorative truth. Yet, unlike factual, narrative and social truth, restorative truth considers not only how we respond to those who speak to us, but also how we remember the death. The truth commissions in the past have revealed the factual and narrative truth, but could not reach the next level of the dialogue and social truth and restorative truth.

3.2: Redefining the Role of Truth Commissions

A survey of the five major truth commissions appears to encourage a more active involvement of future truth commissions in the criminal prosecution process. Yet, students of transitional justice should read cautiously as such an active role could undermine the distinct feature and strength of truth commissions. One of these strengths is their 'victim-oriented approach.' Jonathan Allen remarked the importance of letting the victims to speak his or her stories:

Giving victims an opportunity to tell their stories demonstrates that they are now admitted to the category of responsible agency from which the predecessor regime attempted to exclude them. It is a form of recognition and acknowledges the historical fact of exclusion from legal recognition and seeks to reverse the imposition of passive status, by encouraging victims to act in public by telling their stories. This would be an inappropriate concern in a

⁶⁹ Herman, Judith L. (1999, p.88)
law court, but it is important as a kind of public ritual of recognition of the moral agency of those previously excluded—public makers of these citizens' rightful passage into equal consideration and respect. It is recognition as acknowledgment and admission. And it is related to justice in an additional way because it acknowledges the injustices of the exclusion that made the specific abuses possible.  

By giving a space for victims to speak out and integrating their stories in the final reports as official truth, a truth commission can transform the stereotyping image of survivors from a passive and powerless group of people into active and moral agents. Victims' testimonies from the five transitional countries surveyed claimed that the act of testifying in public was itself empowering. Truth commissions can help underline the important fact that these are not merely 'unfortunate people,' but survivors of hideous treatment by the state and society.

Truth commissions also have the capacity of disclosing and highlighting the fatal consequences of the destruction of the rule of law and the absence of democracy. By revealing the root of the violence and its consequences, the report of truth commissions can demonstrate the importance of these democratic values. Truth commissions can publicize suppressed memories of the victims and survivors (and possibly of the perpetrators as well) and by so doing, help reconstruct what had been erased from, or distorted by, the official historical representations. This act of revealing suppressed or erased memories renders truth commissions as significant and distinct from legal justice in which prosecutors, defense lawyers and judges select the witness and the testimony that determines the presence or absence of

70 Allen (1999, p.332)
71 Ibid (p.330)
'intent' to commit the crime charged against the accused. Unlike truth commissions, consequences are not necessarily the primary concern in trials. Furthermore, trials may conclude the whole dynamism of the atrocities and the state-led violence as the crimes committed by a handful of bad individuals. Such a conclusion, even if a trial succeeded in prosecuting some key individuals, cannot eradicate the root of undemocratic culture in a post-authoritarian or totalitarian society because a comprehensive confrontation with the negative legacies of the past requires the nation as a whole to remember the past and reckon why it could happen, why it was able to maintain legitimacy, and how it can be prevented in the future.

3.3: Revenge by Pursuing Truth and Emancipation through Knowing the Truth

On one hand, realist scholars regard the act of pursuing the truth as a passive or weak response, an excuse for giving up on justice; on the other hand, advocates of truth commissions tend to define the act of pursing the truth as a means to satisfy revenge and say that the victims can afterwards forgive the perpetrators, once the whole story has been told. Ignatieff points out

[The truth commissions in the past] say much for the human need for truth that the relatives of victims preferred the moral appeal of magnanimity that so many of them should have preferred the truth to vengeance or even justice. It was sufficient for them to know what happened: they did not need to punish the transgressors in order to put the past behind them.72

72 Ignatieff (p.111)
Ignatieff calls such the claim from the past truth commissions, “the danger of false recognition.”73 Even so, it is not only the truth commissioners but also the realist scholars whose views simplify the complicated implications in pursuing truth. Abe Toshihiro, a Japanese scholar, once interviewed Youk Chhang, director of the Documentation Center of Cambodia (DC-Cam), which followed the Khmer Rouge tribunals. After Chhang left the interview room, Abe asked another member of the Cambodian staff in DC-Cam about Chhang’s motives behind investigating the crimes of the Khmer Rouge regime. “I’ve heard,” the staff member replied, “that he started the investigation out of the sense of revenge. Youk himself is the victim of the Khmer Rouge and had longed for vengeance for years.”74 During the regime, a Khmer Rouge soldier had accused Chhang’s sister of stealing food, an accusation which she denied. The soldier slit her stomach open—only to find that she had eaten nothing—and she died of her wounds. Chhang wrote in DC-Cam’s publication that he met the killer of his sister years after he started the investigation of the Khmer Rouge’s crimes. Chhang recalled:

[The former Khmer Rouge soldier] could not recognize me... His life had not changed at all since then. He still lived in a small village, breeding two skinny cows. He had participated in the “Revolution” to change his life; nonetheless, nothing had been improved or gotten better at all. Afterwards, I visited him a couple of times. What astonished me was that he was not a bad guy. He was merely one of those who did bad things. Today, seeking the

73 Ignatieff (p.112)
74 Abe (p.24). Abe recalled and documented the conversation in Japanese. It is translated by the author.
truth, seeking the answer, empowers me. I can be emancipated from the past by obtaining even a tiny and fragmented truth.  

Abe notes that "one's persistent act of revealing the truth until the last piece of evidence has been gathered] is never a passive or mild action. I have naïvely overlooked such a fact." In fact, it is naïve and uncritical to assume that only revenge satisfies and that the pursuit of truth is but a passive reaction from the victims: truth, that is to say, a deeper understanding of human nature such as the one Chhang came to, can lead to closure as effectively as revenge. No justice system can eradicate atrocities, which inevitably generate a desire for revenge on the part of the victims. But is revenge their only means of closure, or even the most effective? Chhang, although initially motivated by vengeance, found empowerment by another means. The exhaustive activity of truth commissions can document a larger number of crimes and draw a more comprehensive picture of the situation than individual trials ever could. Chhang publicized DC·Cam's collections, and scholars around the world began to analyze the nature of the Khmer Rouge regime and publish their own findings. By so doing, Chhang has ensured that the crimes committed under the regime will never be forgotten and cannot be denied. In fact, without DC·Cam's assistance and their collections of testimonies, the Khmer Rouge tribunals could not have functioned at all. We can gradually grasp the meaning of Errena's remark, "Memory is the ultimate form of justice."  

75 Youk, Chhang (2005, p.5-7)  
76 Abe (p.25-26). Translated by the author.  
77 Roger Errera is a member of the French Conseil d'État.
3.4: Memory of Justice

The Ancient Greeks identified ‘truth’ literally as ‘unforgotten.’ Ancient wisdom suggests that the task of a truth commission is not only to clarify the past and find the truth, but also to make them ‘unforgotten.’ Booth described the fundamental interrelation between the act of remembrance and justice:

Justice is, in part, a form of remembrance: memory occupies a vital place at the heart of justice and its struggle to keep the victims, crimes, and perpetrators among the unforgotten. It remains us of a duty to keep crimes and their victims from the oblivion of forgetting, of a duty to restore, preserve and acknowledge the just order of the world. The intimacy of memory’s bond with justice, not as obsessional or as a syndrome but as the face of justice itself.

Booth calls it the “memory of justice.” The remembrance of truth is the act of justice. In the words of Booth, it is an “act of fidelity, of faithfulness to the victims.” The role of truth commissions lay in institutionalizing of the remembrance of the past by diffusing the truth and transforming individual memories into a public memory. Institutionalizing and acknowledging the memory of injustice invokes a sense of justice, endowing the nation with a “sensitivity to injustice.” Once a nation has developed sensitivity to injustice, citizens will desire the establishment of the rule of law and of democracy as bulwarks to the abuse of

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78 Booth, James W (Dec 2001, p.781)
79 Ibid (p.777)
80 Ibid (p.777)
81 Ibid (p.782)
82 Allen (p.337)
power. Truth commissions become agents of the memory of justice and can contribute to creating a democratic society.

On the other hand, if a truth commission longs to fulfill these goals, then it has to stand firm against the form of civic amnesia that is amnesty. Advocates of amnesty assert that a truth commission is successful only if it includes amnesty as a strategy for peaceful transition to democracy. They claim that threatening perpetrators would undermine a fragile, new-born democracy by generating hostility, and that offering amnesty would ultimately benefit the victims. However, these justifications are not based upon empirical evidence, but a certain "reasoning," a certain supposition concerning human nature. No evidence shows that perpetrators would become less dangerous and more collaborative if they were granted amnesty. Likewise, there is no evidence that the comprehensive approach to confronting the legacy of an authoritarian regime has actually threatened the stability of a new democracy than alternatives such as amnesty and pardon. All these justifications of amnesty come from an idée fixe: the current situation and future of the nation must take precedence over the past. But truth in exchange for amnesty would be no more than truth for impunity. Any political deal made by a truth commission, or by a trial, even though deemed appropriate at the moment, may be judged by future generations as an unethical political compromise. Above all, none of us has the legitimised authority to determine whether a perpetrator is to be

83 Dimitrijevic (p.370)
84 Ibid (p.370)
forgiven. Samuel Pisar noted in his Holocaust literature, “Who will pardon? Who could pardon? The dead? The survivor? The rest of humanity? No one.”85 Amnesty is the re-victimization of the victims and the betrayal to the belief for justice. Those crimes were committed against the victims, not against the judges, prosecutors, lawyers, commissioners, or those of us who talk about the politics of accountability. It is only victims who can decide whether or not they forgive or forget. The demands for justice and truth by victims must be prioritized over the concerns for today and tomorrow.86

3.5: What is the Ultimate Objective of Truth-Revealing?

Archbishop Tutu, the key figure in the South African TRC, said that the goal of truth-revealing was a spiritual one: to heal the traumatized and polarized nation and to promote national unity and reconciliation. This spiritual goal was also expressed in the public hearings. For instance, one of the South African commissioners said to a victim, “you’ve lost so much... But, I want you to feel that your past experience has contributed to the democratization of South Africa.”87 Another South African commissioner spoke to the attendees, saying, “I would like to say that Maki’s death is national shame... Today, Maki and his family have become heroes by testifying their memories and we are the witnesses. Please, all rise and ____________________

85 Booth cited the statement made by Pisar in his “The Unforgotten: Memory of Justice” (p.786)
86 Booth (p.784)
87 De Aar, 1-7 October 1996
pray for them. Thank you." These are common statements in the public hearing in South Africa. While they sound encouraging and future-oriented, statements such as these also have the danger that all narratives can be 'dramatized' for new collective memory of the reunified South Africa. This is what Michael Foucault calls 'pastoral authority,' another way of controlling memory. Foucault says:

The confession is a ritual of discourse in which the speaking subject is also the subject of statement; it is also a ritual that unfolds within a power relationship, for one does not confess without the presence (or virtual presence) of a partner who is not simply the interlocutor but the authority who requires the confession, prescribes and appreciates it, and intervenes in order to judge, punish, forgive, console and reconcile; a ritual in which the truth is corroborated by the obstacles and resistances it has had to surmount in order to be formulated; and finally a ritual in which the expression alone, independently of its external consequences, produces intrinsic modifications in the person who articulates it: it exonerates, redeems, and purifies him; it unburdens him of his wrongs, liberates him, and promises him salvation.

