

# The Role of Truth in Strengthening Peace

Banda Aceh, 9-14 October 2017











# Background

Transitional justice is an approach to systematic or massive human rights violations that both provide redress to victims and create or enhance opportunities for transforming the political systems, conflict, and other conditions that may have been at the root of the abuses. As an element of the transitional justice framework, truth commissions have become common components of the post-conflict policy, with parties involved in negotiations and agreements related to peace processes.

Peace processes in Aceh, Mindanao, Thailand, Sri Lanka, and Nepal have established truth commissions and incorporated material support to victims to quell dissatisfaction and dissent. Truth and reconciliation commissions have also been established and completed in Timor-Leste (including a follow-up bilateral commission with Indonesia), South Korea, and Thailand. Innovative mechanisms and programs, such as a commission for good governance in the Philippines mandated to seek and retrieve Marcos' "ill-gotten wealth" for use as reparations, and the work of Indonesia's national human rights institutions show innovation in the face of adversity. Other truth commissions were promised for Indonesia (on a national level and as part of Papua's special autonomy), Sri Lanka, and other contexts. Meanwhile, Myanmar's national peace process remains fragile due to ongoing military interventions.

Sustainable peace requires more than agreements among leaders—it also requires institutions that are worthy of trust and that respect human rights. In turn, these institutions require the confidence of citizens who previously only had reason to distrust state authorities. Furthermore, it is essential for victims of conflict to have a strong voice and to examine the root causes of the violence. They have often turned to truth commissions that vary in scope but mingle around the same core mandate: to seek the truth about past abuses to recognise victims' dignity, uphold human rights, and contribute to social change.

Asia Justice and Rights (AJAR), together with the other members of the Transitional Justice Asia Network (TJAN)—KontraS Aceh or Commission for the Disappeared and Victims of Violence (Indonesia), ND-Burma or Network for Human Rights Documentation Burma (Myanmar), Suriya Women’s Development Centre (Sri Lanka), Alternative Law Groups (Philippines) and the CrCF or the Cross Cultural Foundation (Thailand)—convened a six-day workshop on “The Role of Truth in Strengthening Peace in Asia” from 9 to 14 October 2018. The additional contexts of South Korea and Timor-Leste were also included through the participation of the Transitional Justice Working Group (South Korea) and Centro Nacional Chega! (Timor-Leste). In the forum, workshop participants reflected upon the achievements and weaknesses of transitional justice approaches, particularly truth-seeking mechanisms in Asia, and strategised ways to strengthen current interventions.

Objectives of the workshop were to enhance the conceptual and technical competence of transitional justice advocates in Asia, review truth-seeking initiatives and peace processes in Asia, revisit the foundation of transitional justice that includes identifying key lessons, and address the future challenges of transitional justice in Asian contexts.

# Day 1



## Opening Remarks

AJAR's President, Patrick Burgess, opened the workshop by outlining a brief review of the previous TJAN meeting in Bali and expectations for the second workshop. He also provided contextual updates on transitional justice in Asia, including the Rohingya crisis, Duterte's policies in Marawi and other areas of the Philippines, and Thailand's military coup and governance. Positive developments of transitional justice in Asia were also mentioned, including establishing Timor-Leste's post-CAVR institution, Centro Nacional Chega! (CNC). Burgess noted the importance of and welcomed a discussion on human resources and transitional justice strategies in Asia.

The location of this workshop is also significant for transitional justice advocates in Asia. Aceh was a conflict area until the 2004 tsunami stimulated a peace agreement that included transitional justice elements and provisions

that established an autonomous region and a new court. It is hoped that lessons from Aceh will inspire other people looking for solutions in their own countries.

## Understanding the Aceh conflict

Faisal Hadi from KontraS Aceh introduced the Aceh context by reviewing Aceh's colonial history, followed by the events of 1945 when Aceh and Indonesia sought independence together. On 4 December 1976, Hasan Tiro formed the Free Aceh Movement (GAM) and declared Aceh's independence from Indonesia. GAM perceived Aceh to be suffering from economic discrimination and exploitation by outsiders. The Indonesian government (under Suharto) responded by enforcing military operations from 1976-1998, which resulted in mass human rights violations. The leaders of the movement left for other countries.

Subsequent peace dialogues and processes were implemented with mixed results. Aceh civil society organisations (CSOs) became involved in humanitarian action when the war stopped. Then, Indonesia's fifth president, Megawati, enacted martial law in Aceh in 2003. In 2004, Indonesia's sixth president, Yudhoyono, brought more opportunities for a peace process while simultaneously enacting peace processes in other parts of Indonesia, such as Ambon, where horizontal conflict had occurred.

When the tsunami hit Aceh in December 2004 with more than 150,000 casualties, an international spotlight shone on the destruction in Aceh and prompted massive humanitarian

relief efforts. This event also spurred the final peace process held between January and August 2005 in Helsinki, resulting in the signing of an MoU between the Indonesian government and GAM. The MoU mentioned the need for a truth and reconciliation commission and a human rights court. However, the human rights court stipulated by the MoU could only deal with future human rights violations.

Some provisions of this peace agreement were transformed into law in Indonesia. As for military trials of soldiers who participated in the massacre of civilians in Aceh, three military courts decided to transfer the perpetrators back to Java instead of issuing them prison sentences. There was also a government initiative to conduct an independent investigation into human rights violations in Aceh, but it failed due to a lack of political support. Eventually, in 2013, Komnas HAM conducted a pro justitia investigation into three well-known cases of human rights violations in Aceh.

Despite the shortcomings of the Aceh peace agreement, one of its key lessons is that peace agreements must not be separated from truth commissions. In Aceh, a TRC was established at the end of October 2016. Although state funding was limited, CSOs helped to support it in the beginning.



