



THE STRUGGLE FOR TRUTH AND JUSTICE

A Survey of Transitional Justice Initiatives Throughout Indonesia

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INTRODUCTION

About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. It provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments, and others. The ICTJ assists in the development of strategies for transitional justice comprising five key elements: prosecuting perpetrators, documenting violations through nonjudicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and advancing reconciliation. The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so.

The ICTJ and Indonesia

Prior to the ICTJ's establishment, senior staff undertook three trips to Jakarta in 2000 and 2001 to discuss developments around a proposed truth commission with senior members of the government, civil society groups, university representatives, diplomats, and the media. The Center has also provided written commentary to nongovernmental organizations and government officials on both draft versions of the legislation to establish such a commission and argued against giving the truth commission the power to grant amnesty to perpetrators of human rights crimes. The ICTJ provided senior members of the government with extensive commentary on the proposed Human Rights Court in order to strengthen its mandate and conform its provisions to international human rights law. The Center commissioned a comprehensive analysis of the Human Rights Court trials, analyzing the political, institutional, and legal aspects of the investigations, prosecutions, and judgments. In August 2003, the ICTJ released the resulting report, "Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta," in which the Center carefully evaluates the credibility of the 12 trials that have taken place before the Court since March 2002. Its analysis suggests that Indonesia never seriously intended to fulfill its promise of holding perpetrators accountable for the violence following the East Timorese vote for independence in 1999. Currently, the ICTJ is working with the Transitional Justice Task Force, which was formed by local Indonesian activists in response to this report, in developing a comprehensive strategy to promote transitional justice in the country.

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ABBREVIATIONS AND TERMS

BPN	National Agrarian Society
CERIC	Center for Research on Intergroup Relations and Conflict Resolution
COHA	Cessation of Hostilities Agreement
CRS	Catholic Relief Service
CSPS-UGM	Center for Security and Peace Studies
DOM	military operation region
DDP	Presidium of the Papuan Council
DPRD	Regional People's Representative Assembly
ELSAM	Institute for Policy Research and Advocacy
ELSHAM Papua	Institute for Human Rights Study and Advocacy
FISIP-UI	Faculty of Social and Political Science of the University of Indonesia
FKKGS	September 30 Victims Communication Forum
FKN-HAM Irja	National Human Rights Communication Forum in Irian Jaya
FORSOLA	Solidarity Forum for Aceh
GAM	Aceh Independence Movement
HuMA	Association for Community and Ecology Based Law Reform
ICM	Indonesian Court Monitoring
ICSN	Indonesian Conflict Studies Network
ICW	Indonesian Corruption Watch
IDRD	Institute of Dayakology Research and Development
IGGI	Intergovernmental Group on Indonesia
IKOHI	Association of the Disappeared Victims' Families
INFID	International NGO Forum on Indonesian Development
ISJ	Social Institution of Jakarta
JATAM	Mining Advocacy Network
JK-LPK	Christian Service Institution Network
JRS	Jesuit Refugee Service
KAP T/N	Committee of Defence Action for Political Detainees
KBH	Legal Aid Office
KKMA	traditional community work group
KKR	Commission for Truth and Reconciliation
Komnas HAM	National Commission on Human Rights
Komnas Perempuan	National Commission on Violence Against Women
KONTRAS	Commission for Disappeared People and Victims of Violence
KOPKAMTIB	Command for the Restoration of Security and Public Order
KPA	Consortium for Agrarian Reform
KPIKD	Indonesian Women's Coalition for Justice and Democracy
KPP-HAM	National Human Rights Commission
KPTKA	Commission for Investigation of Violations in Aceh
KWI	Indonesian Bishops' Conference

LBH	Legal Aid Institute
LPKP	Institute for Research on Victims of 1965–66 Killings
LP-KROB	Institute for the Struggle of Victims of the New Order Regime
LPKSM	Human Resources Development Institute
LSPP	Study Institute of Press and Development
MIK	Indonesian Society for Humanity
MRP	Papuan People’s Assembly
MTI	Indonesian Transparency Society
Mudika	Catholic youth organization
NU	Nahdlatul Ulama, Indonesia’s largest Muslim organization
OPM	Free Papua Organization
PAKORBA	Association of Victims of the New Order
PBHI	Legal Support and Human Rights Association Indonesia
PBM	Association of Oil Workers
PDI	New Order–era Indonesian Democratic Party
PDI-P	Indonesian Democratic Party of Struggle, President Megawati’s secular-nationalist party
PDKT	Kalimantan Dayak Association
PGI	umbrella organization for Protestant churches
PKI	Indonesian Communist Party
PMKRI	Catholic students’ organization
PPP	United Development Party, a Muslim political party
PSPP-UKDW	Center for the Study and Promotion of Peace
Pusat Studi HAM II	Center for Human Rights Studies
RIDEP	Research Institute for Democracy and Peace
RPKAD	Indonesian Army Troop Regiment
RRI	national state radio station
SNB	Solidarity of Land and Nation
SPSU	Farmers Union of North Sumatra
SYARIKAT	The Religious Community for the Peoples’ Advocacy
TNI	Indonesian National Army
YKSS	Foundation for Families of Sambas Riot Victims
YLBHI	Indonesian Legal Aid Foundation

THE STRUGGLE FOR TRUTH AND JUSTICE

A Survey of Transitional Justice Initiatives Throughout Indonesia

EXECUTIVE SUMMARY

Introduction

From August 2002 to May 2003, the International Center for Transitional Justice (ICTJ) contracted consultants to undertake a mapping of all transitional justice initiatives taking place throughout Indonesia. The mapping exercise concentrated on organizations and groups that have sought to address the following forms of violence: extrajudicial executions and killings; rape and gender-based violence; torture and other inhumane treatments; political detentions and imprisonment; forced disappearances and abductions; and large-scale land expropriations. All of these organizations engaged in transitional justice initiatives, which are defined as activities that involve the disclosure of the truth about past violence, prosecution of perpetrators, legal and institutional reform, reparations for and rehabilitation of victims of violence, and reconciliation.

Key Findings

While the Indonesian government has created several state agencies and laws to address past cases of violence, it is still plagued by problems of legitimacy and ineffectiveness. Government measures principally hover between the two extremes of completely forgetting the past and addressing the cases in an overly generic manner. The National Human Rights Commission (KPP-HAM) has almost always carried out investigations into past abuses. However, out of dozens of investigations by this group and other governmental organizations, only a handful have resulted in prosecutions. Most human rights activists and legal experts view the trials before the Ad Hoc Human Rights Court, established to prosecute those most responsible for violence in East Timor, with great skepticism. Organizations pushed for the implementation of a more systematic and long-term human rights training with international assistance for the judges participating in these trials; however, the government failed to act on this suggestion.

The post-Soeharto government has ratified new laws and statutory regulations; however, there has been a significant lack of reform of the New Order-era institutions. The military forces, intelligence agencies, and law enforcement agencies have not undergone any significant reform. The military is still deeply rooted in Indonesian society and abuses are still being perpetrated. While many activists consider the separation of the military and police services to be a significant reform, measures were not taken to rid most regional police forces of their militaristic and corrupt character. Despite the lack of reforms, government officials have made public apologies for the state's role in Indonesia's legacy of abuse. A 2002 government regulation administers compensation for victims in cases decided in human rights trials; however, so far a situation has not arisen where the effectiveness of this regulation can be assessed.

For the purposes of this report, "civil society organization" is defined as any nongovernmental organization with the legal status of a foundation, association, or semigovernmental institution, such as a research facility, run by state universities or individuals collaborating on the basis of mutual interest. After the fall of Soeharto in 1998, political parties, labor unions, media associations, religious organizations, and NGOs grew out of this new era of reform. The legal advocacy and human rights sectors experienced the fastest growth. During this transitional period, an important development has been the emergence of victim-based organizations and community-based movements seeking to address human rights issues. However, it is important to note that as

financial support for human rights work began to dry up, many new organizations survived only temporarily and either terminated or redirected their activities into programs that receive more donor interest, such as “good governance” or “conflict resolution.”

One of this project’s goals was to develop cross-province programs and focus on national-scale reform. The consultants listed some 200 activities occurring between 1999 and 2002 that related to efforts to deal with Indonesia’s past. These activities ranged from one-day training seminars for human rights workers to the monitoring of government agencies.

Several organizations have taken taking victim statements on abuses during the New Order period, particularly the events of 1965–1966, and also in organizing public events in which victims can share their experiences. Civil society organizations have found that disseminating information about past atrocities through the publication of books and reports is an effective way to reach the Indonesian public. However, while almost all institutions agreed that truth-seeking measures are an important part of addressing Indonesia’s legacy of abuse, investigations into past violations are not a priority. Organizations tend to focus their efforts on recent cases of violence because these violations receive more media attention and have a better chance of being addressed in the legal system. In addition, few donor organizations have yet decided to sponsor major initiatives to “deal with the past.”

Another variable that influences the civil society initiatives is the perceived unreliability of the Indonesian government. Many organizations are skeptical about interacting with the government because of its lack of political will to address Indonesia’s legacy of abuse. From fact-finding missions to technical assistance supporting institutional reform, only a few organizations try to implement initiatives based on a critical engagement with the bureaucracy. Many agencies refused to participate in the training of prosecutors and judges for the Ad Hoc Human Rights Court for East Timor because they viewed the efforts as fruitless. Most agencies prefer to play the role of watchdog. Relatively large groups with sufficient resources engage in monitoring court trials for human rights abuses in various regions and often publish their analyses in reports. Organizations also monitor various government institutions and the political process in general, and they are actively involved in providing input to government ministries on drafting laws to strengthen human rights safeguards.

The consultants found that while there was a commonly held belief that the legal system is corrupt and inept, activists largely agreed (perhaps paradoxically) that prosecutions were the best way to handle past cases of violence and thus continued to rely on the legal system as a means to address Indonesia’s past. A common strategy has been filing legal claims for specific cases of violence.

Because of the attention usually given to the human rights movements in Aceh, Jakarta, and Papua, the consultants dedicated a significant portion of their time to exploring the initiatives based in Central Java, East Java, Kalimantan, and Sumatra. Life under the authoritarian regime of the New Order differed in each of these regions, and reaction to the 1998 political upheaval and subsequent stipulated regional autonomy also varied. However, some common findings were important. Information about transitional justice and the mechanisms that other countries have used to address a legacy of abuse is particularly lacking in these regions.

Most civil society organizations focus on general human rights issues, such as the struggle over natural resources, the plight of indigenous people, and agrarian conflict. In addition, violence has actually escalated since 1998, forcing civil society organizations to address current conflicts. Environment and land initiatives dominate the activities of most organizations, primarily because

these produce tangible results, such as legal deeds for victims' land. In addition, organizations often do not link violence to abuses such as land seizures and forcible relocation. Addressing cases of past violence is often seen as a waste of resources when victims have more immediate needs.

A few civil society organizations have been involved in documenting past cases of violence and providing public forums for victims to share their experiences. However, as with national-level institutions, these groups often have to focus mostly on current cases. Victim groups and associations have often played a vital role in exposing particular cases of human rights violations. However, activists focus on specific cases and have not taken a systematic approach to examining patterns of abuse. Often, efforts to handle human rights abuse cases were hampered by a lack of cooperation among organizations. Generally, each organization focuses on its designated territory and reaches out to other groups only for campaigning purposes.