What those common statements in the South African TRC imply is that the traumatized victims can be healed by testifying their traumatic memories through the TRC and restore their identity only in the relation with new South Africa and the legitimacy endowed on the victim on the TRC, hence another way of controlling the politics of memory. The danger is that if a truth commission sets up its goal as the creation of new collective memory for national reunification, they would ignore the various motivations victims have when they speak out and the multiple natures of truth. Whitehead defines politics of memory:

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88 South African TRC testimony JB0289
89 Foucault, Michael (1978, p.61-62)
Myths and memories defined the scope and nature of action, reorder reality and legitimate power holders. They become a part of the process of political socialization, teaching people how to perceive political reality and helping them to assimilate political ideas and opinions. They are transmitted by authority figures, and bring together people living within the boundaries of the state. Historical memories and collective remembrance can be instruments to legitimate discourse, create loyalty and justify political options. Thus, control over the narrative of the past means control over the construction of narratives for an imagined future. Memory is a struggle over power and how gets to decide the future.90

The role of truth commissions is not to transfer power over memory to the new regime, but rather to stand firmly against the creation of another nationalistic history. Otherwise, truth commissions would be trapped in yet another politics of memory and undermine their particular strength.

The following two sections examine the case of Indonesia’s Truth and Reconciliation Commission (TRC) and the politics of memory in Indonesia. While acknowledging that many of the Indonesian human rights lawyers and activists genuinely pursue the socialization of human rights discourse to restore the dignity of the victims, the TRC seems to have been a politicized forum that was seen to affirm the state’s commitment to democracy via a discourse on human rights. As a result, the original idea of a truth commission was distorted by political elites and generated confusions about for whom the TRC existed. This work identifies the problems of the TRC in Indonesia and argues that as the TRC became politicized, it lost its focus on truth and the memory of justice, and how, in the end, it was trapped in a political game.

90 Whitehead (1998, p.38)
CHAPTER IV
TRUTH AND RECONCILIATION IN INDONESIA

4.1: Background of the End of New Order

Indonesia was a military dictatorship headed by Suharto GCB from 1966 until 1998. This period was called the 'New Order.' During this period there was no democracy or respect for the rule of law: fear, violence, and oppression prevailed throughout the country. State-sponsored violence was justified in the name of 'national unity' and 'national security.' In an attempt to legitimize the dictatorship, Indonesia's history was perpetually reinvented, and atrocities were committed. During the New Order, many Indonesians were kidnapped, imprisoned (at times for decades, and without trial), and declared "missing": some were tortured, others executed. None of those victims' voices were ever heard. Their trauma, their memory, was absent from official histories.

After the fall of Suharto in May 1998, manyIndonesians officials, human rights activists, and lawyers have been seeking ways to confront the legacies of the thirty-three-year regime. Many of those searching for a way to deal with the past agree that the government has to take accountability for the crimes committed during the New Order. However, they have yet achieved a consensus over which transitional justice mechanism would be a better option for Indonesia and what they should do with their findings.
4.2: Original Debate over a Truth Commission in Indonesia

The idea of a truth commission was first discussed publicly in Indonesia in the final phase of Suharto's regime, in 1998. Navavan, the former secretary of the National Human Rights Commission (Komnas HAM), explained that after the fall of Suharto, many victims and their family members began to demand an investigation into the disappeared people, the tortures and the executions. One challenge facing their outcry was that many of the accused had died since. Similarly, it would be extremely difficult to collect fresh evidence to develop a criminal case for human rights violations committed decades prior. Another more daunting challenge came from the military, the primary perpetrator, which was still in power and could block access to documentation. In the following years, the Komnas HAM established a panel to investigate the violations of human rights committed during the New Order This panel was later developed into the idea of the Truth and Reconciliation Commission (TRC).

Only when national unity began to fall apart did cries arise for an inquiry into past violence. One member of a human-rights NGO explained the chaos after Suharto's fall:

91 ELSAM Interview database
92 Gonzalez (2006, p.2). This is from the report of International Center for Transitional Justice "Comment by the International Center for Transitional Justice on the Bill Establishing a Truth and Reconciliation Commission in Indonesia" written by Eduardo Gonzalez.
The major problem was a potential national disintegration. Many regions demanded independence. So, I believe that national unity by human rights was necessary. Military and Golkar party\(^93\) said that there was no problem with the past, so let's move on to the future. Yet, without the past, how can we [re]-build Indonesia? We can predict the future by examining the past... We had problems in Papua, East Timor, Aceh and Kalimantan. Human rights can be a national norm and the Truth and Reconciliation Commission would be useful to build a new nation-state. I'm not talking about unity by military operation, but unity by human rights.\(^94\)

Indeed, during my internship in Jakarta, I often heard this view from human rights activists and lawyers. Ifdal Kasim,\(^95\) for example, who was involved in the first TRC draft bill expressed the similar view:

After Suharto, many people claimed independence. We thought that we must give them justice to achieve national unity in pluralism, but the question was what kind of mechanism could give them justice. One was a truth commission and the other one was a human rights court... [having considered all the problems of the judicial system in Indonesia] the TRC came out as a better option. But, we had difficulty in thinking about what we needed to solve through the TRC, or what conflict we wanted to resolve through the TRC.\(^96\)

Human rights and justice appeared to those human rights lawyers and activists as the new unifying force of post-Suharto Indonesia. Still, the question remained as to

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\(^93\) Golkar is a political party. It had maintained its position as the ruling party during the New Order. It was dominated by Suharto and the Indonesian Army. Golkar was the political machine that produced the state ideology and embodied the policies under Suharto. Golkar is still the largest party in today's coalition in Indonesia.

\(^94\) ELSAM Interview Database

\(^95\) Ifdal Kasim was the chief executive of ELSAM, \textit{(Lembaga Studi dan Advokasi Masyarakat)}, the Institute for Policy Research and Advocacy in Jakarta at that time. Kaism has been recently selected as one of the commissioners at Komnas HAM and working on the new draft bill for the truth and reconciliation commission in Indonesia.

\(^96\) ELSAM Interview Database
how Indonesian human rights agents could bring about an equitable, lasting justice and create a human rights norm by revealing the past.

4.3: Transitional Justice Mechanism in Indonesia: the TRC and the Human Rights Court

During the Wahid administration, two transitional justice institutions were created to deal with human rights violations. The first attempt was in making a draft bill for the TRC. The Department of Justice and Legislation (now the Department of Justice and Human Rights) set up a team to produce a draft bill for the TRC Act in Indonesia. The team included human rights lawyers and NGO members. The team made seven draft bills and submitted the last draft to the Ministry of Human Rights and Law in 2000. In the following months, the People's Consultative Assembly (MPR) delivered a decree, 'the Consolidation of National Unity and Integrity,' which proposed the establishment of a truth commission as part of their attempt to uphold "the supremacy of law [...], the prosecution and resolution of cases of corruption, [of] collusion and nepotism, and [of] human rights violations."97 Months later, the People's Assembly of Indonesia (DPR) passed a law to establish the second transitional justice institution, the Ad hoc Human Rights Court, which was to try cases filed and submitted by Komnas HAM. The mandate of

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97 Gonzalez (p.4). This statement is cited from the Consolidation of National Unity and Integrity (MPR/V/2000) Chapter IV
the Ad Hoc Human Rights Court was to hold trials to prosecute crimes against humanity committed after the 1999 referendum in East Timor.

Despite this energetic initiative however, three years passed before the executive branch of the Department of Justice and Human Rights submitted a draft for the TRC Act to the DPR in May 2003. The military faction in the Parliament opposed investigations into past human rights violations and insisted that Indonesian needed only reconciliation.98 On 6 October 2004, the draft was finally passed as Law No.27/2004 on the Truth and Reconciliation Commission (TRC Act). The TRC's objective was to “resolve past gross violation of human rights outside of the court of law in order to establish national peace and unity and establish national reconciliation and unity in the spirit of mutual understanding.”99 Article 5 of the TRC stated that it was to “provide service and protection to the community by being given the authority to establish and express the truth concerning the gross violation of human rights which is to be based on the national interest for unity and wholeness of the united Republic of Indonesia.”100 While national unity and national interests were emphasized as the priority, the TRC Act did not mention how revealing the truth could lead to the national reconciliation and peace, or identify which parties needed to be reconciled.

98 Sulistiyanto, Priyambudi (Feb 2007, p.89)
99 Linton (2006, p.23)
100 Ibid (p.24)
The Indonesian TRC Act also suffered from other flaws. First, its task was limited to a factual clarification of each case rather than wide-ranging, historical analysis to identify the nature of structural violence during the authoritarian regime. The source of this particular failing drew from ambiguous definitions of the terms ‘truth’ and ‘reconciliation.’ Article 1 of the bill defined “truth” as “an incident of a gross human rights violation, the victims, violators, place and time of the incident”\textsuperscript{101}; and “reconciliation” as “the result of a process of truth exposition, acknowledgment and amnesty.”\textsuperscript{102} Naturally, an investigation must clarify of the factual truth of an incident, but the intent of a truth commission is move from isolated incidents to a historical analysis to find not only what happened, but why it happened. Moreover, the TRC Act stated that victims coming forward would lose their right to retributive justice, with perpetrators facing no risks of prosecution, only the possibility of amnesty. This unfair system was stipulated by Article 27, which declared that ‘forgiveness will bring a recommendation of reparation for the victims.’\textsuperscript{103} In this context, forgiveness was a prerequisite for compensation, humiliating victims by pressuring them to choose between reimbursement over justice; and amnesty appeared as a prerequisite for reconciliation. The Indonesian TRC had not been elaborated to empower the victims, but to protect the perpetrators.

\textsuperscript{101} Gonzalez (p.5)  
\textsuperscript{102} Ibid (p.5-6)  
\textsuperscript{103} Ibid (p.16)
Another flaw was Indonesia's weak judicial system. Judicial impotence to serve justice had been demonstrated by the *ad hoc* human rights tribunal in East Timor, which demonstrated the absence of political commitment or willingness to prosecute perpetrators and bring justice to the thousands of East Timorese victims.\(^\text{104}\) In this framework, the victims of state crimes in Indonesia would have to choose between either telling their stories to the TRC in exchange for giving amnesty to the perpetrators or else relying on the slight possibility of justice at the hands of the *ad hoc* human rights court in Jakarta.\(^\text{105}\) The lack of political commitment to justice inevitably led to a problem: without the threat of prosecution in human rights courts, how could Indonesians expect violators to come forward to speak about their crimes and show remorse in the TRC hearing? There was no compelling reason to justify the amnesty clause in the Indonesian TRC Act.

Not surprisingly, the TRC had not been mandated by the Act to produce and publicize a substantive report nor to make recommendations for institutional reform. The TRC Bill was unclear as to how the report would be disseminated to Indonesian society. Consequently, it was unlikely that the Indonesian TRC would

\(^{104}\) Failure of the *ad hoc* Human Rights Tribunal has been harshly criticized by a number of literature and international legal organizations. International Center for Transitional Justice's "Intended to Fail—The Trials Before the Ad hoc Human Rights Court in Jakarta" written by David Cohen (August 2003) is perhaps the most detailed and exhaustive report in this account. The report demonstrates the absence of the new Indonesian government's commitment to bring justice for the gross violation of human rights in Indonesia.