## Sharing Country Context

Participants shared updates about their countries, lessons learned and challenges faced in implementing transitional justice in their contexts.

### Myanmar

A UN fact-finding mission that had planned to come to Rakhine State would have been an opportunity for CSOs to raise human rights issues, but the Myanmar government refused the mission. Freedom of speech and access to information are lacking in Myanmar, even though these rights are written in law. The Myanmar government is not interested in the transitional justice issue. The government argues that transitional justice creates more problems and uses military propaganda to slow progress. Those in power also threaten transitional justice advocates.





## Thailand

Thailand's current situation has worsened since the military coup in 2014. The military is used to maintain "peace and order". Freedom of speech and expression is suppressed. If someone criticised the military coup, the military could use the law on defamation or the censor law to arrest the individual. The military used the death of Thailand's late king to play a significant role in the government. Elections had not been announced and tension continued in southern Thailand. The government has set up truth and reconciliation efforts, but they are arguably limited and disingenuous.

## Sri Lanka

It has been eight years since the war ended, and since then, Sri Lanka has been under the UN's scrutiny, particularly concerning human rights issues. During the post-conflict momentum for reforms, Sri Lanka has passed the missing persons law, conducted a transitional justice consultation, and engaged in talks on institutional reform. However, state-sponsored and community-driven intolerance remains a considerable problem in Sri Lanka. For instance, the government has detained Rohingya refugees.

There is a contradiction between the government's international stance and its approaches to the domestic situation. After the opportunity for constitutional reform was opened, some minority groups began to speak out but became vulnerable to further marginalisation because of their exposure. Women remain underrepresented in various governmental bodies. There is also a big issue regarding the lack of transparency in Sri Lanka because the victims and CSOs are not being consulted in various parts of the drafting of legislation regarding transitional justice.



## Philippines

Former President Marcos conducted martial law that was responded to by the “people power” movement. Martial law was lifted in 1981 on paper. Issues with the Communist Party, particularly in Mindanao, remain unfinished business to this day. After a series of negotiations, the Moro National Liberation Front and the Philippines government tried to reconcile in 1996, despite the formation of a splinter group called the Moro Islamic Liberation Front (MILF). President Benigno Aquino resumed negotiations, establishing the Transitional Justice and Reconciliation Commission (TJRC).

Addressing the history of martial law has been at the root of the transitional justice agenda in the Philippines. Transitional justice in the Philippines has not been comprehensive because the truth remains lacking. During the ousting of Marcos, people were not focused on holding perpetrators accountable because the atmosphere was jubilant, and most people were happy with the release of political prisoners.

Nevertheless, the Philippines has a claims board established in 2013 to identify and assist martial law victims. An online museum ([www.martiallaw.ph](http://www.martiallaw.ph)) has been established to empower martial law victims and a monument has been built to honour heroes who opposed martial law. Also, the Philippines Department of Education has reviewed school textbooks in response to a growing criticism that the school textbooks have contributed to historical revisionism by inaccurately interpreting and excluding the martial law period.

Challenges faced by the peace process include the emergence of new armed groups attempting to halt the implementation of the peace agreement and developing extremist ideologies, such as the Abu Sayyaf Group. Furthermore, martial law is back, something

unthinkable for many who lived through it for the first time. The war on drugs has also caused people to become desensitised and accepting of the government’s account of the war on drugs. Also, Marcos’ son ran for the vice presidency but lost by a small margin and has tried to return to the “glory days” of the first martial law. There is also an increased spread of fake news.

While the Philippines does not impose death penalties, there is a possibility that the country will reinstate the death penalty law. The concern is how to assess the impact of transitional justice if the death penalty law is re-imposed. Although the Philippines has ratified most international human rights mechanisms, it is still possible for the government to break from what it has ratified on paper.

## South Korea

After World War II, the Korean Peninsula was arbitrarily divided into two territories—North Korea and South Korea—that have been in tension ever since. The people in power in the past are still in power today.

Since the term “transitional justice” does not exist in the Korean language, transitional justice advocates in South Korea have had to choose a different term, such as unification. Most people associate the idea of the unification of South Korea and North Korea under one government as the final victory. However, there are both possibilities and problems concerning Korean unification. One of the challenges is that the “pursuit of unity could supersede the needs of victims and appropriate prosecution of human rights abuses”. Stevens also mentioned the “need to survey North Koreans themselves” about the transitional justice context, what they think about reparations, forgiveness, apology, trauma and truth-seeking.



It was often quite challenging to distinguish between mass gravesites resulting from extrajudicial killings and those resulting from famine. The mass graves are usually hidden in the mountains and it is hard to see them from satellite images. Whenever a mass grave in South Korea was found, it would spark historical debate and the meaning of the sites is still contested today. Transitional justice movement in the future would need to bring together experts in digital security, forensic research, technology, documentation and international law to help assist in court processes and truth and reconciliation efforts.

## Timor-Leste

Timor-Leste has had experience with the transitional justice mechanism; however, the results are still unsatisfying. In the beginning, Timorese leaders were very enthusiastic about the transitional justice possibilities, and the transitional UN government also played a significant role in supporting transitional justice processes. Some cases were filed in court, including the involvement of Indonesian high-ranking military Gen. Wiranto in human rights violations in the then East Timor. Timor-Leste's Reception, Truth and Reconciliation Commission (CAVR) and the bilateral Commission of Truth and Friendship (CTF) between the Indonesian and Timor-Leste governments following the CAVR report, *Chega!*, were also established.

The results were that nobody wanted to acknowledge their mistakes and take responsibility for massive human rights violations. People in Timor-Leste have been waiting 11 years to implement the recommendations made by the CAVR (Commission of Reception, Truth and Reconciliation). Another problem has to do with which victims are recognised to receive

reparations. Some argue that only ex-combatants are considered war victims and should be the only ones receiving reparations.