Neither the political upheavals of 1998 nor the reform movement brought about any substantial change to the power structures in areas that were granted regional autonomy. Local elite alliances formed to control the resources gained by regional autonomy and human rights agendas were consolidated. Regional autonomy created a tension within the human rights movement, as some saw it as an opportunity to influence the drafting of regulations that would strengthen human rights practices, while others dismissed it as maintaining the status quo. The lack of reform has impacted how civil society has sought to engage local governments on human rights issues. There is a fundamental lack of faith in the regional justice system and political structure for addressing past cases of human rights abuse, which contributes to the lack of focus on prosecutions and legal and institutional reform.

Given the significant difference between regions affected by communal violence and those influenced by self-determination conflicts, the consultants paid specific attention to civil society initiatives in areas marked by a struggle for independence. The Indonesian government has met the demands in Aceh and Papua by granting Special Autonomy to each. In both regions, these changes were viewed as an opportunity to expose past human rights violations. While some believe anything less than independence is unacceptable, others feel that the space created by Special Autonomy allowed the development of different strategies to deal with the past. Despite these differences, civil society organizations in these two regions engage in much stronger cooperation. However, efforts to deal with past injustices have been inextricably linked to the liberation struggle and the continued conflict in each of these regions and thus had made it more difficult for them to succeed.

In Aceh, discussions on past violations are wed to the independence discourse. Quite a few organizations are involved in documenting past abuses of both the TNI and GAM through oral history projects, databases, and publications. However, in the past year, efforts began to diminish as donor attention shifted to terrorism and civil society organizations began focusing on the peace process and the 2004 elections. Many activists stated that they had seen no significant progress from their efforts to document past abuses.

Since the fall of Soeharto, Aceh's judicial system has proven to be inept and disinterested in prosecuting human rights cases. However, the internal conflict has made the situation even worse. Judges and prosecutors have fled and courthouses have closed in conflict-ridden areas. Aceh's autonomy law does not mention the settlement of past violence and the peace process has also failed to address this issue, but some organizations are still demanding the establishment of a tribunal to prosecute those responsible for human rights abuses. Others are seeking to establish a truth and reconciliation commission as part of the peace process. In the minds of many activists,

as the government continues its repressive policies, it is difficult to separate the issue of institutional reform from self-determination. Some organizations have sought to use provisions in the Special Autonomy law to draft regulations on human rights principles. In the power vacuum created by the conflict, some communities have begun electing local leaders and establishing mechanisms to carry out government functions.

Compared to other regions, including Papua, the victim-based movements in Aceh are very powerful. Approximately 800 former political prisoners and relatives of assassination victims convened a congress of victims in late 2000 that resulted in the formation of the organization SPKP Aceh. This congress expressly rejected the so-called Muslim approach (*ishlah*) to reconciliation proposed by government officials and local elites in Aceh. This calls for victims to sign away their rights to pursue action through legal channels in exchange for monetary compensation. While this movement focused on prosecution and rehabilitation of victims, its central themes are demands for a referendum on independence and the enforcement of Aceh's autonomy.

In Papua, central to the human rights movement is a collective memory of suffering, “*memoria passionis*,” which asserts that peace cannot be achieved without acknowledging past crimes and pursuing justice. In keeping with this belief, Law 21/2001 for Special Autonomy in Papua incorporates a demand to reveal past abuses through a variety of measures, including the creation of a human rights court and truth commission. Some activists do not support the idea of a truth commission because of the fear that it will create conflict between the various groups fighting for independence and weaken the movement. Thus far, neither body has been established.

As the conflict has worsened in Papua, dialogue on issues of transitional justice has been cut short, with civil society organizations focusing their attention on current violations. Most groups are interested in conducting investigations into past abuses, and some are even managing to do so. Church organizations have a long tradition of documenting human rights violations. However, there is no effort to bring these initiatives together; organizations tend to work separately and find it difficult to cooperate on long-term projects.

As in Aceh and the other regions in Indonesia, Papua's justice system lacks capacity and the government lacks political will. Judges and prosecutors do not have an adequate understanding of human rights norms. There has been much discussion over the establishment of a human rights court to handle past cases, but many activists are skeptical of how effective this it would be, given the continuation of the state's repressive policies and inability to conduct legitimate human rights trials.

Some civil society organizations focus their efforts on formulating new regional regulations in accordance with human rights norms and principles. The Special Autonomy law stipulates the formations of the Papuan's People's Assembly, which will have the authority to define regional regulations and establish special courts to handle land disputes. Activists agree that the most pro-reform state institution is the police, as more Papuans are being recruited and community policing has been established. However, activists are concerned that these reforms may be undone when the current head of police's term ends.

Unlike Aceh, there is no organization that deals specifically with victims. Some groups do limited work with victims, but only in the context of the current conflict. Civil society organizations are divided on their views on reparations. Some argue that reparations programs should not be established outside of the context of trials for fear of obscuring the state's responsibility. Some

activists argue that the only valid reparations effort the Indonesian state could make would be to grant independence.

In each of the regions, activists had different perceptions of reconciliation. Some rejected the idea because they felt it meant forgiving and forgetting the role of the perpetrators. This perception is reinforced by political elites who view reconciliation as an agreement, compromise, or social contract among leaders regarding the reconstruction of Indonesia during the reformation period. In this formulation, human rights violations are a part of the past that is to be forgotten so as to avoid the reawakening of old trauma and national disintegration. However, some activists created reconciliation initiatives focused on grassroots peace-building. Only a small percentage of the activists interviewed defined reconciliation as a careful examination of the past in order to acknowledge suffering and prevent future abuses.

Recommendations

The consultants made numerous observations in the final chapter of the report. Below are some of the more promising recommendations from the report and the subsequent workshop attended by local and international human rights experts to strategize about its findings.

- *Networking.* One of the common weaknesses in all of the regions was the lack of coordination among civil society organizations. Even in Aceh and Papua, where groups cooperated much more than in other areas, the lack of collaboration stifled their progress. One of the key recommendations is the creation of a sustainable network of organizations working on transitional justice, which would provide a means for strategizing on transitional justice issues. It was suggested during the project's final workshop that a local transitional justice alliance be created. The alliance would comprise civil society organizations working on transitional justice issues throughout Indonesia. This forum would allow activists to share their experiences and ideas. The alliance would help bring together all of the fragmented information that exists from individual organizations' documentation of past abuses, leading to an analysis of the systematic violence that has occurred in Indonesia. The alliance would also provide space for organizations to discuss their successes and failures. This network would strengthen weaker, resource-deprived organizations by providing them with information and possible partners for initiatives.
- *Capacity building.* Transitional justice is a relatively new concept to most Indonesian human rights activists. Aside from a few workshops, there are no concrete ways to disseminate information or train activists in this field. In addition, many civil society organizations in Indonesia are weak and lack adequate resources. Even organizations operating at the national level are not able to sustain programs for significant periods of time. Resources are often concentrated into one program, but when the public's attention shifts to a new case or problem, the program is no longer considered relevant and is dropped. The capacity of civil society organizations to develop transitional justice initiatives needs to be strengthened. One of the key recommendations is the establishment of a transitional justice fellowship program. The program could run for several months in conjunction with classes at a local university. Part of the fellowship could be an immersion course that would have some theoretical basis but be geared more toward the exploration of transitional justice case studies. Local guest speakers could address temporary issues that are specific to Indonesia, providing an impetus to find links between the challenges facing Indonesia and the transitions that have taken place in other countries. Participants could spend part of the time doing an internship. This experience would provide the participants with a better understanding of the connections and

differences in patterns of abuse and initiatives to address this legacy in other parts of Indonesia.

Another recommendation is the creation of a local Indonesian *Transitional Justice Newsletter*. The newsletter could be issued on a monthly basis and include summaries of transitional justice news events throughout Indonesia. It could also include a version of the ICTJ's "Transitional Justice in the News" in order to expose activists to the experience of other countries. This newsletter would serve to increase knowledge about transitional justice strategies and create a network among the civil society organizations.

Follow-up

At the final workshop, a task force was created to take steps to address these findings and recommendations. The task force is to produce a report on steps to be taken based on the mapping project and agreed to undertake the following:

- Establish a core group of NGOs to move transitional justice issues forward. This group will look at regions and diversity.
- Explore capacity-building options and a fellowship program.
- Look at how to create networking capabilities.
- Incorporate comparative international experience into the dialogue.
- Assess interest by donors in these issues. A funding report will be created to use in meetings with donors.
- Examine the duration and timing of each identified activity.
- Ascertain how to engage with other actors, such as the state, religious groups, etc.
- Create an Indonesian *Transitional Justice Newsletter*.

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 - 4. KPA, Consortium for Agrarian Reform
 - 5. LBH-APIK, Legal Aid Institute of the Association of Indonesian Women for Justice
 - 6. ELSAM, Institute for Policy Research and Advocacy
 - 7. SYARIKAT, The Religious Community for the People’s Advocacy
 - 8. PBHI, Legal Support and Human Rights Association Indonesia
 - 9. SNB, Solidarity of Land and Nation
 - 10. TRK, Volunteer Team for Humanity
 - 11. Kalyanamitra Foundation
 - 12. YLBHI, Indonesian Legal Aid Foundation
 - B. Victim-based Organizations
 - 1. IKOHI, Association of Disappeared Peoples’ Families
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THE STRUGGLE FOR TRUTH AND JUSTICE

A Survey of Transitional Justice Initiatives Throughout Indonesia

Chapter 1 INTRODUCTION

On September 30, 1965, seven high-level Indonesian military officers were assassinated in an attempt to destabilize the country. General Soeharto took advantage of the ensuing chaos to overthrow President Soekarno. In order to insulate himself from opposition, Soeharto entrenched the military in the running of the country. The emergence of the military as essentially a “state within a state” was the beginning of systematic violence and human rights violations in the region. The military regime established power by eradicating one of the largest leftist movements in Asia, killing hundreds of thousands of people, and imprisoning tens of thousands in detention camps for more than 10 years. No one was held responsible for these horrifying crimes, and thus began the continuing impunity for abuses committed by the government and military. Soeharto’s New Order regime used terror and violence to control the people and oppress various social layers and sectors that opposed it.

The fall of Soeharto in May 1998 did not transform Indonesia into a democratic state. Political power largely remained in the hands of those who had been part of or supported the New Order, and the mechanical workings of the structure remained the same. The agenda of reformation, which the civil society opposition movement supported, seemed powerless to address the economic crisis and poverty. Communal conflicts broke out in numerous regions and created unprecedented chaos throughout Indonesia.

Similar to other countries experiencing the transition from authoritarianism to democracy, one major challenge was addressing the history of violence and legal impunity. The corrupt and ineffective judicial system made ineffectual efforts to bring violent perpetrators to justice. The new state leaders also evaded confrontation with the former authority elite and, as such, they never encouraged any investigation of past violence.

In the midst of this deadlock, the human rights movement and the victim community continued to develop various strategies and alternative frameworks to help people deal with past abuses. Such endeavors were widespread at the national and local levels, comprising efforts to disclose the truth, prosecute perpetrators, promote legal and institutional reform, provide support and other services to victims, and encourage peace and reconciliation.

Closely following such developments, the International Center for Transitional Justice (ICTJ) undertook a mapping exercise project on transitional justice in Indonesia. This initiative is intended to support the local and international civil society movements and the donor communities to develop appropriate strategies, avoid repetition, and achieve synergies. For the civil society movements, this exercise may promote ongoing dialogue in addressing the difficulties in the current transitional situation.

This initial effort obviously has a number of limitations. The researchers were aware that it was not possible to closely observe every initiative, and therefore used a strict transitional justice framework in order to identify initiatives. This mapping was performed only to the extent of describing various thoughts and practices developed by the Indonesian civil society movements in addressing past cases of violence. Thorough analyses and discussions on various aspects of

transitional justice in Indonesia are still required, and this study is expected to contribute to that effort.