\(^{105}\) Gonzalez (p.6)
ever come to a public acknowledgment of past violence and create confidence in a sense of justice and rule of law in the country.

According to the Indonesian human rights lawyers and activists interviewed in the summer of 2007, the final draft for the TRC bill had been considerably revised by Parliament. Kasim claimed that in the original draft (written by human rights lawyers, including Kasim and some Komnas HAM commissioners), they wrote that the state had an obligation to give compensation the victims of gross human rights violations once the circumstances of the crime had been confirmed by the TRC.\footnote{ELSAM Interview Database} In their draft, a ‘gross violation of human rights’ included crimes ranging from kidnapping to torture. Amnesty could be conceded only when the perpetrator was following orders, and only in certain cases—torture, kidnapping, and execution—but never in cases of crimes against humanity or genocide.\footnote{Ibid}

In the final bill, a ‘gross violation of human rights’ was defined by the DPR as only including crimes against humanity and genocide, which meant that the Indonesian TRC, if it were to respect its mandate, could only investigate these two crimes. The problem is that it is extremely difficult to prove crimes against humanity or genocide, since both require sophisticated legal knowledge, investigation skills, and access to a large volume of documents and witness accounts in order to demonstrate intent. More importantly, applying amnesty to these two crimes is strictly forbidden by international law; consequently, the amnesty clause

\footnote{ELSAM Interview Database} \footnote{Ibid}
was unacceptable not only to Indonesian human rights lawyers, activists, and victims, but also to the international human rights community. Also, according to Kasim, the initial bill did not refer to ‘reconciliation’ as the task of a truth commission because they believed that its mission was strictly to reveal the truth. The team that drew up the initial draft had hoped that their report would encourage society to move toward reconciliation, but it was never considered as their primary task. 108 Kasim described the Indonesian political realities around the TRC:

Some members of police and TNI [Indonesian Army] opposed to the TRC bill. They wanted only reconciliation without truth by claiming that ‘if we get truth, the nation would collapse.’ After the completion of the draft, the department of justice sent it to the parliament to discuss and pass the bill [...] What happened was that too many of our ideas of a truth commission and the concepts of the key terms were completely changed by the Parliament. Too many changes [...].”109

Indonesian human rights activists and lawyers believed that delving into past crimes, the nation would fall apart; Indonesian politicians claimed that by revealing the truth, the nation would do just that. For this reason, the DPR added the term ‘reconciliation’ and emphasized national unity as the primary task of the TRC. To Indonesian politicians, ‘justice’ and ‘clarification of the past’ were irrelevant to their new national project.

Despite the opposing positions of human rights activists and politicians, both parties invoked ‘national unity’ as the primary goal of the TRC: The claim for a

108 ELSAM Interview Database
109 Ibid
restoration of a sense of belonging and shared Indonesian identity through 'human rights' could offer a fresh sense of community. Yet, the task of truth commissions would be to reveal suppressed memories and document the nature of political violence, not to "promote nationalism and consolidate state legitimacy."\textsuperscript{110} It seemed likely that the language of national unity could lead to the sacrifice of individual rights to justice. Furthermore, it could also undermine the legal function of serving justice and even make victims reluctant to seek retributive justice. A truth commission does not exist to restore the chimera of national unity, but to give victims an opportunity to express their suffering from state-organized violence and their subsequent exclusion from the society in order to restore of their lost citizenship and dignity. National unity is different from compassion or morality. The former refers to a group of people with common interests, whereas the latter finds its origin in the universal ethic that respects differences. National unity based on human rights does not reflect the problems in Indonesia. To reconstruct Indonesia's national identity, it is necessary to admit past crimes.

\textbf{4.4: Cancellation of the TRC}

Human rights NGO's and victims alike contested the final draft of the TRC bill and asked the Constitutional Court to amend the two articles concerning

\textsuperscript{110} Granrdin (p.64)
amnesty and reparation. The Constitutional Court stated that the main task of the TRC was to give amnesty to the perpetrators and compensation to the victims. If Article 27 of amnesty was abolished, it would be impossible to reveal the truth about the past. Amnesty was the bottom line for the government; restorative justice and acknowledgment of past violations was for the Indonesia human rights community and victims of the regime. On 8 December 2006, the Constitutional Court finally decided to cancel the TRC Act as a whole as 'unconstitutional' rather than amending those two specific articles.\(^{111}\) It was obvious to all concerned, including Indonesian officials, that perpetrators of crimes against humanity and of genocide could never be granted amnesty. Though the final draft of the TRC bill was not acceptable for Indonesian human rights lawyers and activists, they did not expect an abrupt cancellation of the TRC bill itself. One human rights lawyer denounced the decision by saying that the chief of the Constitutional Court had political interests. He continued:

> Judges didn’t understand the TRC because they regarded it as alternative dispute resolution. The Constitutional Court delivered the decision not based on correct understanding of TRC.\(^{112}\)

Indonesian human rights activists expressed the same concern over misunderstanding about the nature of the TRC: it had been conceived a complement to the judicial justice, not an alternative.\(^{113}\) Even so, it is unsure as to whether the

\(^{111}\) "Indonesia Court Knocks Down Truth Commission Bill" by Achmad Sukarsono (Reuters, Dec 8/2006)

\(^{112}\) ELSAM Interview Database

\(^{113}\) Ibid.
TRC in Indonesia could have been complementary to the judicial justice in the first place. Indonesia’s TRC was modeled the South African TRC. Paul van Zyl notes:

"Although South Africa’s criminal justice system was biased and dysfunctional, it constituted a sufficient threat to cause perpetrators to believe that their best interests were served by disclosure rather than silence."

From the outset, Indonesia’s judicial system had constituted neither a sufficient threat to the perpetrators nor an effective mechanism for justice for the victims. It was inevitable that the TRC would be regarded as an alternative mechanism to a judicial system too corrupt to admit a complement.

The end of the TRC in Indonesia was, in a way, inevitable. It was predictable that political elites would resist it, but the crucial weakness of the TRC was the lack of unity among the human rights NGOs and victims’ groups. Indonesian human rights lawyers had used the South African model when considering amnesty, but many NGOs and victims opposed amnesty entirely. Farid mentioned that “amnesty is a political decision, whereas the TRC is to clarify the distorted history.”

Ideally, the establishment of the TRC has nothing to do with the political arena. Farid points out one of the reasons for the politicization of the TRC in Indonesia that those who advocated the TRC “tried to use the mechanism (TRC) as a political vehicle to change the political culture.” Democratization requires a change of political culture, but it has to be done through consensus among the different

114 Zyl, Paul van (2005, p.331)
115 ELSAM Interview Database
116 ELSAM Interview Database
parties; otherwise, such the attempt would be provocative and divisive. As a result, Indonesia’s TRC became increasing politicized as it was drafted and passed as a draft bill. Ignatieff notes:

Truth commissions have the greatest chance of success in societies that have already created a powerful political consensus behind reconciliation, such as in South Africa. In such a context, Tutu’s commission has a chance to create a virtuous upward spiral between the disclosure of painful truth and the consolidation of the political consensus that created his commission in the first place... The idea that reconciliation depends on shared truth presumes that shared truth about the past is possible. But truth is related to identity. What you believe to be true depends, in some measure, on who you believe yourself to be. And who you believe yourself to be is mostly defined in terms of who you are not.117

Was Indonesia ready for sharing the truth at the national level? Perhaps not. Even the South African TRC realized that it was impossible to share the multiple truths between the perpetrators and the victims. During the internship period, the author once asked a human rights lawyer mentioning amnesty as a necessary element for a successful TRC, “for whom the TRC had been conceived in the first place? If it was for victims, then amnesty may not be necessary.” While the human rights lawyer thinking over the question, the interpreter interjected, saying:

We are the nation that has been taught to forget. A smart nation is the one who can learn from history. Violence has been forgotten, that is why violence happens again and again. To change forgetfulness and push the nation to learn the history, the TRC is needed. The culture of impunity comes from forgetfulness.118

117 Ignatieff (p.114)
118 This conversation is also collected in ELSAM Database
It was not exactly the answer the author was looking for. Yet, tracing the forgotten history of violence would give an answer to whose memories must be revealed and acknowledged. The following section discusses the forgotten history of violence in Indonesia.
CHAPTER V
POLITICS OF MEMORY IN INDONESIA

5.1: Creation of 'Imagined Community'

Benedict Anderson argued that the origin of the concept of nation-state was developed via communication technologies diffused in the vernacular, as it was in newspapers and novels during the 19th century in Europe. Technology and shared language forged a sense of belonging, a political consciousness of national unity within a particular territory, despite the fact that individuals within the territory had never met each other. Anderson goes on to call modern nation-states "imagined communities." Today's nationalism literature agrees that the building of an official national history is the cornerstone in maintaining the imagined community of nation-state. State officials determine what events and figures are important in constructing their nation-state and legitimizing the institution and the authority in power, and they disseminate the historical narratives to society through monuments, textbooks, and public holidays. These official historical representations then mould collective memory and national identity. Through the official representation of the past, the population assimilates political ideas, ideologies and moral order. Once again, this is called the politics of memory. Anderson argues that this formation of an imagined community was also practiced in post-colonial states, in which national identity was based upon the collective memory of national

119 Anderson, Benedict (1991) *Imagined Communities*
struggle and independence. New leaders were national heroes whose presence inspired a sense of patriotism among the nation and their power was legitimized by official accounts of history. Common memory formed an imagined community and served to the unity of the nation-state. Post-colonial Indonesia is not an exception.

5.2: Indonesian Historiography during Sukarno’s Period

In December 1957, the Ministry of Education held the first National History Congress in Yogyakarta in order to create an official national history. Some historians insisted that national history served to strengthen nationalist consciousness and collective identity. To achieve this goal, they argued that national history had to emphasize the pre-colonial golden period and the heroic national struggle against colonial powers, a struggle which eventually brought freedom and independence for ‘Indonesians.’

Some intellectuals, however, objected to the notion of a utopian past. One of those opposing voice came from Soedjatmoko. He was not a historian, but a prominent Indonesian intellectual. Soedjatmoko claimed that the Indonesian revolution of 1945 established a “final breakthrough in which historical consciousness penetrated the a-historical frame of mind in Indonesia,” and this

120 Nicheterlein, Sue (1974, p.256)
121 Nordholt, Henk Schulte (2004, p.4)
122 Nichterlein (p.256)
newly generated historical consciousness should be the foundation of the Indonesian identity. Soedjatmoko opposed the writing of history to serve nationalistic consciousness, and advocated fostering individual historical consciousness. In the end, Soedjatmoko lost the debate. Henk Schulte Nordholt argues that Soedjatmoko’s abstract universalism failed to respond to the enthusiasm of the 1950s, “when people all over the archipelago were urged to become Indonesians. At the same time people saw the nation as a vehicle of modernity, justice and equality and wanted to become part of all this…” And so began Indonesia’s imagined community.