The establishment of Centro Nacional Chega! (CNC) brings new hope. The institution's mandates include preserving and developing past memories for the development of a more just society and assisting the government in implementing CAVR's and CTF's recommendations through programs implemented by relevant ministries.

## Indonesia

In Aceh, the current governor was re-elected. The Aceh TRC was inaugurated by the Governor of Aceh on 24 October 2016 and began operating in 2017. The Aceh TRC's presence is a milestone in rekindling the hope of justice for victims of conflict and human rights violations in Aceh. The Aceh TRC is expected to open spaces for truth, strengthen peace in Aceh, and contribute to Indonesia's human rights efforts. While some initial steps of the Aceh TRC have been achieved, it also faces various political and administrative challenges and also, to date, has not received much public attention. Civil society has accompanied the process from formulating the Qanun (Local Regulation) No. 17/ 2013 that established the Aceh TRC to its current implementation.

In the national context, for the last months, there has been a renewed glorification of sovereignty as defined by the military. The military also has a great ambition to maintain the power they have in their hands. At the same time, Indonesia's National Commission on Human Rights has not been a strong vehicle for securing justice for victims.



# Day 2

## Violent Extremism

Patrick Burgess presented similar violent extremism patterns emerging across the ASEAN region. Each country has groups that are different from or neglected by the majority. This pattern of neglect can also be seen in Aceh. As a result, minority groups become frustrated and take up arms to fight for their right to self-determination. Governments tend to overreact, using coercive measures to counter insurgencies. Both in the past and now, these patterns result in devastating impacts.

ISIS uses injustice as its justification narrative, and those in other countries, particularly young people, are attracted by the organisation. Young people, frustrated by a lack of justice in their own countries, become ripe for recruitment into ISIS. ISIS also uses other narratives such as Israel's occupation of Palestine and its persecution of Palestinians.

Two general strategies for how to respond to violent extremism. First, "we need to be looking at the likelihood to reduce their recruitment in the area [and] one of the elements is transitional justice." Second, "we need a simple analysis like supply and demand. If you are a victim of injustice and disempowered, ISIS gives narratives to fight back—that's the supply. The demand is the youth."

There is a range of reasons why young people consider joining ISIS. Many of them are poor and looking for money. The youth may seek a sense of identity while isolated and vulnerable, and driven to be part of a group. Some of them may also seek an ideology or meaning that ISIS offers. Essentially, we need to examine the root causes of violent extremism. The tools that should be a part of responding to violent extremism are often linked with transitional justice.

## — Truth-seeking in Aceh (Indonesia), the Philippines and Thailand

For his session on Aceh, Munawar Liza, a former peace negotiator from Aceh Movement, shared how the peace negotiations started with challenges such as the lack of knowledge about human rights. When the drafting of the MoU started, it was not conducted face-to-face. Instead, it was conducted through proxy meetings, and the draft was passed back and forth between the parties. In Helsinki, the meeting was changed so that it was direct and face-to-face. After this change, the negotiation was successful because negotiators adopted the policy in which “nothing is agreed until everything is agreed”, or until both parties agreed on at least 95% of the draft MoU. However, Liza insisted that the agreement’s implementation is more important than the process of negotiating it.

With regards to a TRC, Aceh is still trying to strengthen the area of reconciliation and needs stronger tools and data for truth-seeking efforts. Many Acehnese still remember the

Indonesian military personnel who perpetrated human rights violations. When a TRC was proposed in Aceh, the Aceh government accepted the proposal, but a law was still needed to legislate it. The TRC is not seen as a major threat as it focuses on reconciliation, strengthening peace, and does not pursue the prosecution of military generals. However, most of the perpetrators have returned to Aceh to assume military positions in Aceh.

Regarding the relationship between religion and the free Aceh political movement, Liza warned, “Be careful with religion, we were not putting religion with the movement, we were not fighting in the name of religion, but for nationalism.”

In her presentation on the Philippines, Raissa Jajurie explained Bangsamoro Transition Commission made several points about the peace process there. As a whole, there has not been a provision to establish a truth



commission in the Philippines. The previous peace agreement was not connected to a truth and reconciliation commission that would have dealt with past human rights violations. However, the Philippines established an anti-corruption task force and continues to work on an agreement with the Communist Party. The Moro National Liberation Front (MNLF) was again reviewing a signed document for the Moro Islamic Liberation Front (MILF) negotiation, one of which is the Framework Agreement on the Bangsamoro.

Raissa also explained the nation's plan to create the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB). The mandate includes the investigation of serious violations, resolution of land disputes, challenging impunity, the promotion of healing, and the creation of a sub-commission on historical memory to listen to the testimony of victims, publish a report series, collect archives, and develop a database. The plan covers a comprehensive and multidimensional approach to transitional justice. Furthermore, "we do not just see the

outcome, but the process is also important." While there are many elements to making the peace process work, the essential element is sincerity. The MNLF must negotiate amid an ongoing war, so sincerity is essential.

In Thailand, after the military junta, the prime minister committed a second dialogue process. On 27 April 2016, the Thailand government declined to sign the Terms of Reference, and questioned Mara Patani. On 2 September 2016, the dialogue remained unofficial. In 2016, women's organisations established a working group to work for peace and to stop violence in public areas. A safety zone as agreed upon. In investigations of human rights violations where the military and police were the perpetrators, the Thai military apologised. The victim's family still brought the case to the court after the fact-finding mission finished its task. The challenge has been that we cannot find enough information to defy the government.