I. METHODOLOGY

This mapping activity originated from discussions between the ICTJ and a number of representatives of the human rights community in Indonesia that have taken place since mid-2002. The initial meeting and correspondence resulted in the preliminary work plan and the nomination of two researchers. The work plan was discussed further in a workshop in Jakarta on September 3–4, 2002, which was attended by representatives of the ICTJ, members of the National Commission on Human Rights (Komnas HAM) and the National Commission on Violence Against Women (Komnas Perempuan), and representatives of civil society organizations.

A number of critical issues were discussed during the workshop, including the definition of “human rights violations” to be covered, the types of organizations and initiatives, the decision on locations to visit, the final results of the exercise, and technical matters regarding implementation.

A. Establishing the Definition of “Human Rights Violations”

Workshop participants felt that, thus far, transitional justice initiatives were largely limited to cases of physical violence, such as killings, detentions, tortures, and disappearances. Even though it was important for the participants to understand such definitions for strategic purposes, they continued to see the need to emphasize the relation between physical violence and other forms of injustice, such as land seizures, that recurred during the ruling of the New Order.

Participants emphasized that numerous organizations in Indonesia handled physical violence as part of a more extensive program, such as the struggle for agrarian justice, the establishment of a better and fairer natural resources operation system, and justice for workers in the industrial sector. However, it was agreed that the mapping exercise would concentrate on organizations, groups, and initiatives that handle the following forms of violence:

- Extrajudicial executions and killings
- Rape and gender-based violence
- Torture and other inhumane treatments
- Political detention and imprisonment
- Forced disappearances and abductions
- Large-scale land expropriations

In many places, civilians also perpetuated acts of violence. However, because of the national emphasis on Indonesia’s transition from authoritarianism to a more democratic state, most human rights organizations focused on violations committed by the state. Various exceptions were made, especially in cases of communal violence occurring in Central Kalimantan, Maluku, and Poso.

B. Establishing Categories of Organizations and Initiatives

It is currently estimated that hundreds of organizations engaged in human rights and peace building exist in Indonesia. Some are listed as foundations or limited associations, but many comprise ad hoc committees or loose networks. The researchers did not limit their work only to

organizations with legal status in order to capture more broadly the dynamics of the people's movement.

It was also understood that the backgrounds and objectives of civil society organizations vary greatly. Some are fully motivated by humanitarian interests and volunteering. They claim to have no objective other than helping others, even though they play an important role in the human rights movement. On the other hand, some organizations use human rights issues to promote their own narrow political and commercial interests. This mapping does not give attention to these organizations.¹

Based on the above considerations, participants established the following categories of organizations:

- Victim groups and organizations
- Nongovernmental organizations (NGOs), including groups that are not registered as foundations or limited associations
- Religious institutions dealing with justice, peace, and human rights
- Academic and research institutions
- Governmental departments and offices
- International organizations, including donor agencies
- Ad hoc committee or advocacy networks that handle cases of human rights violations

Realizing the numerous organizations and groups formed within the past few years or even months, the researchers felt the need to set additional limits regarding to the time frame and sustainability of the activity. In the first months after Soeharto's resignation, various action committees emerged and demanded that he be brought to trial for committing corruption and human rights crimes. However, these committees disappeared with the ebbing of the protest movements and, despite their important role at that time, they are not given any major place in this mapping exercise.

Another issue is the definition of "transitional justice initiatives." Many organizations view their activities as covering human rights only in general terms without addressing past violence or establishing justice during the transitional period. However, many of their activities are relevant within the transitional justice framework. This report focuses on agencies or groups that handle one or several of the following activities:

- Truth-seeking mechanisms
- Prosecutions
- Legal and institutional reform
- Reparations and rehabilitation
- Reconciliation

The main objective of this mapping exercise is to illustrate the various initiatives civil society organizations have carried out in Indonesia. The analysis is limited to identifying the general problems and strategic issues that these organizations face and does not express the depth and intensity of each of the initiatives.

¹ Such tendency was found in cases of communal riots in Central Kalimantan, Central Sulawesi, and Maluku.

II. MAPPING PROCESS

This exercise began with the preparation of a list of approximately 400 organizations from locations throughout Indonesia.² The researchers subsequently held meetings with key sources in Jakarta and Jogjakarta, who provided the initial information on human rights organizations in various regions for comparison. Based on the results of a series of meetings and limited discussions, the researchers succeeded in preparing a list with fewer, but relevant, contacts for mapping purposes.

The researchers made initial contacts with various organizations and interviewed a number of individuals based on the questionnaire prepared during the September 2003 workshop. Introduction to the mapping project and its purposes was useful, as many activists, researchers, and victims expressed their desire to provide their support.

List of Visited Cities

- | | | |
|-------------------|---------------|---------------|
| 1. Bandar Lampung | 9. Jogjakarta | 17. Pontianak |
| 2. Bandung | 10. Kupang | 18. Salatiga |
| 3. Banjarmasin | 11. Makassar | 19. Samarinda |
| 4. Bengkulu | 12. Malang | 20. Semarang |
| 5. Denpasar | 13. Medan | 21. Solo |
| 6. Jakarta | 14. Padang | 22. Surabaya |
| 7. Jambi | 15. Palembang | |
| 8. Jayapura | 16. Palu | |

Researchers also intended to visit Aceh and Maluku, but did not because of limits on time and problems gaining access. A total of 178 organizations were contacted.

Number of Organizations Based on Categories

Victim groups and organizations	13
Nongovernmental organizations	124
Religious institutions	9
Academic institutions	8
Governmental departments and offices	2
International organizations	10
Ad hoc committees or advocacy networks	12
TOTAL	178

The second workshop was held in Jakarta on January 8–9, 2003. The researchers submitted their preliminary report and discussed the initial findings. After the workshop, the researchers held a meeting with Komnas Perempuan, the Institute for Policy Research and Advocacy (ELSAM), and the Association for Community and Ecology Based Law Reform (HuMA) to plan workshops in Padang, Banjarmasin, Palu, and Denpasar. These workshops were attended by approximately 25 individuals from various human rights institutions, victim groups, and women's organizations, as

² This information was obtained from various NGOs directories published by consultant and research institutions, such as Masindo, *Indonesian Associations and NGOs Guide 2000*, Jakarta 2000; LP3ES, *Direktori Lembaga Swadaya Masyarakat di Indonesia*, Jakarta 2001; Muchtar Bahar dan Siswanto Imam Prabowo, *Direktori LSM dan Mitra 2000*, Jakarta 2000.

well as individuals interested in transitional justice issues. In each workshop, the participants prepared maps depicting where violence occurred and discussed various related initiatives.

III. STRUCTURE OF THE REPORT

This report comprises six chapters that include maps, tables, and attachments. Chapter 2 describes steps the government has taken since 1998 in handling past acts of violence, particularly its achievements and failures, the impediments, and the space left available for judicial transitional justice initiatives. Chapter 3 describes various civil society groups and organizations that operate at the national level, as well as the transitional justice initiatives they are undertaking. Chapter 4 discusses methods of addressing past violence in various regions. The researchers are aware that the dynamics of handling past cases of violence vary greatly from one region to another. However, due to the limitations on space and time, descriptions focus on whole islands or clusters of islands, rather than the administrative boundaries of provinces or regencies. Chapter 5 discusses initiatives in Aceh in Papua, two areas plagued by conflict. Chapter 6 includes a conclusion and recommendations related to the development of transitional justice strategy in Indonesia.

Chapter 2

THE CONTEXT: JUSTICE IN A TIME OF TRANSITION

I. HUMAN RIGHTS VIOLATIONS UNDER THE NEW ORDER

The New Order regime used violence to silence political opposition to its economic policies and to maintain national unity. After the extermination of the leftists in the mid-1960s, a series of violent attacks fell upon other sectors of the society: nationalists; supporters of President Soekarno; Muslim communities that rejected the idea of Pancasila³; student and academic circles that criticized government policies; labor and peasant activists who fought for their basic rights; and national freedom fighters in East Timor. As expressed by one political researcher, “almost every Indonesian has a family member, relative, or acquaintance who is a victim of state violence.”

Violence was not used merely to suppress political differences. Development projects, particularly in the fields of agriculture and mining, were usually implemented by driving the population out with force. In order to create a disciplined and docile labor force, the New Order government also curbed all political activities and frequently used violence to crush unrest. Labor union leaders and NGOs activists became targets of intimidation, and some were even assassinated and imprisoned.

In some places, a population’s rights were repeatedly violated. After being victimized in the 1965–1966 violence, many people were driven away from their land for the sake of development projects. Those who protested against the government and defended their basic rights were again subject to abuse. During the New Order era, the government often used slogans such as the “latent danger of communism” or “security-disturbing groups” (gerakan pengacau keamanan) to justify its actions. The accumulation of violence formed layers of repression that stood as evidence of the New Order’s authoritarianism for 32 years.

II. AN AMBIGUOUS TRANSITION

A country undergoing a transition to democracy tends to face a dilemma in handling the violence that the previous regime committed. On one hand, the new government must deal with pressure from civil society, especially the victims of violence, who demand that those responsible be punished. On the other hand, opposition exists from the members of the old regime, who still retain significant political and military power. Therefore, decisions on how to address past abuse have not been guided only by moral or ethical principles. On the contrary, the government’s measures and available policy choices depend on the remaining power of the previous regime, the capacity of the judicial system, and the availability of capable personnel to carry out the policies.

The transition in Indonesia in May 1998 proceeded with great uncertainty. The appointment of B.J. Habibie as president indicated that the old regime still maintained control over the existing reform and was prepared to put a limit on more radical reforms. The “reformasi” movement⁴ also failed in making changes in accordance with its own requirements, and therefore lost the capacity to set further measures. Concurrently, violence was spreading even more extensively. Communal violence hit the Moluccas, Central Kalimantan, and Central Sulawesi. Conflicts within the

³ Pancasila is based on the principles of nationalism, humanism, a representative government or democracy, social justice, and monotheism. It is rooted in community cooperation.

⁴ After the fall of Soeharto, this broad-based social movement emerged, demanding the end of authoritarianism in Indonesia and the establishment of democracy.

Indonesian National Army (TNI), as well as TNI violence against political movements in Aceh and Papua, increased. Faced with such unrest and threats of destabilization, the new government thought it had no choice but to request that the military act decisively.

The 1999 general election that was hailed as a step toward democracy also marked the end of the so-called “street parliament” era. Those who previously gathered in protest demonstrations to establish reform started to form their own power groups using methods similar to those of the New Order’s political parties. Strong demands to put away corruptors and human rights violators faded out in the wake of the election. In their place, there was much talk of “real politics” that emphasized politicking, rather than the principles of truth and justice. The most startling example was the failure to try the perpetrators of the Trisaksti and Semanggi student killings, which sparked the reform movement in the first place, in the appropriate court.

III. STATE AGENCIES HANDLING CASES OF PAST VIOLENCE

The government responded to public demands for prompt settlement of past cases of violence by issuing various new decrees. The 1998 Session of the People’s Assembly produced Decree No. XVII/MPR/1998, which contained, among other things, a recommendation to settle those cases through legal processes and the potential formation of the Commission for Truth and Reconciliation. In the subsequent sessions, the Assembly issued several stipulations of a similar tone that were to be used as a basis for the formulation of various laws and government regulations. The government spelled out those stipulations further in the 1999–2004 Action Plan for National Human Rights, mentioning, among other issues, the settlement of past cases of violence through legal processes.