Goenawan Mohamad claims that the very origin of Indonesia’s imagined community was based upon the agreement of forgetting their disparate origins, be they regional, religion or ethnic: loss of memory was a crucial factor in the creation of the Republic of Indonesia. Like other colonized countries, anti-colonial enthusiasm and a belief in grassroots democracy and justice had inspired thousands of young revolutionaries throughout the archipelago to set aside differences to unite in creating the modern nation-state, Indonesia. As a result, the first official national history in Indonesia, like that of other modern nation-states, “became an ideological tool for the mobilization of masses during the closing years of Sukarno’s rule.”

This Indonesian national history described the masses as the most important part

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Norholt (p.4)
Ibid (p.4)
Goenawan Mohamad (2002)
Nordholt (p.4)
of the independent state, and it was addressed by the president Sukarno.

Indonesia's first historiography was nationalistic, but was still "history with ordinary people,"\textsuperscript{127} and aspired to establish a democratic welfare state. A regime change was around the corner though: the events of 1965 would not only make history, but the victors would begin to make their own version of history.

5.3: Historical Background of New Order and 'September 30 Movement/PMI'

Indonesia's authoritarian regime, the New Order, began with an allegedly aborted \textit{coup d'état} attempted by several soldiers attached to the Presidential Guard, who kidnapped and killed six army generals under the command of Lieutenant Colonel Untung on September 30, 1965. Soon after the coup, the Major General Suharto announced that the coup members were agents of the Indonesian Communist Party (PKI) and that the coup had been orchestrated by Indonesian communists. Though the actual motivations and the political support of the coup members remains a subject of debate,\textsuperscript{128} the subsequent events were uncontestable: on 1 October 1965, Major General Suharto staged a triumphant military intervention. The intervention became a source of legitimacy for Suharto's New

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\textsuperscript{127} Nordholt (p.8)

\textsuperscript{128} John Roosa's \textit{Pretext for Mass Murder: The September 30th Movement} (University of Wisconsin Press 2006) examines the nature of the incident, the motivation of the coup, the role of the US and international community, and the geopolitical factors in the incident in detail through analyzing the archives and interviews.

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Order and a pretext for over three decades of violence against civilians. To understand the politics of memory and Indonesia's complex past, some brief discussion of the backdrop of the 1965-1966 Massacre is necessary.

Between October 1965 and March 1966, many civilians were kidnapped and tortured, with 1.7 million Indonesians detained without trial and approximately 800,000 murdered as “communist threats.” Farid noted that after the 1965-1966 Massacre, “the whole concept of citizenship was gone. It was not attacking communists, but attacking the nation, shaking the fundamental notion of a nation-state.” Furthermore, the Indonesian Army (TNI) organized paramilitary and civilian groups to participate in the anti-communist campaign. In addition, many Indonesians who had refused to participate in the violence were labeled as PKI sympathizers and became victims as well, drawing many ordinary Indonesians into the conflict and making analysis of the incident difficult. While the conflict was certainly hierarchical, with the military not only instigating the violence but also ordering paramilitary groups and civilians to eradicate the communist threat; it also contained horizontal violence, with many civilians participating in the violence, be it willingly or not. Another problem is that during the New Order, many

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129 Birks, Teresa (July 2006, p.1)
130 ELSAM Interview Database
132 Farid (2005, p.8)
of those branded enemies of the state had nothing to do with either the coup or the PKI. They are known as the ‘1965 victims.’

Prior to the New Order, the PKI was gaining in popularity because of their land reform campaign, as well as their call for social justice, equity, and a welfare state. Since the PKI platform coincided with some of Sukarno’s policies, the PKI vigorously competed with the military for power. When the anti-communist campaign broke out, many landowners and members of religious groups collaborated with the army and later enjoyed the prestige of having saved Indonesia from the communist threat; in fact, some rose to become journalists, leading scholars, and respected public figures.

5.4: September 30 Movement and the Formation of the Authoritarian Nation-State

The coup d’état was named the ‘September 30 Movement/PKI.’ During the New Order, the coup played a pivotal role in the consolidation of the authoritarian regime. Birks notes:

Soeharto [Suharto] persecuted the 1965 victims in an effort to obtain and maintain power. Anti-subversive rhetoric was used in order to ensure military involvement in almost all aspects of public life. Such military ubiquity provides both Suharto and the military with the means to eliminate any form of opposition, including ‘separatists,’ ‘subversives,’ and ‘deviants.’ Thus the labeling, stigmatization, and alienation of so-called

133 Birks (p.10)
134 McGregor, Katherine (March 2002, p.213)
communist sympathizers was an important element [sic] of Soeharto’s strategy to wrest and maintain control of power.136

The nation was told that Suharto had saved the country from the communist threat and restored order. The ‘September 30 Movement/PM’ was the source of political legitimacy and the justification behind later violence inflicted against civilians, any opponents to the state being considered communist sympathizers to be eliminated.

5.5: Authoritarian Regime and Authoritarian Historiography

The New Order was also the beginning of the authoritarian nationalist historiography. During the New Order, the official history was produced by the Armed Forces History Center under Nugroho Notosusanto,137 the chief architect of the New Order History Project and, in the early 1980s, the Minister of Education.138 Indonesian history textbooks described the 1965-1966 Massacre as a clash between civilians in the wake of the coup d’état by the PKI halted by the successful military intervention and the restoration of the order under Suharto.139 Nordholt points out that the main theme of the Indonesian authoritarian historiography is that “guided unity’ leads to prosperity whereas disunity results in chaos and decay,” 140 thereby legitimizing all the military operations as serving the interests of

136 Birks (p.19)
137 Katharine E. McGregor’s History in Uniform: Military Ideology and the Construction of Indonesia’s Past discusses Notosusanto’s background in a detail.
138 McGregor (p.215)
139 Farid (p.5)
140 Nordholt (p.10)
the community. Nordholt notes that “the dream of Suharto’s New Order was to arrive at the ‘end of history’ by establishing an order, which was characterized by the absence of disturbing events.” Official Indonesian history says that since the communists alone were responsible for the national chaos, all elements of the political Left had to be eliminated from the Indonesian society. Hence, the legitimacy of Suharto’s authoritarian regime was depending upon the ‘September 30 Movement/PM,’ rather than the glorious collective memory of the independence.

The official representation of the September 30 Movement/PM has been repeated and embedded in Indonesian society through state-propaganda and history textbooks. The government reproduced the scene of the kidnapped generals being tortured by communists at Lubang Buaya, where the bodies of the kidnapped six generals were found. Indonesian students have been taken to the site to remember the horror of the communists. The government also showed Indonesian students the state-made film “The Treachery of the 30 September Movement” at school. The film depicts the danger of the communists and glorifies Suharto and the Indonesian Army. For three decades, millions of Indonesia students have learned this official narrative as the sole historical truth. By manipulating anti-communist rhetoric and identifying military operations as national interests, Suharto and the Indonesian Army consolidated its authoritarian regime. In this process of the

141 Nordholt (p.10)
142 Zuburchen, Mary S (July/August 2002, p. 566)
143 During the New Order, there had been only one history textbooks to be used in schools. This is further discussed in the following.
construction of the authoritarian regime, the nation’s moral judgment had been eroded by the fear and a false historical representation that justified the violence and the discrimination incurred against the 1965 victims.

5.6: Eruption of Contesting Memory

The credibility of the New Order’s history was drastically undermined, however, by the Asian Financial Crisis. While the ‘September 30 Movement/PKI’ played the pivotal role in the *raison d'etre* of Suharto’s regime, the New Order’s legitimacy had been also depended on Indonesia’s economic development, which officials claimed was the result of national stability maintained by the military. While the economic crisis began to batter the country, Indonesians no longer believed in the historical narratives of social order. As unemployment rates soared, people witnessed the state’s inability to weather the financial crisis, a crisis that exposed economic mismanagement, rampant corruption, and widespread nepotism. Consequently, by the time of the collapse of the New Order, average Indonesians had lost their sense of national identity. Damien Kingsbury and Harry Aveling note:

Appeal to history and the struggle against the Dutch no longer act as a national bond. The promise of ‘development’ has been patchy for many, not to mention undercut by the economic collapse which can be attributed in very large part to the greed of [the] country’s elite generally and [of] one president

145 Nordholt (p.11)
in particular. All of this has raised questions about what some refer to as the ‘Indonesian Project’: that is, the making of Indonesia as a state from a previously disparate colonial empire (3).146

Nordholt described Indonesians in the post-Suharto period as “people without history.”147 To compensate for the loss of the national identity, many Indonesians, especially those in the hinterland, began to seek other sources of sense of community, namely in religion and ethnicity.148

5.7: Emergence of Ethnic-Nationalist Historiography in Post-Suharto Indonesia

One new phenomenon in the years since Suharto’s resignation is “the emergence of ethno-nationalist discourse in various regions,”149 the result of increasing ethnic consciousness in Indonesia’s outlying regions and a decentralization policy in 2000, which gave a greater authority and power to the local elites. New, regional leaders emerged and began to reveal the unofficial past still remembered by the local population in order to found their own legitimacy vis-à-vis the central government in Jakarta. Their intention was to pressure the central government so as to obtain more resources for a more favorable decentralization policy. As memories suppressed under the New Order resurfaced, ethnic consciousness grew and roused separatist movements to action in Maluk, in North

146 Kingsbury and Aveling (2003, p.3)
147 Nordholt (p.11)
148 McVey, Ruth (2003, p.23)
149 Klinken, Gerry van (2001, p.337)
Sulawesi, in West Sumatra, in Riau, in Flores, throughout the archipelago.\textsuperscript{150} It also triggered horizontal conflicts between religious and ethnic groups in Kalimantan, Central Sulawesi, and Ambon. And with the independence of East Timor in 1999, independent movements in Aceh and West Papua found renewed momentum.

The emergence of ethno-nationalist history began to challenge the official historical narratives ‘made in Jakarta’ and caused friction between them. In the end however, the ethno-nationalist historiography is essentially the same as the nationalist historiography: both narratives reminisce about a glorious past, denounce a dark present, and promise a brighter future reached through struggle against the oppressor\textsuperscript{151}; both are propagandistic, being written by elites with political interests; and neither is particularly interested in historical accuracy. Similarities aside, they remain incompatible narratives because the legitimacy of the regional ethno-nationalist historiography relies on its “noble history of autonomy prior to the birth of the Indonesian Republic,”\textsuperscript{152} while the official history emphasizes guided national unity after independence. The clash between regional memory and official history were underlined and diffused through the mass media. Indonesian students became suspicious of the historical representation in school textbooks and began to challenge their teachers to clarify the historical truth. A call to rectify a distorted history was heard throughout the country.

\textsuperscript{150} Klinken (p.336)
\textsuperscript{151} Ibid (p.337)
\textsuperscript{152} Ibid (p.337)
5.8: Dealing with Contesting Narratives

Responding to public outcry, the Ministry of Education under Habibi initiated a review of history textbooks and curriculum in October 1998. A year later, the Ministry of Education issued a new guide for teachers “to cope with the discrepancy between official and media accounts of history.” The legacy of the New Order was revised considerably: military intervention in East Timor was no longer seen as an act of “necessary integration” nor was Suharto still cast in a heroic light in history textbooks, which instead now ran twenty-five pages of reformasi (the democratization movement) outlining the causes of the financial crisis—corruption, collusion, and nepotism under Suharto. Suharto had, in fact, been discarded, precisely because contesting historiographies disputed his role in contemporary history. Even so, the role of the military remained untarnished and the September 30/PKI narrative remained unchanged. Still more striking, a persistent silence reigned on the subject of killings and of their true scale.