## Visit to KontraS Aceh's SEHAMA (human rights school)

In this session, six TJAN experts from various countries shared their experiences, challenges, and lessons learned when they visited the human rights school that KontraS Aceh coordinated. The Aceh participants were students from different Aceh universities who were taking a special course at KontraS Aceh's Human Rights School. Each expert shared how

youth in their countries have contributed to human rights advocacy and the transitional justice movement.

# Day 3



Participants delved deeper into issues of truth-seeking, including the connection between memory, memorialisation and truth-telling, victims' participation and witness protection in truth-seeking processes, recording narratives and documentation, and the intersection between truth-seeking and gender justice.





## Memory and Truth-Telling: Sri Lanka, Indonesia and Philippines

### Sri Lanka

The Suriya Women's Development Centre highlighted the complexity and multiplicity of truths within truth-telling processes. After the civil war ended, many former women militants returned home to face another set of challenges. Some women returned with severe physical wounds and disabilities, only to find restricted access to health services. Beyond physical challenges, women also face the emotional consequences of war. Many had to return to their families who had given them up to militant groups in the past, and child recruitment is seen as an open secret among communities. If women spoke out about it, they would be seen as suing their own relatives. Furthermore, the stigma around sexual violence continues to haunt and silence women. Women's stories and truth are often not accepted, even by their own families.

In light of these challenges, the Suriya Women's Development Centre has created a space for women from different ethnic groups to build trust and share their truths. When the women gathered, they had to learn how to listen to each other's truths, even if they contradicted their own truths. For instance, land has been a sensitive issue for all ethnic groups. Some Muslim lands have been taken over by Tamil militants and are now inhabited by Tamil

civilians. Similarly, some Tamil families have had to sell their lands to Muslim communities for a very low price. When some Muslim women shared their experiences of being forced out by Tamil militants, some Tamil women who participated in the meeting became defensive and angry. Thus, these informal spaces of truth-telling are teaching women not only to share their truths but also to listen to other people's truths. In addition, the centre has also set up memory gardens for each ethnic group to plant a tree to remember their loved ones and has worked with artists to facilitate healing using the imagery of trees and plants.

### Aceh, Indonesia

KontraS Aceh recounted collecting the memories of victims following decades of civil war. KontraS Aceh's primary strategy is to consolidate victims' communities that are scattered throughout the 23 districts of Aceh Province. KontraS Aceh continues to work on the internal consolidation of the communities and to build their engagement with the government and CSOs.

Specifically, KontraS Aceh has promoted public hearings and memorialisation events at the

community level. Prior to the establishment of the Aceh TRC, KontraS Aceh held a community public hearing on 3 May 2010 to share about a mass shooting by the Indonesian military at the Simpang KKA, a junction near a factory in Lhokseumawe, Aceh. Together with other civil societies in Aceh, KontraS Aceh also successfully established three monuments, two of which are dedicated to the memory of the Simpang KKA incident. The government even allocated a budget to construct one of these two monuments. Although it did not fund the second monument, it inaugurated it. A significant element of the second monument was that it listed the names of perpetrators of the Simpang KKA incident, namely army personnel. When the monument was unveiled, the army personnel came and were shocked that their names were written down on the monument. Another challenge is that KontraS Aceh could only memorialise victims who died during the incident. However, they could not memorialise victims of torture because the victims do not feel safe enough to have their names on the monument.

KontraS Aceh has learned several lessons from its memorialisation experiences. First, memorialisation should not only be owned by victims' communities and CSOs, but also by the government. Unfortunately, not all district governments care enough about memorialising locations of human rights violations. Second, KontraS Aceh realises that victims need trauma support, as these community efforts could not run properly if victims are too traumatised or distressed to take part in the memorialisation efforts. Third, the Aceh transitional justice community needs to figure out how to involve Islamic clerics and Aceh cultural leaders, as some of them think that while the rights of victims are important to consider, tending to them can be done without truth-seeking efforts.

## Philippines

Around 45 years ago, President Marcos implemented martial law with a justification that the government needed to quell violence by the Communists. Similar to what is happening in other countries and regions, the younger generation in the Philippines is also not well informed about past human rights violations, in this case, related to the martial law era of 1972. Martial law mainly affected the Bangsamoro region, which saw more torture incidents than any other region in the Philippines. Historical revisionism is so popular that "those who are responsible for human rights violations are even considered heroes". Some of these perpetrators have even returned to politics.

Following the martial law period that ended in 1981, transitional justice has been implemented with mixed results. There was no recognition and public apology for the mass human rights violations by the state during the martial law period. The military would not admit guilt, claiming they were simply following orders. While Marcos's clan did not acknowledge taking citizens' wealth, their wealth was confiscated, and part of it was distributed to the victims. However, reparations were also done in exchange for immunity—those who returned ill-gotten wealth were not charged in court. Perhaps the most significant stride the Philippines has made in advancing transitional justice has been in the area of reforms. Since 1972, various institutions have been established, including a new constitution, the Autonomous Region in Muslim Mindanao (ARMM) in the Bangsamoro, a national human rights commission, an ombudsman office, the implementation of international humanitarian law in the security sector, release of political prisoners, the Philippines Commission for Good Governance, regular elections post-Marcos, and martial law memorialisation monuments. All factors considered, the Philippines'



transitional justice initiatives neither had a substantial impact nor provided victims enough satisfaction. Often implemented as isolated measures, the efforts were not holistic and did not do enough to address the root causes of the human rights violations during the martial law era.

The Philippines was also going through another challenging period, including the war on drugs that had claimed more than 13,000 victims killed by police and vigilante groups and the government's war against extremist groups. The Philippines has also seen a return

to martial law in Mindanao and stalled peace negotiations and legislation on the Bangsamoro Basic Law. Current resistance efforts against President Duterte's extrajudicial killings have included public protests, a digital museum of martial law in the Philippines, and a report by the Transitional Justice and Reconciliation Commission that documents past human rights violations, the first report of its kind in the Philippines.