In mid-September 1999, the House of Representatives (Parliament) ratified Law No. 39/1999 on Human Rights. This law stipulates which rights shall be protected by the government and regulates the existence and functions of the implementing agencies, including Komnas HAM, the existence of which was originally administered by Presidential Decree. Article 104 stipulates further that gross human rights violations will be tried at a Human Rights Court. This court is subsequently regulated in Law No. 26/2000, issued in November 2000. The stipulation of the nonretroactive principle in this law invited debate as it closed the possibility of this court handling past violations. Article 43, which regulates the establishment of ad hoc courts for such purposes, was considered too weak and vulnerable to political intervention, as it gives decision-making authority to the President and the House of Representatives.

In Law No. 25/2000, concerning the 2000–2004 national development program, the issue of handling cases of past violence was considered a priority. Pursuant to this law, the government would conduct identification and documentation of past violence and strengthen the capacity of the legal system to handle the cases. However, neither the government nor the House of Representatives have issued any legal framework or mechanism to implement this mandate in a comprehensive manner. In many cases, misunderstanding among the bureaucratic officials and prolonged debates regarding procedures and authority hampered the handling of cases. Government agencies in charge of this task also failed to show preparedness in terms of establishing the proper legal foundation, program, or personnel.

A. The Ministry of Justice and Human Rights

In the Indonesian state system, ministries are in charge of promoting and protecting human rights.⁵ For this purpose, a Directorate General of Human Rights was established in May 2001, employing 165 staff. The function of this directorate includes, among others, the preparation of policies to promote and protect human rights; the formulation of the standards, norms, guidelines, and criteria of human rights; and the coordination of the implementation of policies with related departments. In the strategic planning of this directorate, it is mentioned that one of the 2001–2003 priorities is to identify cases of violence during the New Order era. However, based on information from some activists, the identification and documentation of those cases was not carried out because of a shortage of personnel.

This directorate also handled human rights training for governmental personnel, especially law-enforcement agencies such as the police, attorneys, and judges. In 2001, this directorate, with the support of the Dutch government, provided human rights training for approximately 10,000 police officers in various provinces. This number was planned to increase to 15,000 in 2002. Meanwhile, in November 2001, a human rights training was held for prospective ad hoc judges to handle the cases of violence in East Timor. The training, supported by The Asia Foundation, screened 18 ad hoc (noncareer) judges out of the 30 training participants, who were later appointed by Megawati Soekarnoputri in January 2002.

To disseminate the understanding of human rights, this ministry has collaborated with various academic institutions to establish the Center of Human Rights Studies. As of late 2002, 23 study centers have been established in various provinces. Some, such as the Center of Human Rights Studies of UII in Yogyakarta, have rapidly developed into resource centers for human rights movement at the local level. However, there has not been any investigative project that addresses cases of past violence as mandated by the strategic planning of the ministry.

B. The Office of the Attorney General

Article 21 of Law No. 26/2000 appointed the Attorney General as the authorized agent to conduct investigations into cases of gross human rights violations. During the New Order, this institution was one of the forces that protected the human rights violators by neglecting reports on violence involving governmental apparatus. Law No. 26/2000 regulates only some technical matters, such as the Attorney General's authority to appoint ad hoc investigators from the public. However, it did not change the character of the agency as a whole.

Human rights activists in general view the Attorney General as the weakest link in the chain for enforcing human rights because of (among other reasons) the association with past human rights violators. The violence that hit East Timor during the referendum was the first case handled by the Ad Hoc Human Rights Court. The Attorney General, who played a critical role in preparing the indictment, failed to perform his task properly.⁶

⁵ By the end of 1999, Abdurrahman Wahid established the office of the State Minister for Human Rights Affairs, which was led by Hasballah Saad, a former human rights activist from Aceh. However, after less than one year, this office was dismantled and the activities were transferred to the Directorate General of Human Rights under the Ministry of Justice and Human Rights.

⁶ See ELSAM report. Part of the information was derived from limited interviews and discussions in Jakarta. Monitoring Progress Report: Ad Hoc Human Rights Court Against Gross Human Rights Violations in East Timor, April–September 1999, 1–4. See also “Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta,” available at www.ictj.org/asia/indonesia.asp.

In the cases of the Trisakti and Semanggi shootings, the Attorney General even demonstrated reluctance in cooperating, despite the fact that Komnas HAM recommended such cases be legally processed. The Attorney General returned the investigation files sent by Komnas HAM for being incomplete and not deserving of further investigation. However, the Attorney General did not specify nor clarify the details for completing the files as stipulated under Article 20(1) of Law No. 26/2000. Some investigation assistants at Komnas HAM stated that the returning of the files was more a reflection of the Attorney General's refusal to address the issue rather than an issue of compliance to the law.

C. The National Commission of Human Rights (Komnas HAM)

During the New Order, Komnas HAM was the only governmental agency that handled human rights issues. Established by a presidential decree in 1993, this commission played an important role in promoting and protecting human rights, including the investigation of specific cases and the recommendation proposed to the government to ratify a number of international human rights instruments. This organization's mandate and authority was extended by the promulgation of Law No. 39/1999, which includes pro-justitia investigations to be followed up by the government. Article 89(3) stipulates the commission's authority to call for witnesses and suspects to provide written evidence and to produce required documents in investigations. Subsequently, Law No. 26/2000 authorizes the commission as the only institution to conduct such investigation and to maintain its objectivity.

However, the enforcement of this mandate and authority has not generated satisfactory results.

In the cases of the Trisakti and Semanggi student killings, the military officers who were subpoenaed to give their testimony refused to appear and even discredited the commission in public. The Attorney General (as well as the Court, which could have reinforced the requirement by a distress subpoena) did not respond. The commission was the frequent target of gangs and armed civilians who tried to influence the investigation process of specific cases. The security apparatus arrested rioters for only a certain length of time and none was ever brought to trial.

In the midst of such varied limitations, the commission took the initiative to handle the past cases of violence. One important event was the organization of a transitional justice workshop in Surabaya on November 21–24, 2000, in collaboration with the Centre of Human Rights Studies of the Surabaya University. In addition to formulating a number of transitional justice principles in the Indonesian context as included in the Surabaya Principles, the workshop was followed up by the formation of a Transitional Justice Community comprising nine human rights activists and members from the public. The objectives of this group were, among others, to facilitate various nonformal processes such as reconciling the grassroots movement and disseminating transitional justice ideas to the general public and the government executives. In 2001, the Transitional Justice Community organized several meetings and seminars and published a number of tracts on transitional justice. However, in subsequent years, such activities decreased because of a lack of resources and personnel.

In the future, the position of the Transitional Justice Community, as the only agency having the authority to conduct investigations, will gain greater importance. The recent replacement of its management received extensive public attention, especially from human rights activists and the families of victims. It was widely opined that the appointment of Abdul Hakim Garuda Nusantara, an experienced human rights lawyer, as chairman was a progressive step. However, on

the other hand, many remain skeptical about the continued involvement of commission members who were perceived as ineffective in handling previous cases.

The report that the Volunteer Team for Humanity produced on the sexual violence that occurred during the May 1998 tragedy in several large cities of Sumatra and Java provoked strong reactions from various segments of society. A group of female activists who organized themselves into the “Citizens Fighting Violence Against Women” took the initiative to meet with President Habibie to demand government accountability. This meeting ended with the president delivering a public statement in which he denounced the rapes, requested apologies, and declared the government’s commitment to proactively deal with the problem of violence against women.

In October 1998, this commitment was realized through a presidential decree that signified the formation of a National Commission on Violence Against Women. Distinct from national organizations that are established from above, this group was colored by debates on its name and its nature.⁷ In many respects, it is a product of critical engagement between civil society groups and the government, and is a step forward in the human rights movement as a whole.

The Commission, widely known as “Komnas Perempuan” (the women’s commission), is led by a conference of commissioners with 22 members and supported by 12 staff members with varying educational backgrounds and expertise. Although it does not have branch offices in the regions, in its first three years of its operation it has built collaborative networks with civil society groups, government institutions, universities, hospitals, and law enforcement agencies. At the international level, it has established collaborative efforts with women’s groups and human rights organizations in the Asia-Pacific region, Europe, and North America.

Komnas Perempuan has taken up several initiatives to ensure that violence against women and gender justice as a whole receive special attention during the transitional time. Since the beginning, this commission has played an active role in policy advocacy by submitting written inputs to judicial institutions in order to increase the likelihood of sentencing based on the principles of gender justice, and also to ensure the development of a witness and victim protection system in cases of violence against women.

One important initiative is a mapping and documentation on violence against women throughout Indonesia.⁸ This was carried out in partnership with 30 organizations from Aceh to Papua over a period of two years. Aside from addressing violence, the report also describes women’s struggles to fight human rights violations committed by civil society as well as state agencies. The documentation division is currently gathering information on how poverty and violence against women is interconnected in several regions of Indonesia.

The commission has also taken steps to ensure that the enforcement of Law 26/2000 on the human rights court and crimes against humanity addresses cases of gender-based violence. It has collaborated with the National Human Rights Commission to develop a gender-sensitive methodology on human rights investigations so that such cases could be uncovered in the same way as other forms of gross violations of human rights and crimes against humanity. In order to

⁷ The government initially suggested the “National Commission for the Protection of Women,” which the activists considered as lacking an explicit objection against violence. Also debated was the issue of the commission’s independence, both in terms of its finances and developing its programs.

⁸ The report of the mapping exercise has been published on October 2002 as a book, entitled *A Map of Violence: Indonesian Women’s Experiences*, with support from SGIFF-CIDA, The Asia Foundation, and TIFA Foundation.

build understanding and capacity in this area, the commission has invited several experts to speak, including the gender specialist from the International Criminal Tribunal for Rwanda and a prosecutor on rape cases from the International Criminal Tribunal for the former Yugoslavia.

D. The House of Representatives (Parliament)

Under Law No. 26/2000, Parliament takes a central role in handling the past cases of violence. Article 42 states that the president can conduct an ad hoc human rights court trial to handle cases occurring prior to the issuance of this law upon the recommendation of Parliament. Such practice was first exercised in the handling of the East Timor and Tanjung Priok cases. Upon receiving the investigation findings of Komnas HAM, Parliament instantly announced the need for the establishment of ad hoc human rights trials for both cases. The ad hoc Article 33(4) stipulates that the agency is also authorized to recommend prospective ad hoc judges to preside over the court.

Nevertheless, many people still view the implementation of the law as overlapping and substantially detrimental to the interests of the victimized community. In the case of the Trisakti and Semanggi student killings, Parliament established a Special Committee whose task was to determine if those cases were to be categorized as gross human rights violations that should be brought to an ad hoc human rights court. This task of the Parliamentary committee overlaps with that of the National Human Rights Commission. The function of such an investigation should remain with the National Human Rights Commission and be implemented in the agency, which in turn should decide if both cases should be brought to the Court.

IV. MEASURES TAKEN

Measures taken by the government principally hover between two extremes: completely forgetting the past and addressing the cases in an overly generic manner. Where statutory regulations indicate the need for immediate handling of the cases, the government measures have been mostly ineffective.

A. Truth-seeking

The first case investigated by the post-Soeharto government was the rioting in Jakarta and other cities on May 12–15, 1998. The Habibie government formed a Combined Fact Finding Team comprising members from the civil government, the Attorney General, military forces, and human rights activists, the latter being involved for the first time in such an investigation. In the report issued in October 1998, this team suspected several high-level military officers of being responsible for the rioting and requested that the government take immediate legal action. Concurrently, the government also formed a Fact Finding Team to investigate human rights cases during the enforcement of Military Operational Territory status in Aceh. The investigation of the May riot cases was dropped. The investigation into Aceh reached a dead end after court trials for two of five cases.