In the meantime, a number of publications on the 1965-1966 Massacre have come out through NGOs in the post-Suharto period. As well, a new multi-dimensional historiography, from the so-called ‘Sartono school,’ has had its voice heard in the public sphere. Hence, some intellectuals expect that Indonesia’s

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153 Klinken (P.330)
154 Nordholt (p.12)
155 Ibid (p.13)
156 Sartono Kartojirdio is widely recognized as a pioneer for such the historiography that interprets the evolution of the Indonesia history as the outcome of the interaction among political, economic,
democratization will liberalize the orthodox nationalist historiography into more comprehensive, social-sciences approach, and give a clear historical explanation of the New Order. However, Rommel Curaming sees such a view as too optimistic:

Looking over the whole terrain of Indonesian history, trying to identify what kind of historical information circulates and is actually consumed by the general public, we may be surprised that the supposedly dominant Sartono school finds little expression in either academic books and textbooks, or popular media such as newspapers and magazines, all convenient indicators of people’s historical consciousness.\(^{157}\)

Nordholt argues that the twisted official historical narratives and biased historiography can be repaired “only when the victims of the New Order are brought back into the national history.”\(^{158}\) However, as the ‘revised’ history textbooks in the post-Suharto period demonstrate, authoritarian nationalist historiography is by no means dead in Indonesia, it has only abandoned Suharto, without disclaiming the statist ideology inherited from the previous regime.\(^{159}\)

5.9: Political Challenges to Indonesia’s Transitional Justice

What can account the resistance against any revision of the events of September 30, 1965? The military’s refusal alone cannot explain it. On March 14,

cultural, social and religious factors. Asivi Warman Adam called it “Second Wave” which was followed by de-colonizing wave, the current one, and anticipated being followed by the ‘third wave’ which is the proliferation of the different version of history, including the testimony of the victims during the New Order.

\(^{157}\) Curaming (March 2003, p.3)  
\(^{158}\) Nordholt (p.8)  
\(^{159}\) Klinken (p.327)
2000, Abdurrahman Wahid apologized on the national television on behalf of the government for all gross violations of human rights committed against the 1965 victims. Wahid also offered a repeal of MPRS Resolution No. XXV/1966, under which the PKI and Marxist-Leninist ideology were outlawed. Wahid’s administration also started drafting legislation for a truth commission in order to investigate state crimes during the New Order, including the 1965-1966 Massacre. All of Wahid’s attempts were blocked, however, by both the MPR (People’s Consulative Assembly) and the DPR (People’s Assembly of Indonesia). Vedi R. Hadiz argued that the fall of Suharto did not mean the political defeat of the old elites or an unraveling of the complex web of interests strung together by the various actors behind the New Order. Resistance against historical clarification of the 1965-1966 Massacre comes from this political reality. Hadiz notes:

Elements of this coalition [of interests] have merely reinvented themselves as ‘reformers’ and ‘democrats’ through new political vehicles and social alliances. Thus repositioned, today they dominate the working of Indonesia’s institutions of democracy. Essentially, whole generations of politicians, bureaucrats, generals, businessmen, activists and even artists, still ‘need’ to cling to at least [a] major part of the official New Order narrative of history that states that the military and its allies came to save the nation from a fiendish communist plot that began with the murder of the generals... Without the narrative, these would be nothing to validate either the power of the relatively privileged position many of them enjoy.

Whitehead defined political transition as “the shift from a non-democratic regime type to a democratic one, not merely a change of government or a process of

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160 Birks (p.20)
161 Hadiz (2006, p.556)
liberalization within an authoritarian regime.” The unchanged historical representation of September 30/PKI, as well as the authoritarian historiography, symbolize the old regime's persistence in Indonesia today. It was not only the military who rejected Wahid's efforts to reconcile with the 1965 victims, but also the majority of the political elites of newly ‘democratized’ Indonesia. Unlike South Africa or other transitional-justice countries in Latin America, power was never transferred between victims and perpetrators, or between the old elites and the new leadership. Consequently, today's elites in Indonesia still cling to the distorted narrative that surrounds the 1965-1966 massacre in order to preserve their legitimacy, even though human rights, citizenship, and the rule of law have been devastated by that very narrative. As a result, institutionalized discrimination against the 1965 victims and their families still exist in Indonesia. For instance, Government Regulation PP No.6/1976 barred the 1965 victims from entering civilian and military service, and is still in effect. As well, former political prisoners are banned for life from obtaining an identity card, while all other Indonesians naturally have one.

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162 Whitehead (1998, p.11)
163 This problem is not only the former political prisoners, but also for Chinese-Indonesians. Ethnic Chinese Indonesians have to go through complicated processes and pay a way more than other Indonesians to obtain ID card. Wahid attempted to life such the legal restriction against the ethnic Chinese Indonesians, but once again, he faced strong criticism and opposition from the society and Parliament.

164 Birks (p.25-27)
5.10: Representation of the 1965 Victims in Popular Culture

Even though the official representation of the September 30/ PKI remains unchanged, and discriminatory laws against the 1965 victims are still in effect, survivors endeavor to show the other side of the history. A documentary, *Menyemai Terang dalam Kelam* (‘Sewing a Light Within the Darkness’), opens with a group of elementary schoolchildren taking notes as a guide takes them around the Lubang Buaya monument commemorating the murder of the seven army officers murdered on 30 September 1965. As previously mentioned, this monument has represented the September 30 Movement as a failed coup carried out by the PKI. The camera shifts from those schoolchildren and the guide to a white-haired man standing and staring at them. The man is Putu Oka, a well-known Balinese poet, writer, acupuncturist, and ex-political prisoner accused of being a communist in 1966. Putu Oka narrates, presenting personal accounts of the survivors of the 1965-1966 Massacre and of their families’ members. None of the victims express anger or demand reparations or apology, but instead make pleas for reconciliation. In *The Jakarta Post*, the reviewer states that the survivors “show consistently that what they have is an open wound, rather than a grudge, and that the wound must heal.”\(^{165}\) The survivors in the film state that they are no longer angry and that they long only for reconciliation and a return to the community.

\(^{165}\) Rahman, Lisabona (April 23, 2006 *Jakarta Post*)
One scene involved the testimony of a son whose father, a 1965 victim, was killed by a soldier. Years after the death, the son met the killer, now a high-ranking military officer near retirement. Although the son had taken measures to conceal his identity, the soldier recognized him as the son of the man he had killed. The officer quietly approached him and asked for forgiveness, telling the son that, though at that time he did not think that he had done wrong, he later came to blame himself for what he done. The son, though still hurting at the loss of his father, expressed his forgiveness. This testimony represents the possibility of individual reconciliation and touchingly portrays the humanity of both survivor and perpetrator. IGP Wiranegara, the filmmaker of the documentary told The Jakarta Post about the implications of his film:

I think most survivors like me don't want revenge against the New Order government. What we want is to make peace with the past and the kind of acceptance (recognition) that comes along with the correction of negative labels that were imposed on us [... We] cannot just accuse anybody, a state or military official, of being responsible for what happened. It was the system and situation that made them do what they did.166

Wiranegar identified the violence of 1965-1966 as institutional crimes, and he treats both survivors and perpetrators as the victims of a system.

Wiranegar answered ELSAM interview in summer 2007, in Jakarta.

Wiranegar's father had been arrested and jailed twice under false accusations of being a PKI member. I asked him if he had met angry victims. He responded that

166 Rahman (2006)
"I met about 40 victims in Jakarta and another 4 victims in Bali. Some were still very angry and some others were still very afraid of talking about the event. I told them that the objective of my project was to present their experiences without anger. I wanted to stay away from politics. I wanted to make a film peacefully." 167 During the interview, Wiranegara reiterated his desire to distance himself from politics. He also emphasized that his film was not political, but cultural. It seemed that, for him, ‘political’ meant angry, whereas ‘cultural’ implied an absence of hostility and a direct connection with the community. Wiranegara responded to ELSAM’s interviewer about his opinion on the TRC that “I don’t like politics[....] I don’t want to talk about politics[....] I want social reconciliation within the community, but not political reconciliation [...] no more anger. About the TRC, I don’t understand the idea of the TRC or what the main goal of it and how it goes [...] it seems to me political. We just want to tell the truth.” In the ending of the interview, he was asked if he would come forward to speak about his memory in the TRC. He promptly answered, “Yes, I will.”168

There is another documentary of the 1965-1966 Massacre, Perempuan yang tertuduh (The Suspected Women), produced by Putu Oka and Bachtiar Widhi, an Indonesian woman. This documentary is a collection of the testimonies of several female survivors. In the documentary, many of those women testified that they had no idea why they were labeled as PKI members and taken to jail. Some of them had

167 ELSAM Interview Database
168 Ibid
once lined up a socialist organization’s charity for a cup of rice, and were then accused of being communists and imprisoned for a decade. The female political prisoners and victims of the 1965-1966 Massacre have been represented as witches by the official narrative, in which a number of PKI women dance naked as the six generals are tortured and murdered. One of the female survivors made a remarkable statement in the film on the representation of the 1965 event:

I want Lubang Buaya to be destroyed [...] because these representations of the September 30 Movement have repeated and embedded the distorted history from generation to generation [...] One day, my son asked me if I knew about the PKI witches. I said that it was false. There was no such [thing as a] PKI witch. [...] My son didn’t believe me because it was school who taught him the history [...] 169

Since these distorted representations had been diffused by teachers in schools, public institutions, the public acknowledged them as truth: the victims’ memories meant nothing.

5.11: The Historical View towards the 1965-1966 Incident Today

The younger generations still learn the same history at school. The author has some opportunity to talk to several Indonesian university students in ASEAN Logic 2007, an event in which about fifty college students from all ASEAN countries gathered in Jakarta to discuss global issues, such as poverty, environment

169 Documentary of Perempuan yang tertuduh (The Suspected Women), produced by Putu Oka and Bachtiar Widhi
destruction, HIV/AIDS, development, and identity issues. All Indonesian participants were from top universities and spoke fluent English. Their presentations were impressive. Some of them openly criticized the government’s decentralization policy, which deepened the economic rift between urban and rural areas. Other students discussed the conflicts in the hinterland and called for pluralism as a new Indonesian identity. Those young Indonesian students asked me what research I was doing in Indonesia. I told them that I was doing research on the TRC and the 1965 victims. They paused for a moment, then asked, “Are you doing research on the communists?” Some students explained to me that the communists were the threat to society at that time, repeating the same textbook narratives. Surprisingly, the students showed great sympathy for the victims of poverty and horizontal conflicts in the hinterland; but when it came to the 1965 victims, they rejected to show any remorse for the ‘communists.’ At the end of the conference, I asked them what they would like to be in the future. Those brilliant Indonesian students answered that they would like to work in the government or in international organizations to make their country more developed and more democratic.