## **Victims' participation and witness protection in truth-seeking processes: Timor Leste, Thailand and Philippines**

An issue requiring attention is the role of victims and witnesses in truth-seeking processes and the efforts needed to protect them during and after their contribution to truth-seeking efforts.

### **Timor-Leste**

In Timor-Leste, the Reception, Truth and Reconciliation Commission (CAVR) successfully conducted truth-seeking efforts and reconciliation meetings between perpetrators and victims. These efforts were not possible without the participation of victims and witnesses in the truth-seeking process. There needs to be a distinction between seeking truth and seeking justification for what happened.

While the truth is a prerequisite for justice for victims, perpetrators have the right to have a fair trial too.

Several essential conditions are needed for victims and witnesses to participate in truth-seeking processes. First, there needs to be a guarantee of safety and security for victims and witnesses. Next, it is important to distinguish that the testimonies shared differ from those given in an interrogation or a research survey process. Third, statement takers need to

encourage a sense of trust on the part of the victims, even though this is not an easy process. Only when victims are ready is it possible to take their statements then—there is no use in forcing them to give their statements if they are not ready. In CAVR, staff spent a lot of time engaging and organising activities, including trauma healing, before they moved on to collecting statements.

Working with women victims of violence in a patriarchal society poses unique challenges for truth-seeking efforts. Women who spoke out about their experiences of rape are not seen as courageous but as disgraceful. There have been no awards for women who were enslaved as sexual victims to save their whole villages from being destroyed.

Regarding the process of the bilateral Indonesia–Timor-Leste Commission for Truth and Friendship (CTF), Timor-Leste had an MoU with Indonesia regarding protection for witnesses from Timor-Leste during their transport to Indonesia to make statements. While the Timor-Leste government fulfilled its part to protect the witnesses and their transportation from Timor-Leste to Jakarta for the CTF, the Indonesian side did not approve the transfer of those from Indonesia to Timor-Leste, as they felt they could not guarantee their safety. During the CTF hearings, women and men witnesses from Timor-Leste were intimidated and demeaned by the military personnel in the room. Similarly, at an ad hoc human rights court in Indonesia in 2003, witnesses were harassed with the tacit permission of the judge. Because of this, those who facilitate truth-seeking processes that involve both victims and perpetrators must ensure that victims are briefed before giving their statements and that they are accompanied by lawyers during the process.

Furthermore, after the CAVR and the CTF finished their work in 2008, their reports were just set aside, which caused frustration for

victims. Also, until now, there are no policies to provide reparation for victims, and Timorese society does not support women victims. Thus, in order to fill the gap in victims' assistance after Timor-Leste's truth commission, Chega! for Us (ACbit), a women's rights organisation, was established to prevent women victims from neglect. CSOs like ACbit and the Forum for Women's Communication (Fokupers) continue to collect and publish women's stories of past abuse—a small effort to acknowledge their suffering and heal their trauma as they wait for official redress and acknowledgement from the government.

That said, the Timor-Leste government has a few social programs that are helpful to victims. For instance, health services are free, including overseas medical services; housing assistance is given to those considered economically vulnerable, and single women parents are eligible for monthly subsidies they can use to pay for their children's tuition. Nevertheless, victims find it very hard to access these services, especially given the rampant corruption. CSOs have helped women victims to access these government services in what they call “alternative reparation” because there is still no acknowledgement or recognition for victims as human rights violations victims. Thus, while acknowledgement from the state is important and remains a long journey to achieve, civil society works to move the process along.

## Thailand

In Thailand's Deep South, an internal conflict that the government refers to as an insurgency problem has led to extrajudicial killings. These killings include the 2004 Tak Bai Massacre that left 98 people dead and the mosque bombing that resulted in 32 deaths. Since then, several truth-seeking efforts have been initiated to determine the military's role in these human




rights violations. However, many of these efforts were botched. The husband of a woman victim was shot after she collected claims made by victims' families against perpetrators. In another incident where a baby was arbitrarily shot, the truth-seeking committee was filled with police and military personnel who restricted the process. In the end, critical information was withheld from the report.

Truth-seeking processes have faced many challenges, particularly in Thailand's Deep South. First, victims often do not speak Thai. Second, truth-seeking processes are halted in exchange for compensation. This can be done partly because truth-seeking is not mandated by national law but only by local law. Because the military and the police are not on board with the truth-seeking efforts, they often do not send perpetrators to civilian courts. There have been challenges to obtain post-mortem inquiries. Often the truth-seeking commissions are weak, have no real power, and are filled with military personnel and local governors who favour protecting the military and police. Thus, truth committees are pressured to withhold forensic evidence and do not provide recommendations following their inquiries. Journalists and media staff are also intimidated, particularly those who share victims' accounts with the public. The ongoing conflict in Thailand's Deep South has also made it hard for truth commissions to function properly. Thus, truth commissions in Thailand are mainly cosmetic in nature.

## Philippines

Victims' participation and witness programs have been implemented to varying degrees in the Philippines after the Marcos regime. When the human rights commission was established in 1987, the commission could look into human rights abuses with or without victims' participation. Two human rights cases related to the Marcos regime, a civil suit and a class suit, were filed in the US. In the end, Marcos was found civilly liable, including liable for his estate. Former President Aquino passed the Human Rights Victims' Recognition and Repatriation Act in 2013, which called for reparation and the recognition of victims of human rights violations perpetrated by the state. The Human Rights Victims' Claims Board was set up in which 10 billion Philippine pesos were set aside for victims from Marcos' ill-gotten wealth that is stored in his Swiss accounts. So far, the asset recovery program has recovered 7 million pesos and divulged information about five Swiss accounts. Another 93 billion pesos were set aside for coconut farmers, who were taxed during the Marcos's regime and whose money went to Marcos's personal bank and corporations. The Presidential Commission on Good Government was set in 1986 to oversee reparations for victims.