In subsequent periods, especially with the issuance of Law No. 39/1999, investigations were nearly always performed by the National Human Rights Commission (KPP-HAM), which formed special investigation commissions on human rights violations for various cases. The investigation of the East Timor violence was first conducted by this type of commission. This investigation lasted several months and military officers demonstrated good will in responding to all subpoenas. It was strongly suspected that the ratification of the law and subsequent investigation reflected the government's concern arising from international pressure regarding East Timor, rather than a sincere intention to seriously handle the case.

So far, several cases have been addressed through KPP-HAM, the most recent being the case of the human rights violations committed by Soeharto.

B. Prosecutions

Out of dozens of major cases that have been investigated and are still under investigation by various governmental agencies, only a handful went all the way to a court hearing. A military court handled several, and others went through the controversial “connection” (koneksitas) court, which is a combination of a military and civilian court.

The Ad Hoc Human Rights Court for East Timor, established pursuant to Law 26/2000, sought to prosecute those responsible for human rights violations in East Timor in 1999. The prosecutor indicted only 18 individuals, 12 of whom were acquitted. Of the six convicted, two were from Timor-Leste. The four Indonesian military officers who were convicted were found guilty based on their failure to prevent the events from occurring, rather than for actually participating. The highest-ranking officer, Brigadier General Adam Damiri, was convicted despite the prosecution’s own argument that he should be acquitted. The prosecutorial theory and tone of most of the judgments supported their view that the 1999 violence was the product of local political rivalries and had nothing to do with Indonesian military policy and strategy. The reasons behind the failure of the trials are complex: corruption, intimidation, and incompetence all played a part, but the biggest difficulty lay with the politicized nature of the prosecution and the presumption that it would serve the institutional interests of the military rather than the impartial interests of justice.⁹

The five-day human rights training session organized by the Ministry of Justice and Human Rights in November 2001 was considered too brief and insufficient to provide the judges with sufficient knowledge of the matter. Several human rights organizations had previously discussed the requirement for more systematic and long-term training in collaboration with international bodies such as the United Nations Office of the High Commissioner for Human Rights. Nevertheless, for unclear reasons, this idea has never been materialized.

C. Legal and Institutional Reform

The post-Soeharto government can be considered productive in amending and ratifying new laws and statutory regulations. Controversial articles in the criminal code, such as the *haatzaai artikelen* (articles on the “dissemination of hatred”), have not been revoked, while the ratification of the controversial “State of Emergency” even restores the military power in politics.

Institutional reform also took place slowly and in a very limited scope. This, in turn, has greatly affected the capacity to enforce the new set of laws and regulations. The military forces, intelligence agencies, and law enforcement agencies have not undergone any significant reform. Reform initiatives almost always come from the institutions themselves and are not a result of the deliberations at Parliament, the political power that the people elected. The separation of the police force from the military forces that occurred in mid-1999 was one of the few significant measures, as it enabled the civil bureaucrats to handle internal security. However, as some senior officers and former high officials have commented, this measure did not automatically reform the militaristic and corrupt character of the police force.

⁹ For a more detailed assessment, see “Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta,” available at www.ictj.org/asia/indonesia.asp.

The key issue here is the existence of ambiguous system, a kind of “state within a state,” involving the Soeharto family, state bureaucrats, crony entrepreneurs, active and retired high-level military officers, intelligence agents, and hoodlums. Critical social, economic, and political decisions are being made within such a system. State agencies often do not function at all, or merely act as rubber stamp institutions in ratifying decisions made beyond the official mechanism. Reform measures taken after the Soeharto regime did not alter this system.

D. Reparations and Rehabilitation

During his limited presidency from October 1999 to July 2001, Abdurrahman Wahid announced a plan to provide rehabilitation to the victims and families of the 1965–1966 violence. His first step was to issue an open apology and statement of intent to eradicate discrimination toward former political prisoners. Several parties strongly opposed such statements, especially the New Order’s supporters, who labeled them the start of the “rebirth of communism” in Indonesia. This incident, according to some activists, proved that a reparations program cannot be carried out without disclosing truth and establishing justice. In addition to complying with clear statutory regulations, rehabilitation should be based on the understanding and acknowledgement of violence in order to avoid continued conflicts at the community level.

Government Regulation No. 3/2002 is the only legal basis that stipulates the state responsibility for victims of violence. This regulation was made based on Article 35(3) of Law No. 26/2000, and it administers rehabilitation, repayment, and compensation only for cases that have been decided in human rights trials. Court decisions in the East Timor trials do not regulate this issue, and therefore the implementation cannot be assessed yet.

Meanwhile, a number of high-level officials and former military leaders who were suspected of being involved in cases of human rights violation offered the religion-based concept of *ishlah* (reconciliation) coupled with compensation. The reaction of victims’ families varied. Some were willing to accept such offers because of economic difficulties, while others firmly maintained that justice cannot be replaced by money. A volunteer working with a victim’s family in Jakarta commented that such differences in opinion often created friction within families.¹⁰

E. Reconciliation

There are various opinions developing in Indonesia about reconciliation. Among the political elite, including the military leaders, reconciliation is taken as a new agreement, compromise, or social contract among leaders regarding reconstruction during the reformation period. Violence and human rights violations constitute part of the past to be forgotten as they only reawaken the old trauma and incur national disintegration. Another variation of this view states that such agreement is required as long as it shows respect for difference as provided and regulated by law. On the other hand, among activists, intellectuals, and victims of violence, reconciliation is understood as the unification that is established based on the rejection of the terrible past and the restoration of the victims’ dignity.

For the government, the idea of reconciliation started to gather speed in the first months of reformation. On September 4, 1999, it established the National Reconciliation Team with representatives from the Ministry of Justice, the Armed Forces Head Office, and Komnas HAM. The reason for this team’s establishment was, according to Marzuki Darusman (who, at the time, was still chairman of Komnas HAM), that settling cases of violence through the legal process

¹⁰ Discussion in Jakarta, September 2002.

would be time consuming could incur new injustices. Furthermore, political parties supported the idea as a “compromise” in the midst of the new government’s inability to present comprehensive justice. However, this team did not succeed in achieving any agreement on reconciliation.

This idea was brought back during Wahid’s presidency, when various conferences and seminars were held to discuss the establishment of the Commission for Truth and Reconciliation.¹¹ It is mentioned in the draft law, which was prepared by the Ministry of Justice and Human Rights, that the formation of such a commission is crucial because not all gross human rights violation cases can be settled thoroughly through human rights court trials. This draft law basically refers to three areas, namely disclosure of truth, consideration for amnesty, and granting compensation, restitution, and rehabilitation to victims.

One of the most important references is the formation of the Truth and Reconciliation Commission in South Africa. During his visit to South Africa, Wahid took the opportunity to meet President Thabo Mbeki to discuss his experience, as well as the possibility of forming a similar commission in Indonesia. In Jakarta, while receiving the South African Ambassador, N.M. Mashabane, Defence Minister Matori Abdul Jalil said that Indonesia should imitate the South African experience in reconciliation. Nevertheless, the draft was stalled at the State Secretariat for years. A second draft of the law was introduced in early 2003. This version is problematic because it still includes a provision that grants amnesty in exchange for disclosure of human rights abuses and possibly shields perpetrators from being brought before the Ad Hoc Human Rights Court. Certain NGOs have been involved in lobbying for changes to the law, which is expected to be promulgated in early 2004.

¹¹ Decree No. Tap V/MPR/2000 and Law No. UU 26/2000 also stipulate the establishment of the Commission for Truth and Reconciliation as an independent agency in charge of seeking and disclosing the truth regarding violation of human rights and executing reconciliation thereof.

Chapter 3 CIVIL SOCIETY AND TRANSITIONAL JUSTICE

I. INTRODUCTION

For the purposes of this report, the term “civil society organization” is defined as any nongovernmental organization with the legal status of a foundation, association, or semigovernmental institution, such as a research facility, run by state universities or individuals collaborating on the basis of mutual interest.

Indonesian social and political observers agree that during transitional periods, civil society organizations play a critical role as ombudsmen as well as direct agents of change. The significant role of these groups has been discussed since the late 1980s, when the stagnation in the political process forced everyone to think of new forms of political expression, including those for handling cases of human rights violations.

The political change in mid-1998 allowed for the formation of various new institutions, ranging from political parties, labor unions, and journalist and media associations to religious organizations and NGOs. Legal advocacy agencies and human rights groups were sectors with the fastest growth.¹² Various new human rights actors started to appear, such as victim-based organizations and research institutions focusing their activities on violence and injustice.

Nevertheless, quite a few organizations folded or redirected their activities as financial support dried up.¹³ The prioritization of programs tends to follow the trend set by the sponsoring institutions, rather than the constituents’ actual needs. Some activists said “the market” of human rights promotion has been declining, and consequently many organizations have shifted their attention to “good governance” or “conflict resolution” programs that receive more support.

On the other hand, an important development is the emergence of victim-based organizations and movements at the community level, popularly known as “people’s organizations,” which deal with various aspects of human rights, including disclosing and addressing violations during the New Order. Some grew with NGO support; however, they are relatively independent in defining and implementing their programs.

This chapter presents the profiles and activities of some organizations operating at the national level (i.e., those that develop cross-province programs and focus on national-scale reform). Almost all of these organizations have offices in Jakarta or other big cities in Java. This can create tension because of what is considered “Jakarta bias” or “Java bias,” which deems anything occurring in Jakarta as being ipso facto a national issue.¹⁴

¹² A report by UN Support Facility for Indonesian Recovery noted that since 1998, the number of institutions in this sector increased twelve-fold. See Frank Feulner, *Consolidating Democracy in Indonesia: Contributions of Civil Society and the State. Part One: Civil Society*, Working Paper No. 01/04. Jakarta: UNSFIR, October 2001.

¹³ Such growth in the regions are related to the flow of funds from sponsoring agencies, governments, and international donor institutions, indicating collaboration between NGOs and the government for certain projects.

¹⁴ The students’ shooting in Jakarta in 1998–1999, for example, was recognized as national issue, while similar incidents in Lampung and Makassar were rarely mentioned in the “national” campaign.

II. ORGANIZATIONS

This report discusses four categories of organizations and institutions: (1) nongovernmental, (2) victim-based, (3) research and academic, and (4) religious. Each has a unique background, mandate, and orientation that determine its dynamics in handling cases of New Order violence. NGOs that developed in the 1980s, for example, were relatively unimpeded in handling cases considered too sensitive for religious organizations or academic institutions. These organizations will be placed in their historical context to give a fair and accurate picture.

A. Nongovernmental Organizations

These organizations, known in Indonesian as “LSMs” (self-reliant organizations), were specifically established to address certain issues, such as village development, health for women and children, and human rights. Since their emergence in the 1970s, LSMs have been viewed as an alternative to the party system developed under an authoritarian regime. Some have been operating for more than 10 years; however, many were established immediately before or after the political reform in 1998.

Not all the organizations mentioned below directly handle transitional justice or issues of New Order violence; some belong to coalitions or forums designed to address specific cases of violence.

1. INFID, International NGO Forum on Indonesian Development

INFID was established in the mid-1990s to replace INGI (Indonesian Non-Governmental Organizations for Indonesia) after the Soeharto government pulled out of IGGI (Intergovernmental Group on Indonesia). Its main activities are conducting campaigns on overseas aid and lending related to cases of human rights violations, such as the forced removal of the Kedung Ombo inhabitants as a result of a World Bank–funded dam project. In addition to providing local and foreign public education, INFID also actively brings up human rights issues at international and donor government community meetings with the aim to discontinue aid programs or loans that injure the welfare of the people.