5.12: Thinning Out of Group Identity

Dealing with the past is an ethical, essential issue in transitional-justice countries. Yet, it would be extremely difficult task wherever identity is bound up to
a particular collective memory, or one based on ethnicity and religion. Budiawan, an
Indonesian scholar, referring to the work of Carla Hesse and Robert Post, discusses
‘thick’ and ‘thin’ conceptions of identity. Thick identity refers to those who are
“embedded in particular cultures and the bearers of specific collective memories,”\textsuperscript{170}
whereas those who identify themselves with abstract universal principles are
bearers of thin identity. Budiawan notes:

\begin{quote}
Thinning out of group identities may therefore be crucial in transitional
moments, especially where conflicts have hardened along ethnic, racial or
religious and ideological lines... people ought to create public cultures that
are thin enough to make it possible for people to live with their differences
without resorting to violence. But we must also aspire to create shared
narratives and institutional structures that are thick enough to sustain
mutual civility and respect. The establishment of such a truth commission is
a must. Its primary task is not to find individual culpability, but rather
\textit{[denounce]} the system as a whole—\textit{the system that allowed past human
rights violations}.\textsuperscript{171}
\end{quote}

Budiawan adds, “It seems Indonesia is still not ready, and perhaps will never be
ready, to honestly reassess what happened on Sept. 30, 1965.”\textsuperscript{172}

In Indonesian society, the 1965 victims are still regarded as, at best,
rehabilitated political prisoners, if not still-dangerous PKI adherents. Public
acknowledgment of their experiences as victims is necessary for Indonesia to move
from transitional justice into democracy. Indonesians need to understand that
nobody can justify discrimination, or violence in the name of discrimination, for any
reason, including that of holding a different ideology. If Indonesia intends to re-

\textsuperscript{170} Budiawan (Sept 29, 2006 Jakarta Post)
\textsuperscript{171} Ibid
\textsuperscript{172} Ibid
establish a truth commission, it must de-politicize the collective memory, keep a consistent victim-centered orientation, and stand firmly against amnesty. As well, a future truth commission would have to consciously and conscientiously incorporate the victims' testimonies and historical analysis into new educational materials, especially when dealing with the 1965-1966 massacre. This would allow for public acknowledgment of past crimes and transform the public memory; moreover, it would give new generations the freedom to develop their historical consciousness and allow them to move towards democratic society.
CHAPTER VI
HISTORICAL CONSCIOUSNESS AND HISTORY EDUCATION

6.1: Collective Memory Beyond Time and Space

In post-conflict or undemocratic regimes, such as the former Yugoslavia, Rwanda, South Africa, and separatist regions of Indonesia, atrocities are still fresh in people's minds and they are reluctant to sift through an analytical, historical interpretation of events. The past continues to haunt them because, Ignatieff states, "these places are not living in a serial order of time, but in a simultaneous one, in which the past and present are a continuous, agglutinated mass of fantasies, distortions, myths and lies." Ignatieff recounts:

Reporters in the Balkan wars often reported that when they were told atrocity stories, they were occasionally uncertain whether these stories had occurred yesterday or in 1941 or in 1841 or in 1441. For the tellers of these stories, yesterday and today were the same. The crimes of the past live on in the present, crying out for retribution.

As discussed in the previous section, this is also the case in Indonesia, where the collective memory forged by particular elites has imposed itself on all other representations. When one legitimacy narrative is threatened by another, the elites benefiting from it will defend it by whatever means necessary, including violence. To break the cycle of manipulation of collective memory by distorted historical representation, the development of individual historical consciousness is necessary. But can truth commissions develop historical consciousness, and if so, how?

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173 Ignatieff (p.114).
174 Ibid (p.114)
6.2: Collective Memory vs. Historical Consciousness

The study of historical consciousness differs from the study of historiography and conventional historical research. The Center for the Study of Historical Consciousness in Canada explains the distinction:

The distinction can be seen in this way: when we study history (e.g., researching and writing about John A. Macdonald), we are looking at the past. When we study historical consciousness, we are studying how people look at the past: researching and writing about how various Canadians view John A. Macdonald today, for example, what he does, or does not, mean to them as a "founding father" from their standpoints in a multicultural, globalizing, regionalized, gender-conscious 21st century. The study of historical consciousness differs, as well, from historiography, which examines only how historians look at the past. Historical consciousness can thus be defined as individual and collective understandings of the past, the cognitive and cultural factors which shape those understandings, as well as the relations of historical understandings to those of the present and the future.¹⁷⁵

The definition above indicates that historical consciousness refers not only to ways of knowing the past but also allows people to become active agents, analyzing and interpreting implications of representations of both the past and the current events.

Roger I. Simon from the University of Toronto further implies an interaction between past and present. Simon defines historical consciousness as moral awareness that seeks an ethical response to the demands of the past.¹⁷⁶ Simon argues that we expect something from the various forms of representation of

¹⁷⁵ Center for the Study of Historical Consciousness is located within the department of educational studies in the University of British Columbia, Canada: [http://www.cshc.ubc.ca/about.php](http://www.cshc.ubc.ca/about.php).
memory, such as films, memoirs and testimony, “the realization that the transitive character of these texts and images demands of their readers a logic of accountability. They demand a reckoning [...] a non-indifference.” We can respond and demonstrate our sensitivity to injustice and our accountability to the past through the institutionalization of remembrance through memorialization, historical study, reparation, reconciliation, and apology. Simon argues:

In regard to the practice of fostering such a public memory, our responsibility would be not only to support the inclusion of forgotten or unknown histories that pertain to our contemporary problems and relationships, but to help constitute public memory as a pedagogical space by making evident and supporting the critical exploration of the questions, uncertainties, ambiguities and failures that arise in the process of trying to be responsive to the testament that speaks to these forgotten or unknown histories.

Simon’s argument of making the public memory a pedagogical space suggests a way of practicing the memory of justice—and social and restorative truth—something which no truth commissions has ever been able to do. Simon claims that the establishment of public memory is the sign of an ethical response to a demand from the past and the product of historical consciousness, further delineating the distinction between collective memory and historical consciousness.

In essence, collective memory is, in his Alon Confino’s remark, “subjective experience of a social group that essentially sustains a relationship of power. It is

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177 Simon, Roger I (2004, p.186)
178 Ibid (p.186)
179 Ibid (p.198)
who wants whom to remember what and why.”

Collective memory is thus subjective and susceptible to political manipulation. On the other hand, historical consciousness is objective. It is the art of the evolution of knowledge and critical thinking. Peter Novick well-clarifies the difference between collective memory and historical consciousness:

Collective memory is crucial sense ahistorical. To understand something historically is to be aware of its complexity, to have sufficient detachment to see it from multiple perspectives, to accept the ambiguities, including moral ambiguities, of protagonists' motives and behavior. Collective memory simplifies: sees events from a single, committed perspective; is impatient with ambiguities of any kind; reduces events to mythic archetypes. Historical consciousness, by its nature, focuses on the historicity of events—that they took place then and not now, that they grew out of circumstances different from those that now obtain. Memory by contrast, has no sense of the passage of time, it denies the 'pastness' of its objects and insists on their continuing presence.

Collective memory has been often times the product of officially sanctioned historical narratives, which invent the idealized past and promised future within the boundary and consolidate the nation-state. And, history education has been the most important technology to transmit the official narratives and representation to the people and to shape the national identity.

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180 Cofino, Alon (Dec 1997, p.1393)
181 Novick, Peter (1999, p.3-4)
6.3: Paradigm Shift of History Education and the Holocaust Education

World War II and the Holocaust undermined the practice of cultivating allegiance through officially-sanctioned historical narratives, now discredited in Western European countries as a “paradigmatic case of nationalism.” Although nationalism rallied and spoke directly to nationals, unity was gained at the expense of an “other” said to be lurking without, or within. In the post-war period, many scholars studied the concept of “others,” a concept which justified the dehumanization of minority groups and contributed to the Holocaust and other genocides. Furthermore, as more and more people espouse human rights as the universal norm, the notion of nation-state as supreme political entity has come into question. As a result, the goal of history education has shifted from elevating the nation-state to developing individual moral awareness and creating a new concept of citizen: the “universalist,” a citizen who invokes human rights whenever threatened by an abuse of power, including abusive control over memory and history. The shift is well reflected by political movements and the increasing attention paid to studies of memory and historical consciousness since the 1980s. Laville points out that many of European and Atlantic countries began to seek appropriate responses to the collective demands from the victims and human rights organizations for the recognition of their suffering. Laville notes:

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182 Torpey, John (2004, p.247)
183 Ibid (p.247)
184 Laville, Christian (2004, p.170)
In recent years, we have seen a succession of such public declarations, in which western powers confess their past errors. The Vatican has apologized for the condition of women. Canada, for the suffering of its Japanese citizens during the second world war, Poland for its behavior toward the Jews, the western countries for their colonial pasts and so on.\footnote{Laville (p.170)}

Laville, using the work of Wieviorka, concludes “Memory has thus begun to quarrel and compete with history.”\footnote{Ibid (p.170)} While the politicians intend to keep peace at home or demonstrate their practice of democracy and humanitarian face by holding the public ritual of atonement, many historians, scholars and educators have begun to theorize an interrelation between history education and moral awareness.

6.4: Integration of the Historical Burden into a New Identity: The Case of West Germany

West Germany is a pioneer in reconciliation though history education, both in its relation with neighboring states as well as in its development of a constitutionalist identity, the desirable concept for new national identity in transitional-justice societies. Constitutionalism refers to a “set of universalist norms but enriched and strengthened by particular experiences and concerns.”\footnote{Ibid (p.286)}

In the late 1980s and the early 1990s, West German intellectuals debated whether constitutionalism could constitute a post-war national identity. It was the response

\footnote{Laville (p.170)}\footnote{Ibid (p.170)}\footnote{Muller, Jan-Wermer (2006, p.280)}\footnote{Ibid (p.286)}
to the so-called “historians’ dispute” of 1986-1989 between right-wing and left-wing historians over the way the Holocaust should be interpreted.\(^{188}\) The right-wing group interpreted Nazism as a crime committed by an evil elite, limited by some to the person of Hitler, and claimed not only that that most Germans had been victims but also that it was time to restore national pride. Left-wing historians interpreted the Holocaust as the accumulation of the German history and the rise of Nazism was an inevitable consequence. In this perspective, most Germans were in fact responsible for the rise of Nazi Germany and the crimes that ensued. Many West Germans recognized their responsibility to face up the past, but did not want to associate their national identity with Nazi crimes. The solution to their dilemma was to identify themselves with constitutional patriotism.