Several lessons can be learned from the Philippines' witness protection program. First, records must be confidential. Second, there are benefits for those who choose to participate in the country's witness protection program, including security protection, housing allowances, burial services, free education, and a guarantee of non-removal from work.



## Narratives and Documentation: South Korea, Myanmar, Indonesia

### South Korea

Around 30,000 people from North Korea have defected to South Korea, and about 5,000 of the 30,000 have gone to other countries. During three years of research, the Transitional Justice Working Group (TJWG) has located killing sites in North Korea based on 333 interviews. Their project seeks to secure evidence of human rights violations, identify and help victims, strengthen human rights and the current momentum to seek truth, as well as work with experts from different fields to investigate human rights abuses in North Korea. They are also working to secure data so that the North Korean government cannot damage the evidence that has been collected.

Several lessons can be gleaned from TJWG's work. First, by mapping the locations of the killing sites in North Korea, the group is able to draw patterns of killings by the North Korean government. Secondly, TJWG surveys North Korean defectors to know what they need. Thirdly, drawing a lesson from the International Criminal Tribunal of Yugoslavia (ICTY), it is not advisable to conduct any statistical analysis before collecting all the data. One should record everything and sort the data to assist in analysis later. Finally, it is important to maintain independence from the South Korean government.

When collecting victims' statements, a few things should also be noted. First, collecting many statements to look for interactions and patterns of abuse is more important than getting a single in-depth story. It is also important to keep victims' contact information. If a group changes its research direction, it may need to return to victims for more information or informed consent from them again.

### Myanmar

Nearly 70 years of civil war in Myanmar have been marked by human rights violations such as torture, killings, enforced disappearances, sexual assault, forced displacement and illegal confiscation of land. Many of the cases are tied to the Burmese military. Findings by ND-Burma also show that human rights and student activists who spoke out against human rights abuses perpetrated by the military and the state were often charged under Myanmar's defamation law. ND-Burma has developed a network of partnerships with groups across Myanmar's ethnic states. Before conducting human rights documentation in these areas of Myanmar (such as Kachin State, Shan State, and the eastern and southern parts of



Myanmar), the organisation trains people on how to conduct human rights documentation and collect evidence. After the documentation process, the information is collected into an encrypted and backed-up database to ensure data security.

Afterwards, data analysis is conducted, including finding patterns and learning about the nature of the human rights violations, including the identity of the targeted victims. ND-Burma releases a report every six months and regularly publishes short papers and thematic papers on its findings. They also share data with international organisations such as Amnesty International and Human Rights Watch, particularly for advocacy work with western governments that support the Burmese military. Recently, the UN approved a fact-finding mission for Myanmar, but the current government and military opposed it and managed to stop the mission. ND-Burma and other CSOs are still trying to find ways to collaborate with this mission, for example, by interviewing victims. Based on CSOs' experiences, they have found that the Burmese military has perpetrated violence mostly against civilians, often using methods such as arrest, torture, killings, and sexual violence.

## Indonesia

In the last 19 years, Indonesia has lived under a political compromise whereby the government does not provide reliable and meaningful justice for victims of mass human rights violations. There is still a need to provide solid narratives and reliable documentation of human rights cases. For this reason, in March 1998, KontraS was established. Case reconstruction is considered the most challenging part of this process, as it is difficult to get the chronology right. Maps are usually drawn. After a field investigation, KontraS

typically fills in a matrix about the case that includes basic information such as the location of the violation, the day and date of the violation, the number of victims, witnesses' profiles, backgrounds and addresses.

In terms of state accountability, Indonesia is bound by at least ten international human rights mechanisms. The laws relevant to documentation are the Law on Human Rights and the Law on Human Rights Courts. There is a need for groups that do human rights documentation to work with medical forensic staff, journalists, and those with strong digital skills to produce reliable documentation. Findings of the documentation can later be shared with the public by using leaflets and other accessible materials.

When reflecting on KontraS' documentation process, involving many partners to help conduct investigation missions can increase the risk of certain information being disclosed to the government. Internal trust is vital within a coalition setting.

## Gender Justice: Thailand, Philippines

### Thailand

Deep South Watch began its presentation by explaining that Thailand's Patani Deep South used to be an independent territory before it was appended to Siam, initiating an ethno-political conflict. Since then, a 13-year database regarding human rights violations in the Deep South has been developed. Several healing mechanisms have been established, including the 2005 National Strategy Plan that called for a commission to heal victims in Thailand's Deep South, a centre for mental healing in the region's hospitals, and the 2011 transfer of the major victims' reparation institution to the Southern Border Province Administration Centre.

Regarding women's experiences in Thailand's Deep South and their access to reparation, CSOs have tapped into their strengths to use soft power to connect women with other women. Focusing on both societal and individual healing, CSOs seek to build the capacity of women survivors in Thailand's Deep South. In 2015, a coalition of women's groups was set up to push for the political participation and equal rights of the women of Thailand's Deep South in the 2016-2018 National Strategic Development Plan for Thailand's Deep South. The Peace Agenda of Women (PAOW)

successfully promoted a safety zone campaign. While the Thai government has endorsed UN Security Council Resolution 1325, there has been no effective implementation, and women in Thailand's Deep South still do not have significant political roles.