INFID does not specifically handle cases of New Order violence; however, it has facilitated and hosted various forums to counter violent conflicts in certain regions, such as FORSOLA (Solidarity Forum for Aceh) and TAPAK Ambon. Also, it supports local-level agencies to address problems that affect their territories. In the process, it has promoted the demand to end the chain of impunity by suing persons responsible for human rights violations.

Fighting impunity is one of the important topics that has been frequently proposed in meetings and forums with international financial agencies and donor countries. However, according to Dete Aliyah, donor institutions and countries are currently more concerned with corruption and economic recovery. The argument that government degeneration and corruption are products of impunity has not succeeded in changing the dominant perspective within the donor community.

2. KPIKD, Indonesian Women’s Coalition for Justice and Democracy

In late 1998, dozens of women’s organizations convened a congress in Yogyakarta that brought KPIKD into being. Currently, there are nine branches in Sumatra and Java supported by 12 staff and 4 administrative personnel at the Jakarta secretariat. Its main focus is the enforcement of women’s rights, including issues such as the trafficking of women and children and state policy

reform that benefits women. Like INFID, this coalition considers violence to be closely related to economic globalization and poverty.

One of the important campaigns with regard to past violence is that for *jugun ianfu* (comfort women). Together with agencies from various Asian countries, this coalition was involved in the Tokyo Tribunal on War Crimes Against Women, which implicated the Japanese government for the sexual slavery committed by the Japanese soldiers during World War II. In Indonesia, KPIKD collaborates with a number of women's organizations and legal support agencies that have been handling this issue since the mid-1990s.

The coalition has also revived meetings known as "the women's vow," where victims and activists discuss their issues. According to Mulyandari, the biggest impediment to addressing cases of violence toward women, whether past or present, is the trauma that the victims face. In addition to the physical violence, women also have to deal with the social stigma and pressure from various parties, including their own families. To overcome this problem, this coalition collaborates with other agencies, such as LBH-APIK, to provide legal support or trauma counseling for female victims.

At the policy level, KPIKD emphasizes the need to redraft Indonesian laws by giving attention to the gender aspect, as the existing legal system is detrimental to women. Even if handled by a reliable and honest bureaucracy, the laws still do not guarantee equal treatment and justice. This is also indicated in the handling of past cases of violence, which often neglect gender aspects.

3. KONTRAS, Commission for Disappeared People and Victims of Violence

This commission was formerly a task force formed by YLBHI in March 1998 to handle cases of involuntary disappearances. As demand for its assistance grew higher, KONTRAS separated itself from YLBHI after two years and established its own management, staff, and volunteers. Since then, new offices have been opened in Aceh, Papua, and Timor-Leste, and are relatively autonomous from the Jakarta secretariat.

Since its inception, KONTRAS has focused its attention on cases of involuntary disappearance, arbitrary arrest and detention, and torture and inhumane treatment. According to Mufti Makarim, with such a focus, KONTRAS can work more effectively in breaking the chain of impunity and stimulating a more democratic structure with a greater appreciation for human rights.¹⁵ In recent years, KONTRAS has begun to cover other forms of violence, but it continues to focus on making the state more accountable for human rights violations.

At present, KONTRAS also handles cases of violence toward the Muslim community in Tanjung Priok and Lampung in the 1980s, the repression in Aceh and Papua, and the mysterious killings of approximately 3000 alleged hoodlums in the mid-1980s. In addition to collecting data and conducting campaigns, it has also assisted victims' families in establishing associations such as the Association of the Victims' Families of the Tanjung Priok case and the Association of the Disappeared Victims' Families (IKOHI).

¹⁵ By end of 1997, KONTRAS succeeded in exposing the abduction case of pro-democratic activists by the Special Troop Command (Kopassus) and brought a number of its officers to court. Although this case was then processed at the military court, activists viewed it as a major milestone because it occurred during the Soeharto ruling and involved one of the elite troops that had previously been untouchable by law.

4. KPA, Consortium for Agrarian Reform

KPA was established in 1996 following a meeting of farmer organizations and NGOs fighting for agrarian reform. Until mid-2002, approximately 195 farmer organizations and NGOs and dozens of individual members participated. In addition to pushing for legal reform, KPA, with its headquarters in Bandung, supported direct actions at the local level, such as land reoccupations. It also conducts public pressure campaigns and educational programs for its members.

In handling agrarian conflicts, KPA is also involved in the disclosure of cases of rural violence that frequently occurred during the New Order as business expanded. It has listed hundreds of cases of violence related to agrarian issues and compiled them into a database, which has been posted on its website.

According to a KPA activist, discussions on cases of violence cannot be limited to physical violence, but should also cover agrarian injustice and socioeconomic violence committed by business groups. Within the last couple of years, KPA has developed a transitional justice perspective for the agrarian context, making use of the lesson from the Land Commission that was part of the truth and reconciliation efforts in South Africa. Such a model, according to Noer Fauzi, can be used as a valuable lesson for the agrarian reform movement in Indonesia.

5. LBH-APIK, Legal Aid Institute of the Association of Indonesian Women for Justice

LBH-APIK was formed by the Indonesian Association for Justice (APIK) and became an autonomous entity in 2001. Its priority is to provide legal services for female victims of violence, especially domestic violence. Women lawyers in dozens of other cities formed institutes under the same name, but they are independent from LBH-APIK in Jakarta. In addition to providing legal aid, it also organizes empowerment training, campaigns on policy reforms, and documentation of cases of violence.

Although it does not have any special program to address cases of violence during the Soeharto regime, LBH-APIK's staff is involved in the investigation commission formed by Komnas HAM, and collaborates with organizations such as TRK and KONTRAS in advocating for victims' rights. According to Investigation Coordinator Sriwiyanti, their involvement is necessary, as investigations often lack a gender dimension. She noted that the government has not yet regarded a case of rape or violence toward women as a "major case," although such abuses always occur in conflict situations.

This institute has also organized training for lawyers, attorneys, judges, and police officers since 1998 and has made studies on laws and policies that trigger or allow violence toward women. It has caught the public's attention with its response to the Domestic Violence Draft Law, and it helped form special service units at various police quarters that specifically address cases of violence toward women. These units involve female police retirees in 18 large cities. Realizing that victimized women are often reluctant to report the violence they have suffered, this institute has also opened reporting posts and performed advocacy for victims.

6. ELSAM, Institute for Policy Research and Advocacy

ELSAM was established in 1993 by human rights lawyers and activists in Jakarta. In the beginning, it focused on cases of violations of civil and political rights. It has supported the

establishment of local human rights organizations such as Yayasan HAK (East Timor), Kaltim Human Rights Committee (East Kalimantan), and ELSHAM Papua.

After the replacement of the board in 1998, ELSAM began to pay attention to transitional justice issues and formed a special unit that concentrates on alternative peaceful settlements for past cases of violence. To support this strategy, a number of staff and volunteers are gathering information on cases of violence throughout Indonesia that will be compiled in a database. Additionally, they have also spread the ideas of transitional justice to various regions that are considered appropriate for development.

This institution also has paid special attention to the establishment of the Commission for Truth and Reconciliation (KKR). According to Ifdhal Kasim, ELSAM is currently developing two strategies. One is to develop KKR ideas from the bottom up and mobilize support for the establishment of this commission in several regions. The second is to launch campaigns and collect support at the governmental level and from Parliament. Several staff members are actively involved in drafting the law regulating the commission and formulating alternative drafts.

7. SYARIKAT, The Religious Community for the People's Advocacy

In 1998, a number of youth activists based in pesantren (traditional Muslim boarding schools) formed this forum in Jogjakarta to address the issues of democracy and human rights. The specific objective is to build a critical awareness among the religious and Muslim student community to erode the inherited authoritarianism of the New Order. They have successfully covered 18 cities.

Activists in this organization have researched the massacre in Central and East Java in 1965–1966 that involved a number of figures from Nahdlatul Ulama (NU), Indonesia's largest Muslim organization, and the military apparatus. Part of the research findings are disseminated to the public through seminars, conferences, and publications. According to Chandra Aprianto, such efforts are often blocked, as some religious leaders and NU activists object to the disclosure of their involvement. Therefore, fact gathering was conducted. The organization has tried to build an awareness that the resolution of the 1965–1966 issue is necessary not only for defending victims' rights, but for building a more just society and a better future for all Indonesians.

Other important activities are the reconciliation and rehabilitation processes at the grassroots level. The organization has held meetings between victims and suspected perpetrators at a number of traditional Muslim schools. SYARIKAT also collaborates with some victim organizations, such as LPKP, to find ways to address the issues in public. Based on some activists' observations, sensitive issues such as the 1965–1966 massacre cannot rely only on formal procedures like a court or KKR, but also require the support of grassroots movements.

8. PBHI, Legal Support and Human Rights Association Indonesia

PBHI was established in November 1996 by a number of lawyers and human rights activists in Jakarta. Its main activities are offering legal counseling for victims and political activists, launching campaigns, and providing public education on human rights. In recent years, its lawyers assisted political activists and humanitarian workers who were persecuted because of their activities in Aceh, Bandung, Central Sulawesi, and Jogjakarta. This legal defense is partly carried out through its offices in the regions and in collaboration with the local agencies.

In addressing the violence of the New Order, Johnson Panjaitan noted that PBHI works for an overall court trial of the main rulers, especially General Soeharto, who led the regime for 32 years. He believes alternatives, such as the KKR, will only weaken human rights enforcement in the future. Therefore, PBHI is involved in national and international campaigns to promote court trials, including international ones, to put an end to impunity.

PBHI also recognizes the importance of establishing organizations at the local level to perform human rights campaigns. In organizing, it always involves groups of students, labors, farmers, and individuals who were victimized by violence and injustice. Most of the attention has been paid to recent cases. Therefore, few staff members are involved in organizing the victims of New Order violence.

9. SNB, Solidarity of Land and Nation

SNB was established after the May 1998 riots, which occurred in several big cities in Indonesia, to provide victim aid. In its further development, this objective expanded into the elimination of racial discrimination that was viewed as the foundation on which various injustices occurred during the New Order. SNB later grew into an independent organization that handles legal advocacy, public campaigns, and research projects.

In addition to handling the May 1998 riots, SNB also deals with the 1965–1966 massacre and cases of racial discrimination in the administration of citizenship rights. One of the major activities in the context of disclosing the past is digging up the graves of massacre victims. SNB collaborates with LPKP dan Pakorba and recruited naturalist groups and forensic experts to work on the exhumation. The purpose was to obtain evidence that is expected to be useful in the judicial process or the KKR in the future. Such activity has frequently met with resistance from various groups that accuse SNB and LPKP of reviving “the ghost of communism” in Indonesia.

General Secretary Hotma Timbul Hutapea noted that because the judicial process in Indonesia operates so poorly, SNB is pushing for the implementation of an international trial for the New Order regime. He believes the establishment of the Commission for Human Rights is another alternative that needs to be supported, as long as it does not preclude the possibility of holding domestic and foreign court trials. He considers this international judicial campaign far more important for applying pressure to judicial system and forcing it work properly.

10. TRK, Volunteer Team for Humanity

TRK was formed by a group of NGOs in July 1996 to handle the case of the attack on the PDI office in Jakarta. Its original aim was to disclose facts about the violence that the state had hidden from the public. Subsequently, this team sent its activists to investigate incidents of communal violence, provide medical support, arrange legal advocacy for victims of violence, and hold public education forums at schools, houses of worship, and community centers. TRK also encouraged the formation of similar groups of humanitarian volunteers in various regions.