The term “constitutional patriotism” was coined by Jürgen Habermas during the historians’ dispute. Habermas defined the term as the rational collective identity in a post-transitional society.\(^ {189}\) According to Habermas, citizens in a post-transitional society can critically reflect on their particular tradition and collective identities, and even confront them if these are not associated with universal norms such as individual rights and liberties. In this sense, Muller argued, “identity become ‘de-centered’ as individuals relativize what they want and what others expect from them in the light of moral consciousness.”\(^ {190}\) The decentralized or

\(^{188}\) Muller (p.287)
\(^{189}\) Ibid (p.287)
\(^{190}\) Ibid (p.287)
thinned national identity would lead to the formation of a more abstract, inclusive, universalist identity. For the citizens of a post-transitional society, the ‘nation-state’ would be little more than the bare political framework needed to exercise democratic rights. A sense of attachment within the nation would be formed through a collective learning process in which the public would discuss their history and their interpretation of the past, rather than hold a fixed collective memory. In post-transitional society, memory is no longer monolithic nor an instrument of conventional nationalism. Rather, memory would be the subject of an open-ended public debate contested by various representations, such as monuments, films, and novels. By so doing, the public would preserve memory from oblivion and absorbs the many facets of historical interpretations into one’s historical consciousness.

The most significant experience in West Germany was its success in dealing with the past through history education. West-German history textbooks critically engaged the role nationalism played in the rise of Nazism, and they prioritized internationalist themes and universal principles over nationalism in post-war society. Hein and Selden discuss history education in post-war Germany:

West German leaders long ago decided that the key to Germany's future lay in full commitment to regional integration in the European Union. West Germany adopted an internationalist narrative appropriate to that strategy, one that appears in government statements, public discourse, and the content and the tone of textbooks. Germans have created a postwar narrative of a nation without enemies. They have done this not by concealing the history of Nazism and WWII, but precisely by publicizing, critically assessing, and
accepting responsibility for that history in order to make a clean break with the Nazi legacy.191

Through the learning process of dealing with the past, the West Germans have found their political morality and responsibility for dealing with past. Muller further argues the role of memory in the formation of West Germans’ universalist identity:

Memory would thus unfold a motivational power and supplement the universalist norms at the heart of constitutional patriotism. It would furnish the basis for a democratic consciousness, as democratic identity become inextricably bound up with a German Holocaust Identity as well as ongoing coming to terms with the past.192

West Germany’s case demonstrates that assuming the past is a prerequisite for universalist identity and constitutionalism. Learning the history behind atrocities makes citizens critical of attempts to manipulate collective memory and critical of any historical representations that try to downplay the extent of atrocities, or justify them. Critical thinking thus develops a historical consciousness that helps citizens to break with the past and identify themselves with universal principles. West Germany succeeded in forging a national identity based on the universal principles because leaders recognized the danger of a ‘thick nationalism’ that glorifies a particular group of people and dehumanizes the ‘other.’ When West Germans acknowledged the remembrance of the Nazi history as their responsibility, they could integrate that history into their new identity and commit themselves to universal principles so as not to allow such inhumanity happen again. For West

191 Hein, Laura and Mark Selden (2000, p.13)
192 Muller (p.290)
Germans, dealing with past did not mean creating a new nationalism, collective memory, or political compromise: they opted for an honest acknowledgment of their past and underlined the universality of human rights, liberty, rule of law, and democracy. This task, once undertaken, has to be carried out for generations to preserve the memories illustrating the consequences of the ethics of evil and a culture of denial, while highlighting the values of democracy and rule of law. Alternately, if officials should establish a transitional mechanism which discourages debate over the past, their intention would most likely be to arrive at a political compromise, and their plans would not culminate in the establishment of rule of law or democracy.

6.5: History Education and Truth Commissions

Jonathan Allen argues that education is one of the few institutions that can “introduce a new and challenging element into the public culture.” 193 In fact, schools are the only place where the knowledge of the past can be disseminated into ordinary people and younger generations, and actually “become concrete and relevant to non-elites.” 194 Likewise, Elizabeth A. Cole argues that “engaging schools as a part of the transitional justice process could expand the range of institutional

193 Allen (p.337)
194 Cole, Elizabeth ("Transitional Justice and Reform of History Education" 2007, p.120)
and individual actors involved in transitional justice.”195 Like truth commissions, history education does not directly contribute to retributive justice, but does have the potential to impact on the issue of confronting the legacies of an authoritarian regime. Truth commissions and history education can complement each other to serve the memory of justice. The revision of history textbooks to include the victims' own narratives and the testimonies rendered in truth commissions can help consolidate the official acknowledgment of the past, preserve memory from oblivion, and develop compassion. As well, Cole claims that “changes in history textbooks and curricula potentially function as a kind of secondary phase that reflects and embodies the state’s commitment and official gesture of acknowledgment, apology and repair.”196 Thus, the incorporation of the reports of truth commissions with a revision of history textbooks can reinforce the memory of justice and demonstrate the state’s commitment to dealing with the past and seeking transitional justice.

Some may argue that a reform of history education would be politically sensitive and that it would take generations to re-write narratives, but human-rights or peace education, usually initiated by international organizations (e.g. UNESCO) is common in post-conflict or transitional justice countries. Still, some case studies show that these concepts can be appreciated only when the population understands them in the relation to their own past, that is to say, when citizens realize that having been deprived of their rights was not in their best interests, but

195 Cole ("Transitional Justice and Reform of History Education" p.120)
196 Ibid (p.120)
rather in the interests of those in power. Without contextualizing these subjects by reflecting on their own history, the discourse would have little impact on the creation of a democratic culture.

6.5.1: The Case of Guatemala's Human Rights Education

Guatemala's peace education shows that imposing a particular discourse simplifies the value of those terms. Elizabeth Oglesby observed civic and peace education in Guatemala's privileged private high-schools, where pupils learn the origins of human rights (the Geneva Convention and peace accords in various countries). Oglesby found that while the students seemed to understand the concept behind human rights, they still remained ignorant to human rights violations in their own country because of state teaching methods. Consequently, students could not contextualize the universal principles they had learned: the principles floated adrift as abstract constructs.

Oglesby also points out that some international educational programs undermined the complexity of historical factors that led to violence. For instance, she expressed the concern that UNESCO's Culture of Peace program (a worldwide initiative which introduced the concepts of civil society, democracy, and human rights into Guatemalan textbooks) simplified the causes of violence:

197 Oglesby, Elizabeth (June 2004, p.22)
One of the core problems with the culture of peace curricula framework is that it gives the impression that the cause of conflict in Guatemala was this 'culture of violence,' a tautological interpretation that obscures more than it illuminates. While it might be argued that contemporary Guatemala has a violent culture, to posit this as the cause of the conflict ignores central issue such as how and why the armed movement began and how repressive practices evolved.198

‘Culture of peace’ cannot replace ‘culture of violence’ by simply inserting the language of human rights, democracy and the rule of law in textbooks. Knowledge in books has to be acquired and mastered by people through their own experiences. Learning the history in school is the way of acquiring and mastering these technical terms. Through history education, students can contextualize and appreciate the discourse of human rights, rule of law, and democracy. The reform of history education in transitional-justice countries is important because citizens, by reflecting on their past, can define democracy and human rights in the vernacular and conceive of them as important elements of everyday life. In fact, while the Guatemalan government appears reluctant to talk about past violence, a grassroots reform of history education has already begun since truth-commission reports were integrated into textbooks; and the reform has given some encouraging signs so far.

6.5.2: Transformation of Disadvantage into Strength: Guatemala’s Truth Commission

Guatemala’s truth commission, the *Comisión para el Esclarecimiento Histórico* (CEH), shows that a commission that began as an imperfect and

198 Oglesby (June 2004, p.28)
politically impotent entity can eventually produce a more comprehensive report than others. Guatemala’s truth commission was regarded as the weakest among the truth commissions in Latin America since it was not given a power for holding subpoena or public hearing, nor could it name perpetrators. Also, Guatemala’s truth commission was “proceeded by a blanket amnesty that offered immunity for all but the most serious human rights crime.”199 Nonetheless, in 1999, Guatemala’s truth commission published an exhaustive report that surpassed other commissions in depth and clarity. The CEH analyzed the effects of modernization (for example, the transformation of the country’s economy into capitalism) to explain the emergence of the authoritarian regime and state-organized violence.200 The CEH claims that, since the end of the nineteenth century, “the landed class (particularly coffee plantation owners) imposed its economic interest on state and society.”201 Those planters owned most of the land in Guatemala and relied, in collusion with the state, on cheap labour comprised mostly of Mayan Indians from the highlands.202 The state upheld unjust labor laws to “increase the economic subordination” 203 of Mayans and landless indigenous people. The CEH claims that this aggressive modernization policy was no more than a continuation of the legacies of Spanish

199 Oglesby (2007, p.179)
200 Grandin (p.59)
201 CHE, Memoria del silencio, 1: 81 (cited from Grandin p.59)
202 Grandin (p.59)CHE, 1: 81 (cited from Grandin p.59)
203 CHE, 1: 81 (cited from Grandin p.59)
colonial exploitation, racism against indigenous people, and the militarization of the
republican state of Guatemala. The CEH concluded:

State violence has been fundamentally aimed against the excluded, the poor,
and the Maya, as well as those who struggled in favor of a just and more
equitable society...Thus a vicious cycle was created in which social injustice
led to protest and subsequently to political instability to which there were
always only two responses: repression or military coups...[to deal with the
opposition against the state policy] the state increasingly resorted to terror in
order to maintain social control. Political violence was thus a direct
expression of structural violence.

In fact, one of the most significant elements in the CEH was its identification of
state-led violence against Mayans in the 1980s as genocide, a charge not covered by
Guatemala’s amnesty law.

What is remarkable about the CEH’s work is not only its comprehensive
historical analysis, but also its recommendation for the development of a curriculum
on “historical memory.” In response, many Guatemalan teachers began to
consider incorporating the CEH’s report into their curriculum, even though these
issues treated in the report had been taboo until a few years prior. This is a new
and risky attempt for Guatemalans, living in a country where the military is still
powerful and the past is still politically sensitive. Still, Oglesby notes:

A truth commission creates new arenas of struggle over how the reports will
be mediated and used and, in this case, over whose interpretation of the
report will be taught in school. A lesson for future truth commissions is that
these commissions should produce their own didactic guidelines. This won’t

204 Gradin (p.60)CEH, 5: 21-22(cited from Grandin p.60)
205 CEH, 5:21-22 (cited from Grandin p.60)
206 Oglesby (2007, p.179)
207 Ibid (p.183)
make the conflicts disappear, but it could help dissemination efforts remain true to the content of original reports.\textsuperscript{208}

There are a few factors that enabled the CEH to produce such the exhaustive and comprehensive report. Firstly, the CEH had closely worked with Catholic-Church centered human-rights projects and the Historical Analysis Group, composed of Guatemalan historians, anthropologists and sociologists. Secondly, since the CEH could not declare individual accountability, it had to focus on institutional responsibility, such as that of military intelligence. Thirdly, the CEH also received the support not only from victims’ groups but also from many dedicated grassroots organizations and communities. Their support helped the CEH draw up a list of recommendations for institutional reforms. Though in the end, the government ignored the recommendations, the civil organizations have used the report and the recommendations as a point of reference for their own projects.\textsuperscript{209} The impact of the revised curriculum that incorporated the CEH’s report cannot be assessed yet, since it is still in its early stages. Only in time will its effects be felt. Yet, it is fair to say that the CEH’s report indicates the possibility of transforming suppressed memory into a public memory through education even in unstable political circumstances.