### Philippines

In 2014, the Philippines was regarded as one of the world's top 10 countries for gender equality. The Philippines has a national action plan similar to the UN's CEDAW. However, in recent years there has been a regress in gender equality. The woman who once served as the Officer of the Presidential Advisor on the Peace Process and the woman who was the Chairperson of the peace panel of the Philippine Government on the Moro Islamic Liberation Front (MILF) have been replaced by men. The Chief Justice of the Supreme Court and the Ombudsperson, which at the time of the workshop were filled by women, are also under threat.

The 1987 Philippine Constitution provides for the protection of human rights and equal rights for women. However, at the local government level, there is less women representation. The



Bangsamoro Basic Law included elements of women's rights. A Gender and Development Plan and Budget call for "at least 5% of the total budget appropriation of each ministry, office..." to be allocated for women's development programmes. However, local governments interpret this differently. There is also an all-women's contingent in the Civilian Protection Unit whose participation is further valuable as they come from different religious backgrounds.

# Day 4

TJAN workshop participants visited the Aceh TRC office to meet with commissioners and staff members and discuss the commission's progress in its first year of establishment. To complement their understanding of the Aceh TRC, the group also visited the Aceh Peace Museum, which exhibits photos, memorabilia and video documentaries related to the Peace Accord of 2005.

## Visit to Aceh TRC

There are six Aceh TRC commissioners, and each coordinates a working group. The six working groups of the Aceh TRC include truth-seeking, data and publications, reconciliation, reparations, victim and witness protection, and women's affairs. Other staff members support the Aceh TRC in IT, administration, and general affairs.

For 2017-2020, the Aceh TRC has set a target to collect 10,000 public statements and to come up with an immediate reparations program for victims of the Aceh conflict, and the TRC is about to start this work. Each working group of the Aceh TRC presented its main tasks.

1. The truth-seeking working group conducts research and solicits all of the documentation. The working group will conduct statement-taking, investigations, and public hearings. This group will also emphasise the voluntary nature of the truth-seeking



efforts and work to promote trauma healing throughout the process.

2. The reparations working group will need to create two mechanisms: the reparation referral process to address victims' immediate needs (2017-2019) and the reparation scheme for long-term reparation needs (2018-2021). The working group will conduct focus group discussions with local religious and traditional leaders in Aceh, workshops, and socialisation events to achieve these goals.
3. The reconciliation working group will develop reconciliation programs for non-gross human rights violations, whereas cases of gross human rights violations will be referred to Indonesia's national human rights commission (Komnas HAM).
4. The documentation and publication working group will take the statements and documentation collected by the truth-seeking working group and process the data. They will work on disseminating the findings through a formal report and a popular media format. They will work with CSO to collect information. They also already have basic facilities for managing the database.
5. The women's affairs working group is established to ensure that truth-seeking and reparation efforts will involve women victims of human rights violations. This includes ensuring that women victims receive immediate reparation and trauma healing. The

working group will also reach out to a few organisations focusing on Aceh's psychosocial services.

6. The victim and witness protection-working group is tasked to ensure protection for victims and witnesses throughout the truth and reconciliation process. This working group can only provide protection to victims and witnesses for cases that are ongoing and that have been given to the police. In reality, the Aceh TRC does not have protection tools such as bulletproof cars, bulletproof vests, and bodyguards. This is why the commission needs to work with religious and traditional leaders to help explain the Aceh TRC's work to other people and to implement culturally contextual protection policies.

Commissioners are allowed to work with government and non-government agencies as well as international and local actors in order to achieve their goals. The Aceh TRC continues its preparations for statement-taking by developing protocols and tools for healing victims who give statements and staff who collect statements who may experience trauma due to the statement-taking process.



## Visit to Aceh Peace Museum

The Aceh Peace Museum is housed at the political affairs building of the Aceh government, as this department has the mandate to lead Aceh's post-conflict affairs. Inspired by a 2011 conference regarding sites of consciousness in Berlin, Germany, the Aceh Peace Museum seeks to preserve historical items and stories and to preserve and learn from lessons of the past to build a peaceful future. After the 2004 tsunami, the Indonesian government built a tsunami museum that cost 7 million USD. The Aceh conflict ended the same year the tsunami occurred, yet the government focused on memorialising tsunami victims, not victims of the conflict. Thus, in 2013 Aceh civil society was inspired to establish a human rights and peace museum.

The Aceh Peace Museum seeks to expand its virtual museum features with three documentaries, currently underway, about the Aceh conflict and peace process. The museum has also hosted a number of activities, such as peace education and study. It has garnered support from government officials, members, and leaders of GAM.



# Day 5



## Truth-seeking in Aceh (Indonesia), the Philippines and Thailand

Political researcher, Dr. Sri Lestari Wahyuningroem, shared her insights regarding the intersections between transformative justice and transitional justice. Wahyuningroem explained, since the 1980s, transitional justice had been a growing trend across Asia, despite the lack of an assessment of whether or not transitional justice processes have been a success or a failure in the region. She asked, “Can establishing a transitional justice mechanism be considered a success [in and of itself]?”

Within mainstream transitional justice thought, there is a lack of acknowledgement that conflicts have continued even after transitional justice mechanisms have taken place. There is an absence of political will to learn from the past, particularly in fragile states. Transitional justice often becomes static rather than an actual “closer” of the past.

In light of the weaknesses of transitional justice, this movement can learn from or adopt transformative justice principles. Transformative justice is a justice approach that seeks to be emancipatory for all stakeholders involved, including the larger population—not just for victims. It examines and seeks to transform structural inequalities. Furthermore, transformative justice is a form of “historical justice that focuses on justice not as a result, but as a historical process”. While transformative justice should not replace transitional justice, it can help expand transitional justice to become a more inclusive process and shift the process to include resistance and an emphasis on transforming inequalities that exist in society. It could reform transitional justice politics and priorities by “shifting focus from the legal to the social and political, and from the state and institutions to communities and everyday

concerns”. There is a need to normalise and return human rights to politics.