After a change in leadership in mid-1998, TRK grew into an independent organization. Almost everyone works on a voluntary basis, and the group relies completely on public donations. At present, TRK collaborates with the victim community in conducting investigations and gathering information about various cases throughout Indonesia. Other activities include humanitarian aid and empowerment of the victim communities, as well as formation of victims’ families associations. TRK also provides volunteers to advocate on behalf of victims’ families at hospitals where treatment is being received, and also offers financial support.

TRK supports the formation of the Commission for Human Rights as an alternative to the inoperative judicial system. However, according to Adi Prasetyo, the process of disclosing the truth should start from the grassroots level. Top-down initiatives did not settle problems because of the prevailing tension between victims and perpetrators (despite agreement at the elite level). He feels that victims' voices should receive more attention, so TRK is also involved in gathering oral history.

11. Kalyanamitra Foundation

Kalyanamitra is one of the first feminist NGOs established in the New Order. It started in 1984 in Jakarta from the initiative of a number of university lecturers, journalists, and students. Its main activities include researching and documenting the life of Indonesian women and promoting women's rights. It also focuses on acts of violence toward women that are committed by the state or the public. This foundation has developed networks with women's organizations covering all of Indonesia and has one of the most complete documentation centers on women.

In the past few years Kalyanamitra has been involved in various activities to help the victims of violence in Aceh and the female victims of the 1965–1966 violence. In the case of the May 1998 riots, it acted as a host for volunteers that helped female victims of violence. Assistance comprises training to build a recovery system among the victims at the community level and education that emphasizes gender aspect in cases of violence.

In certain cases, Kalyanamitra also conducts victim advocacy by providing shelter facilities. This foundation is also active in victim community movements for various cases in collaboration with other organizations, such as ELSAM, TRK, and KONTRAS.

12. YLBHI, Indonesian Legal Aid Foundation

YLBHI is one of the oldest NGOs in the region. During the New Order, it was one of the few groups to address human rights violations by providing legal aid for victims and criticizing government policies that violated human rights. With a concept of "structural legal aid," this organization also provided victims with empowerment and organization, especially those from communities that the system did not allow to fight for themselves.

With branches in 14 cities, YLBHI has also acted as a human rights NGO that has the most extensive geographical network. This foundation has also helped in the formation of a number of new organizations, such as KONTRAS and Indonesian Corruption Watch (ICW), and some senior lawyers that were active in this foundation later formed several new organizations, such as ELSAM, LBH-APIK, and PBHI. After the 1998 political reform, YLBHI still handles cases of violence inherited by the New Order and launches campaigns to claim appropriate court trials for the criminals at the national and international levels.

Although it does not have any specific program to address past cases of violence, YLBHI is frequently involved in the campaigns in addressing such cases together with other institutions. Its main focus now is the disclosure of cases of violence in Aceh and Papua. In these two regions, the local branches of LBH play a critical role as a focal point as well as a liaison between the opposition force and the government. In addition to issues of physical violence, this foundation emphasizes the importance of protection for economic, social, and cultural rights that demand an overall reform in the system.

B. Victim-based Organizations

The 1998 political reform opened the way for the New Order victims of violence to assemble in various groups and organizations. The basic motivation was to fight for their rights as victims and to claim justice. The organizational forms greatly vary from self-help associations to formal organizations with complicated structures.

In this mapping exercise, the researchers found difficulties in formulating the definition of a “victim organization.” The concept of “victim” itself started to emerge around 1998–1999 and has affected the way various communities identify themselves. The displaced farmers, for example, often identify themselves as a victim group in fighting for their rights. Nevertheless, at the same time, it also claims to be a “people’s organization” that fights for a larger cause, such as agrarian reform and land takeovers.

These groups relate to victims of certain cases of violence that have a mutual purpose to claim justice for what they have suffered. In addition to these groups, dozens of ad hoc committees have been formed for specific campaigns but have not had any continuing structure and program. Although not all are mentioned here, the researchers are aware of their role in the human rights movement.

1. IKOHI, Association of Disappeared Peoples’ Families

IKOHI began in 1998, however, it was officially established as a formal organization only in October 2002 through a congress in Jakarta. Originally it was intended merely to provide a facility for the victims’ families to meet and share their burdens. However, after the congress, the management established a more solid program and opened it up for other victim groups to join. At present, IKOHI has been established in various locations and helps the formation of other victim groups in Aceh, Central and East Jawa, Lampung, and Papua.

This association’s priority is the socioeconomic and political empowerment of victim communities. Economic activities are organized to protect victims from the pressure to accept *ishlah* (reconciliation) and compensation without disclosure of the truth. It has worked in collaboration with a number of NGOs, such as ELSAM and KONTRAS. In the political aspect, IKOHI actively demands court trials for the perpetrators and explanations from the government regarding disappearances.

However, the chairman of IKOHI, Mugiyanto, realizes that the current political situation does not allow the perpetrators to be brought to fair trials. Therefore, IKOHI focuses its activities on empowering its members and building cooperation with as many parties as possible in making the settlement of cases of violence an integral part of the reform agenda.

2. LPKP 1965–66, Institute for Research on Victims of 1965–66 Killings

LPKP was established in Jakarta in April 1999, as a foundation, by a number of persons who were political detainees of the New Order. The official reason of its establishment was “to fight for the truth, justice and humanity, and so that victims can fight for their own destiny.” Its main activities are investigating mass killings in Indonesia in 1965–1966. In 2001, it became an institute. It currently consists of 6 departments with 16 branches in Bali, Java, Sulawesi, and Sumatra.

LPKP soon realized that urging the government to admit to past acts of violence was critical to receiving legal settlements. In conducting its activities, this organization collaborates with human rights institutions, such as SNB, PBHI, and ELSAM, as well as other victim organizations. LPKP still needs to address problems caused by opposition by security forces and from members of civil society who dismiss their activities as being politically motivated.

3. LP-KROB, Institute for the Struggle of Victims of the New Order Regime

This institute is a combination of various victim organizations and groups that were formed in May 2001. Similar to LPKP, the majority of its management and members are New Order political detainees. Its main programs focus on the struggle for rehabilitation, compensation, repayment, and correction of history writing. Its management claims that it already has 122 branches in Java, Sulawesi, Sumatra, East Nusa Tenggara, and West Nusa Tenggara, and is thus the biggest victim organization.

As an early step, this organization also gathered information from its members. At present, some members of the management, with the support of other organizations, are preparing location maps of mass killings that later will be submitted to Komnas HAM with the hope that it will be followed up pursuant to Law 26/2000. A number of lawyers and legal experts who joined this institute are also taking the initiative to approach the president, Parliament, and the Supreme Court to claim rehabilitation and demand the revocation of laws that restrict the civil and political freedom of victims and their families.

With the realization of the substantial number of families suffering economically as a result of discriminatory practices, this institute formed income-generating groups and arisan (rotating savings groups) with victim families as members. At the local level it tries to collaborate with the regional government.

4. PAKORBA, Association of Victims of the New Order

PAKORBA was established in September 1999 to “recover the victims of the New Order from the incidents of 1 October 1965 to 1999 which covers millions of people who lost their lives, their civil rights and their human rights, and to struggle in a front.” Unlike LPKP and LP-KROB, which draw more exclusively on the former members of the PKI, this organization involves a number of Muslim political figures and nationalists who were previously political detainees of the New Order, as well as their families. In the June 2002 congress that approximately 300 people attended, a decision was made for PAKORBA to be transformed into a mass organization with branches dispersed in various big cities.

Its main activities are to demand government responsibility for the victims of violence during the New Order, so it asks all members to turn over power of attorney. In some locations, PAKORBA actively deals with the discrimination toward former political detainees and their families who are not allowed to take part in the government. It also gathers information from victims of the New Order violence. According to PAKORBA’s management, this truth-seeking will be “beneficial for the writing or presentation of history that will not be deceptive for the young generation.”

To improve victims’ knowledge about their rights, this organization collaborates with NGOs like ELSAM in organizing seminars, meetings, and other educational programs that introduce international human rights instruments, such as the Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power. According to General Secretary Sasmoyo, the

formation of the KKR is a better way to handle the 1965–1966 violence because the legal process is no longer effective and vulnerable to manipulation.

C. Research and Academic Institutions

During the New Order, higher educational institutions were strictly controlled. Research and studies on violence and human rights were conducted mostly by NGOs or performed individually. This situation started to change in the late 1990s, as several universities opened special departments that study human rights issues and various aspects of violence. The Ministry of Justice and Human Rights assisted in the establishment of centers of human rights studies in 23 universities throughout Indonesia.

These institutions generally focus on conflict resolution, reconciliation, and studies on general conflicts. Studies on violence during the New Order reign are still very limited, largely because of the demand to understand the recent patterns of violence in Indonesia.

1. CSPPS-UGM, Center for Security and Peace Studies, Universitas Gadjah Mada, Yogyakarta

This research center was established in October 1996, with emphasis on security studies. Originally, it provided training at the police and military academies in collaboration with military institutions. However, after 1998, it had more freedom in designing and developing its own programs. According to Diah Kusumaningrum, it continued to cooperate with the government in order to address past cases of violence.

In addition to conducting research on various aspects of conflicts, CSPPS-UGM also develops victim-based conflict-resolution strategy. Its methods include focus group discussions with victim groups and stakeholders in conflict situations, the results of which would be submitted to the public and government. The center also assisted with the mediation process for proposals of reform in the police structure, which prioritizes the concept of community policing.

2. PSPP-UKDW, Center for the Study and Promotion of Peace, Duta Wacana Christian University, Yogyakarta

PSPP-UKDW was founded by UKDW in the public service program in 1996. At first, its activities were limited to training, education, and mediation of conflicts, especially in handling internal conflicts within the church community. Its areas of interest began to expand when conflicts started to widen, and by 2002, its activities had covered almost all conflict areas in Indonesia. This institution also responds to increasing needs, such as training in trauma healing and reconciliation.

Director Rev. Paulus Widjaja emphasized the need to reform the dominant paradigms of conflict, victim, and reconciliation. So far, this has been limited to the technical aspects; however, this institution tries to give precedence to the concept of restorative justice, whereby the perpetrators and the victims have a mutual opportunity to settle the problems and live peacefully.

In carrying out its activities, PSPP collaborates with a number of other institutions but tends to avoid coalitions or advocacy networks that give the impression of power politics. Widjaja expressed his opinion that peace and reconciliation will never be achieved if the perpetrators and the victims still engage in violence and require an all-or-nothing resolution.

3. Pusat Studi HAM UII, Center for Human Rights Studies, Islamic University of Indonesia, Yogyakarta

Pusat Studi HAM UII is the result of a collaboration of the Minister of Human Rights Affairs and various universities in 2000.¹⁶ It covers research, training, and advocacy in Central Java and Yogyakarta. So far, it handles several cases directly, such as the battering of activists by the police and armed civil groups. It also follows up on victim claims by providing protection and recommendations to other institutions.

The director has stated that handling cases of violence committed during the New Order regime is crucial for the formulation of clear reform agenda. At the moment, the organization is preparing documentation of the testimony of the victims of the 1965–1966 incident and that of the Usroh (Islam militants) movement. He believes a court trial would create an adversarial situation and would not guarantee any structural reform. He notes that the present situation actually requires reconciliation at the local level that caters to the victims' wishes.

The actions taken to address the above issues include organizing dialogues and public education in collaboration with mass media, such as the national state radio station (RRI), the community, religious institutions, and student groups. In terms of legal reform, this center is involved in the drafting of the National Security draft law and several regional regulations (perda) in Yogyakarta.