\textsuperscript{208} Oglesby (June 2004, p.32)
\textsuperscript{209} Oglesby (2007, p.183)
6.5-3: Suggestions for Future Truth Commissions and Reforms of History Education

When truth commissions bestow official status on testimonies, the intent is not to replace one historical narrative with another: it is “[to establish] parameters within which future discussions can take place.”²¹⁰ In many post-authoritarian countries, a climate of fear still pervades, making speaking about the past a dangerous taboo subject. However, once past crimes become public knowledge officially acknowledged by a truth commission, neither the government nor the military can easily deny the historical facts in the report.²¹¹ Also, a published report makes it easier for educators to integrate the newly acknowledged past into textbooks to begin reform. Revised history textbooks should not showcase a completely new historical narrative, but should strive to be more “inclusive historical narratives, even potentially multiple narratives, to reflect more heterogeneous societies and the varied experience of their multiple communities.”²¹²

Much of the literature on truth commissions discusses investigation methodology or weighs the merits of truth commissions and retributive justice; little of it suggests how to institutionalize the report’s findings so that testimonies are not lost with the passing of time. Few people in post-authoritarian regimes will read the truth commission reports, which run hundreds of pages. The findings have to be

²¹⁰ Oglesby (2007, p.176)
²¹¹ Ibid (p.176)
²¹² Cole (Introduction in Teaching the Violent Past, 2007, p.21)
disseminated and discussed in larger circles, "beyond the original period of their activity and scope of influence," to develop moral awareness in the country.\textsuperscript{213}

Lastly, future truth commissions should collect not only testimonies of human rights abuses by the state but also the acts of solidarity, resistance, and rescue by citizens. In fact, survivors want to speak not only of suffering but also of survival and achievements. Joseph Nevins conducted interviews and did extensive research in East Timor. He says:

Almost everyone had a story or stories they wanted to share—tale of terror, atrocities, and death—but many more of bravery, human ingenuity and survival in the last days of the Indonesian occupation. Those stories were accounts of pain and pride, but were also efforts to ensure the remembrance of East Timorese' collective suffering and courage in a time of relative peace and freedom.\textsuperscript{214}

These people had gone through harrowing experiences; nonetheless, they maintained incredible strength, invaluable knowledge, and, most importantly, memory. What kept them alive was never merely luck, but a belief in the future: some survived out of a desperate desire to be reunited with their families; others, to keep the memory of the dead alive; others, to bring the perpetrators to justice. Their common belief was one of faith in humanity. Despite their horrible experiences, they still believed that someday their memories would be heard and efforts would

\textsuperscript{213} Cole ("Transitional Justice and the Reform of History Education" 2007 p.121)
\textsuperscript{214} Nevins, Joseph (2005, p.206)
be made to bring justice and to prevent such atrocities from taking place again.

These people are not only merely "victims," "survivors" or "refugees": they have a
great potential as agents in the democratization process of their country. If a truth
commission commits itself to preserving the memory of truth and analyzes the
testimonies to establish justice and moral awareness, who could say that truth
commission is a political compromise?
In transitional-justice countries, 'justice' has been perceived as a strictly legal term, something to be pursued uniquely through the judicial system. After war, conflict, or an oppressive regime, justice, when understood in these terms, was used to identify the individual accountability for injustice. Only a few decades ago, 'truth' and 'reconciliation' were not considered serious options when dealing with the past, and realist scholars still claim that such idealistic concepts are not widely shared. For realist scholars, truth commissions are a political compromise between the former regime and the new leadership: pursuing the truth means neglecting justice. On the other hand, liberal scholars assert that truth commissions are the product of the proliferation of universal human rights, which empowers civil society and victim's groups to demand truth and justice. Advocates of truth commissions believe that victims and perpetrators can find reconciliation by sharing the truth. Unfortunately, few case studies have investigated as to whether the concepts of 'truth' and 'reconciliation' have contributed to peace. As well, the abstract claim from the liberal scholars further gives these concepts a utopian tinge. The author questioned several experts on regime change and transitional justice about truth commissions, most answered that it had little effect on democratization. Yet, one of them attempted to clarify the author's question, "Do you mean if any of the truth commissions has resolved something? If so, my answer is 'no.'" It was the turning
point of this work. Truth and reconciliation commissions are unlike retributive justice in that the commissions are not mechanisms designed to achieve certain goals. It is common argument that truth commission can bring about official acknowledgment and restore the dignity of the victims. A survey of five truth commissions shows that survivors and the victims' family acknowledged the work of the truth commissions. Still, it is difficult to measure or define what official acknowledgment means unless political leaders demonstrate their remorse in a public ritual of atonement. And if they do, it is a matter of open debate as to whether the truth commission report convinced them to do so. Rather, this work believes that truth commissions can function as a catalyst that evokes different social reactions and human emotions from the justice system.

This paper seeks to find why past truth commissions appealed to divided societies and what lessons their experiences might hold for future truth commissions. It also questions if “justice” can be found by pursuing truth and documenting suppressed memories when done outside the judicial system or/and without the threat of retributive justice, and if so, how. This work focuses on implications in the interaction between two human acts and emotions: the unconditional will of the victims to give testimony on one hand, and the desire or the sense of responsibility of the audience and the perpetrators to listen and respond to their narratives on the other. Ultimately, this work intends to identify the merits particular to truth commissions and not present in retributive justice:
collecting testimonies, holding public hearings, clarifying the history of violence, and publicizing the findings.

In the first section, this work discusses two examples of direct interaction between victim and perpetrator: the confrontation between a torture victim and a former secret police agent in a South-African public hearing, and the encounter between Youk Chhang and his sister's murderer in Cambodia. Both cases demonstrate the difficulty in achieving reconciliation and justice or even sharing truth between the two parties. Instead, both cases suggest the possibility of changing relations between the victims and the perpetrators through direct interaction. In the public hearing in South Africa, the victim and the perpetrator never found reconciliation. They competed over the truth instead of reaching a compromise. As a result, both parties and the audience witnessed the multiple truths within an event. The victim never accepted the perpetrator's reasons for having tortured him, but found that the perpetrator had himself struggled to find out who he was: "I ask myself if I am human being or not too." Likewise, for Youk Chhang, it must have been a shock to meet his sister's killer; but the shock faded as Chhang discovered that the killer was an ordinary man, like millions of other Cambodians living in poverty. If the killer had been a fanatic or had in the meantime became rich and powerful, Chhang could have understood the reason how the man could have committed such a hideous crime. Only because Chhang was seeking truth did he discover this. Revenge against a particular individual no longer motivated him, since having discovered the truth had empowered him and
emancipated him from the past. By investigating the crimes of the Khmer Rouge and documenting the testimonies, Chhang has ensured that they will not be forgotten or denied.

Similarly, the work of Wiranegara and other Indonesian 1965 victims demonstrates the possibility of communication between the perpetrators and the victims. Wiranegara called it "cultural reconciliation," the restoring of human relations between not only the perpetrators and the victims but also both of them and their shared community. Unlike the South African case, Wiranegara's documentary on the 1965 victims betrays no latent hatred or desire for confrontation. Even so, viewers can feel the Indonesian film makers' commitment to be faithful to the memory of the 1965 victims. The testimonies were documented not to restore their sense of lost dignity or to identify perpetrators but to show the multiple, coexisting truths and thereby clarify a hitherto distorted collective memory. The act of pursuing truth and documenting memory is far from being a passive or weak activity: it is a sophisticated form of justice often practiced in the absence of an impartial judicial justice and without any official acknowledgment of suffering. Truth commissions and the work of both Chhang and Wiranegara remind us of Booth's statement, "the remembrance of truth is very act of justice [...] and essentially act of faithfulness to the victims." Booth calls it the "memory of justice," which preserves the memory of injustice from oblivion and serves to remind us of the gravity of justice. The raison d'être of truth commissions is in its institutionalization of the memory of justice. The question remains: How can truth
commissions institutionalize the memory of justice, how can we preserve the memory of injustice?

Past truth commissions have revealed factual and narrative truths, but none have gone further and to reveal social truth, multiple truths and the transformation of individual memory into public memory, or restorative truth, the way in which the public demonstrates their acknowledgment of the past and how they remember it. Social and restorative truths are parts the essence of the memory of justice. Social and restorative truths are beyond the time and place where perpetrators and victims interacted, and they require the development of historical consciousness on the part of the public. Roger I. Simon defines historical consciousness as a moral awareness that seeks an ethical response to the demands of the past. This paper also argues that historical consciousness liberates the audience from the endless chain of hostile, often paranoid historical narratives. We can respond and demonstrate our sensitivity to injustice and faithfulness to victims by institutionalizing the remembrance, through memorialization, reparation, historical study, and public debate over how the population should interpret and remember the past. Truth commissions initiate and legitimize the memory project in the transitional justice countries.

Dealing with the past does not mean simply identifying a handful of individuals accountable to retributive justice but also means showing the way towards a just, democratic society by documenting the antithesis of such a society,
that is to say, the authoritarian regime. Truth commissions analyze whose rights had been violated, and in whose interest, by documenting the suppressed memories of injustice. By so doing, truth commissions can reveal how the culture of denial and the ethics of evil had been embedded in the society. These two legacies of the former regime cannot be eradicated through the judicial reform only because the culture of denial and the ethics of evil have damaged the moral capacity of individuals to distinguish right from wrong. In Indonesia, after a decade of transitional justice, the discrimination against 1965 victims is still institutionalized by laws and legitimized by textbooks, historical representations (e.g. monuments and national holiday), and public discourse. As a result, young Indonesian college students do not feel sympathy for the 1965 victims, even though they recognize the value of pluralism and the call for coexistence among peoples of different ethnicities and creeds. Some of the students did not even know that the 1965 victims are still alive in the country, showing how deep-rooted the culture of denial and the ethics of evil still are in Indonesia. The root of these prejudices can be found in the distorted historical narratives regarding September 30 Movement/PKI. The collective memory of violence rejects its “pastness” and continues to haunt, inducing more violence and hostility, in Indonesia but also in the former Yugoslavia. Without historical consciousness, collective memory will do to define one’s identity.

Truth commissions can develop historical consciousness by clarifying historical events and incorporating historical analysis into public education and by integrating testimonies into revised textbooks. Historical consciousness helps
students enter historical events as subjects open to interpretation, where multiple causes are in play at any given moment. Learners can see history as a lived experience through the testimonies of survivors while exploring the variety of roles and interests of those who were involved in the event. Presenting survivors’ testimonies in revised history textbooks preserves the memory of the justice works against future injustice. It also teaches that the oppressive regimes are more than the work of an evil elite, but the product of a complex political, social, and economic conjuncture within being played out not only within but also outside of national borders. As well, students will learn that the regime’s legitimacy was founded not only by the violence and fear, but also on a blind obedience to authority. Through these lessons, students, and the wider public can develop moral awareness and responsibility for the past, realizing that they are making history at this moment and that they themselves may be judged in the future too.

Lastly, I leave you the phrase of the historian James E. Young:

By extension, the memorial uncanny might be regarded as that which is necessarily anti-redemptive. It is that memory of historical events which never domesticates such events, never makes us at home with them, never makes events unredeemable yet still memorable, unjustifiable yet still graspable in their causes and effects.\textsuperscript{215}

\textsuperscript{215} Young, James E (1993, P.147)
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