Transformative justice can also contribute to truth-seeking efforts by identifying the perpetrators and ascertaining the proportionality of the different harms committed by different stakeholders. Transformative justice can create space for non-hegemonic narratives and encourage the existence of multiple truths. In sharing ways forward to advance truth-seeking, Wahyuningroem also recommended the approach of truth and historical clarification commission instead of a truth and reconciliation commission for cases of mass human rights violations, such as the 1965 anti-communist violence.



## ■ Reviewing Our Progress in Transitional Justice

AJAR's Director, Galuh Wandita, reminded workshop participants: "Every time we do a truth commission, it is the beginning of a relationship." It is important not to trade truth for reparation, as both are distinct needs of victims and survivors. Wandita also posed reflection questions, such as whether transitional justice has focused too much on the mechanisms, whether transitional justice is genuinely bringing about change, and whether there needs to be more emphasis on movements.

One thing is certain: "Truth should not be in a report or book—it should be like a tree." While every country has a different context, transitional justice advocates in all countries should consider having conversations with the next generation, using non-conventional and creative methods to introduce transitional justice mechanisms, especially to the youth, and also work with the media.

The day concluded with each country sharing reflections and strategies for the future.

- In Thailand, many Thais still think that transitional justice is a complex theory to implement, particularly during an ongoing conflict. There tends to be a divide between peacebuilding and human rights organisations. The Thai government tries to depict the conflict in the Deep South as a minor issue. As a first step to address these challenges, Deep South Watch plans to host a national workshop to make people aware of transitional justice.
- In Sri Lanka, the Suriya Women's Development Centre has worked to make space for women's histories. It will continue

to create space for hidden stories to be shared as part of truth-seeking efforts.

- In Myanmar, there are few opportunities to initiate transitional justice due to the current political and military situation. However, ND-Burma has focused on grassroots communities in Kachin, Mon and Shan state to lobby and advocate for transitional justice's role in the peace process. Transitional justice terminology is new for Myanmar. To advance transitional justice, advocates must encourage more people to work on transitional justice in the country and host more training for ethnic organisations and other stakeholders. Advocates should also seize more opportunities to share about transitional justice at conferences and conduct media outreach.
- Some wonder if federalism is a way to address the conflict situation in the Philippines. The Alternative Law Groups will continue to conduct workshops, other transitional justice-related activities, and fundraising.
- In Aceh, Indonesia, KontraS Aceh and its partners are working on developing a video archive of the Aceh conflict, involving more youth in transitional justice processes, and extending their media network to more journalists. They will also conduct a comparative study with Timor-Leste's transitional justice process.
- On a regional level, the AJAR and TJAN have identified and worked with 42 transitional justice experts, 26 of whom are women. TJAN members are discussing how they might work together to forge links with the UN Special Rapporteur on transitional justice, other UN officials, and relevant institutions in respective Asian countries.

# List of Participants

1. Cecilia Jimenez-Damary, UN Special Rapporteur on the Human Rights of Internally Displaced Persons
2. Galuh Wandita, AJAR
3. Hugo Fernandes, Centro Nacional Chega!, Timor-Leste
4. Jose Luis de Oliveira, AJAR
5. Patrick Burgess, AJAR
6. Scott Stevens, Transitional Justice Working Group, South Korea
7. Sri Lestari Wahyuningroem, University of Indonesia
8. Afridal Darmi, the Aceh Truth and Reconciliation Commission, Indonesia
9. Faisal Hadi, KontraS (Commission for the Disappeared and Victims of Violence) Aceh, Indonesia
10. Hendra Saputra, KontraS Aceh, Indonesia
11. Puri Kencana Putri, KontraS, Indonesia
12. Saiful Mahdi, International Center for Aceh and Indian Ocean Studies, Indonesia
13. Samsidar, LBH APIK (Indonesian Women's Association for Justice Legal Aid) Aceh, Indonesia
14. Su Su Swe, Women's League of Burma
15. Han Gyi, Network for Human Rights Documentation-Burma
16. Moon Nay Li, Kachin Women's Association Thailand
17. Lway Poe, Ta'ang Women's Organization
18. Wanna New, Assistance Association for Political Prisoners
19. Ermiza Tegal, Lawyer, Sri Lanka
20. Jansila Majeed, Sangami Pengal Ondrium (Mullaitivu Women's Development and Rehabilitation Foundation, MWDRF), Sri Lanka
21. Sarala Emmanuel, Suriya Women's Development Centre, Sri Lanka
22. Sumika Perera, Women's Resource Centre, Sri Lanka
23. Vijayalachumi Segaruban, Suriya Women's Development Centre, Sri Lanka
24. Anchana Heemmina, Duay Jai Group, Thailand
25. Chamnan Chanruang, Amnesty International, Thailand



26. Fareeda Panjor, Prince of Songkhla University, Thailand
27. Nadthasiri Bergman, Cross Cultural Foundation, Thailand
28. Romadon Panjor, Deep South Watch, Thailand
29. Francesca Sarenas, Sentro ng Alternatibong Lingap Panligal (SALIGAN), a group in the Alternative Law Groups coalition, Philippines
30. Guiamel Alim, Consortium of Bangsamoro Civil Society, Philippines
31. Melanie Pimentel, Senior State Solicitor, Philippines
32. Raissa Jajurie, Bangsamoro Transition Commission, Philippines
33. Rene Clemente, Alternative Law Groups, Inc., Philippines
34. Agnes Chen, AJAR
35. Atikah Nuraini, AJAR
36. Indria Fernida, AJAR
37. Clevyra Wang, AJAR
38. Marzita Ardiantina, AJAR
39. Mulki Makmun, AJAR