4. CERIC, Center for Research on Intergroup Relations and Conflict Resolution, the University of Indonesia

This research center is a semi-autonomous agency, under the Faculty of Social and Political Science of the University of Indonesia (FISIP-UI), that specializes in conflict resolution. Its main activities comprise research, training, and development of curricula and syllabi on conflict for universities. It also focuses on the settlement of contemporary conflicts, especially those referred to as "horizontal conflicts."¹⁷

Since 2000, this research center has collaborated with approximately 20 universities and dozens of NGOs and international institutions, such as the United Nations Office for the Coordination of Humanitarian Affairs, the United Nations Office of the High Commissioner for Human Rights, and the United Nations Development Programme. In addition to publishing findings of studies and analysis on conflicts and the settlement, CERIC also convenes seminars and workshops on the dissemination of pluralism, peace, and civic education.

5. Other Programs

In addition to established institutions with regular programs, there are several scientific institutions where researchers network to address violence in Indonesia. Lembaga Ilmu Pengetahuan Indonesia (LIPI), for example, cooperates with Centre National de la Recherche Scientifique (CNRS) from France in preparing the Program of Social Sciences on Conflict in Indonesia. This program aims at supporting research that is beneficial for the academic community, policymakers, and other civil society elements.

¹⁶ Similar study centers were formed in 23 universities throughout Indonesia. However, because of limited resources and insufficient support, not all study centers can function effectively. The Human Rights Study Center of UII is one of the most active centers.

¹⁷ This term is often used to refer to conflict among civilians, such as the perpetration of violence by civilian militias or the violence erupting between civilians of competing ethnic or religious groups.

Another initiative is the Indonesian Conflict Studies Network (ICSN), which is a collaboration of researchers in Indonesia and the Nordic countries. As a research network, ICSN is funded by the supporting institutions and aims at providing support and building cooperation among researchers from the two regions. At present, this network involves researchers from Aceh, Jogjakarta, Moluccan Islands, North Sumatra, Papua, Riau, West Java, and West Kalimantan, and from universities and research institutes in the Nordic countries. It holds seminars to develop research methodologies and workshops to improve cooperation among researchers.

D. Religious Institutions

Several organizations and groups have held important roles in disseminating human rights values, justice, and peace. They tend to open special units or programs to handle violations of human rights and conflicts, with various capacities and orientations. Even though they are acting as official representatives of their respective religions, the range of their work is not always limited to the religious community.

Quite a few organizations fall under this category, but because of space constraints, this report discusses only a few.

1. KWI, Indonesian Bishops' Conference

The Catholic church has been involved in defending human rights since the beginning of the New Order period. These efforts often take the form of individual church workers providing humanitarian aid and religious services to political detainees and other victims of violence. These efforts started to be incorporated in 1985 with the formation of the Commission for Justice and Peace under the KWI. At present, almost all dioceses in Indonesia have commissions or secretariats in this area.

Felix Mahmudi, a staff member of one such commission in Jakarta, stated that these activities focus more on the promotion of human rights and training for Catholic communities than on the transformation of conflict and general legal advocacy. The dynamics of this commission's activities in the regions vary. SKP Jayapura in Papua, for example, is known as a very active institution in investigation and education, as well as for providing advocacy and mediation of conflicts. On the other hand, several secretariats and commissions are not active because of a lack of resources and capacity to develop their programs.

Another office in the structure of KWI is the Secretariat of KWI Women Partner Network, which was established in December 1995 and officially incorporated in April 2002. At present, the network is spread to 14 dioceses that emphasize gender equality. Thanks to the cooperation with a number of NGO secretariats, it has begun to present various programs for training and advocacy for victims.

The Catholic church is also recognized as a host for a large number of NGOs and public groups that defend human rights, such as the Social Institute of Jakarta (ISJ), Catholic Relief Service (CRS), and Jesuit Refugee Service (JRS). Its sectarian organizations, such as PMKRI (Catholic students' organization) and Mudika (Catholic youth organization), are actively involved in campaign activities, and many of its members are from NGOs formed by the church.

2. PGI, Persekutuan Gereja-Gereja Indonesia

As an umbrella for most of the Protestant churches in Indonesia, this institution has regional coverage throughout Indonesia. Since the beginning of the New Order, these church workers have been involved in the religious service activities and aid for victims of violence and the promotion of human rights values. At the end of Soeharto's reign, the head office of PGI in Jakarta was host for various initiatives to handle past cases of violence, such as the Indonesian Society for Humanity (MIK), The National Human Rights Communication Forum in Irian Jaya (FKN-HAM Irja), and the Committee of Defence Action for Political Detainees (KAP T/N).

The institutionalization of these activities started with the enlisting of support and resources through the Christian Service Institution Network (Jaringan Kerja Lembaga Pelayanan Kristen, JK-LPK), which was established in 1990. This network is in charge of developing a justice and peace program in every region. For certain cases, such as the conflict in Poso and the people's opposition against a lumber company in North Sumatra, this institution formed a coalition with other institutions.

JK-LPK was also involved in the handling of the problems in Aceh, Ambon, East Timor, and Papua. Its campaign activities are more focused in the Christian community in various locations to understand the substance of conflicts that are often manifested in religious sentiments. According to Delmyser Makadoku, one of the largest impediments to the institution is the Christian label itself, which becomes a serious issue in regions such as Maluku and Central Sulawesi, where there is a significant divide between the Christian and Muslim communities.

3. Muhammadiyah

Muhammadiyah's main focus is education in the Muslim religion. Only after 1998 was there a special commitment to "thoroughly address big cases related to human rights violations." Despite the lack of a special division to handle such issues, this commitment is materialized by NGOs affiliated with the organization. Its main activities are to disseminate Muslim values that can serve as the foundation for a democratic system that protects human rights.

Many young people belong to the Muhammadiyah Teenagers' Association (Ikatan Remaja Muhammadiyah, IRM) and the Muhammadiyah Students Association (Ikatan Mahasiswa Muhammadiyah, IMM). These associations developed an educational program for their members on human rights. In 1999, IRM organized a training that addressed state violence and nonviolent techniques to overcome them. In universities, this organization also developed a curriculum that emphasizes pluralism and appreciation for human rights.

Some of the organization's leaders expressed a commitment to disclose cases of past violence, although they noted that such measures should be implemented gradually to avoid any political unrest. In Muhammadiyah itself there are still differences of opinion regarding the past, which explains why many members choose to work outside the organization and join an NGO if they wish to work on issues relating to past violence.

4. NU, Nahdlatul Ulama

Under the leadership of Abdurrahman Wahid, this organization, based in Muslim religious schools, took several important measures to enforce human rights in Indonesia. Youth and student organizations, as well as NGOs affiliated with NU, actively conducted campaigns and education at the community level on human rights values, justice, and humanity. The leaders and

organizational figures have been involved in various civil society movements that are significant in human rights struggle.

However, debates still continue regarding the response to the involvement of a number of this organization's leaders in the elimination of the left movement in 1965–1966. Some religious leaders are against disclosure, as it may open up potential disintegration and provoke unnecessary political unrest. On the other hand, the younger leaders indicated that the move to disclose the involvement of NU in this incident and the proposed national apology constitute progressive measures that would strengthen the existence of the organization and create a healthier life for the nation.

The Human Resources Development Institute (Lembaga Kajian dan Pengembangan Sumberdaya Manusia, LKPSM) collaborated with SYARIKAT and LkiS to investigate a number of mass killings in Central Java. The ANSOR Youth Movement, a youth wing of the NU in this region, admitted the involvement of their predecessors in the 1965–1966 violence and stated its support for such effort at historical disclosure. The concrete measure taken was to hold a reconciliation meeting among the religious leaders, leaders of the Muslim boarding schools, and victims of the violence.

In the meantime, a women's organization, Fatayat NU, formed several consultation and Empowerment Agencies (LKP2) that provide training on counseling, awareness, and advocacy for women. The Association for Society and Pesantren Development (P3M), which trains the religious leaders and Muslim school leaders to develop thinking on democracy, justice, and human rights in their respective communities. RAHIMA also works among the pesantren (religious boarding school system) community, with a special focus on women's rights within Islam.

E. The Role of Donor Agencies

The role of donor agencies in the human rights movement is critical, as they are the funding source for most of the organizations mentioned above. On the one hand, this type of aid enables these agencies to implement their programs, develop networks, and improve the quality of their service. On the other hand, there is concern that civil society organizations have become increasingly dependent on donor agencies even in the formulation of programs and requirements.

Dependence on donor agencies is also part of the criticism against the NGO movement. Agencies such as KONTRAS and YLBHI are frequently discredited as the extension of foreign power that intends to disturb the stability in Indonesia through the disclosing of certain acts of violence or crime. The military and civil forces have criticized the NGO movement for “selling out their own nation” by disclosing cases of human rights violation in international forums.

Criticisms are even found among civil society organizations regarding the role of the donor agencies, when they are viewed as conducting excessive intervention in the formulation and implementation of program work. Some organizations expressly reject this tendency, while others try to modify their work programs to match the donor agencies' requirements.

This problem is normally caused by weak communication between the donor agencies and the NGOs. Frequently, these partnerships are marked by a lack of knowledge. The institutions involved are content as long as the program has been accomplished without any significant administrative problem. There is often no assessment of how effectively the program was handled or any measurement of its impact.

The donors are also generally focused on handling current issues. With regard to violence, for example, their attention tends to shift more to the communal riots and conflicts, such as those in Poso and Maluku, instead of latent conflicts between the state and the people such as those in Papua and Aceh.¹⁸ On the other hand, violence during the New Order period, such as the 1965–1966 mass killing, the incidents in Lampung and Tanjung Priok, and other similar incidents, do not receive much attention.

Only a few agencies pay attention to the issue of “dealing with the past” and act as sponsors for a number of major initiatives. Aid is normally used to improve victim capacity through training and education, information gathering, and investigation, as well as seminars, conferences, and other public educational media. Several others focus on the legal and state agency reform by supporting civil society organizations in establishing watch groups.

Nevertheless, based on the assessment by some organizations, many programs could not fully develop because of the limited resources that were spent on a larger number of diverse initiatives. As a result, activists often wasted time attending trainings, workshops, seminars, and other activities that resulted in less resources being dedicated to activities at the community level.

Another issue is the sustainability of each program. Not many programs succeeded in enlisting support that will provide support over the long term. One activist explained that NGOs tend to view their programs as a kind of “panacea for all ailments” and pour all their energy and hope into them.¹⁹ As public attention (especially the media) starts to wane, the program is considered no longer relevant and is abandoned.

III. MAJOR INITIATIVES

In this preliminary survey, the researchers listed some 200 activities occurring between 1999 and 2002 that were related to the efforts of dealing with the Indonesian past, including trainings, one-day seminars, and group discussions on the monitoring of government agencies and publications. The researchers subsequently arranged a classification list based on the background of ideas, scope, time, and status.

To clarify the description, researchers classified various initiatives into five transitional justice elements: (1) truth-seeking mechanisms, (2) prosecutions, (3) legal and institutional reform, (4) reparations and rehabilitation, and (5) reconciliation. In a workshop held in January 2003, each of these elements was broken down into various formats of activities that were also used as a parameter to determine the extent and depth of each initiative.

At the end of each section, a matrix shows the extent of the organization’s involvement in each activity.

¹⁸ The attention of donor agencies for Aceh dan Papua is more focused on the humanitarian aid, conflict resolution, and social issues, rather than investigation and human rights campaigns, which NGOs mostly handle.

¹⁹ To date, NGOs still face difficulty in creating a common agenda out of their various programs. Cooperation is usually based on personal relationships, and similar views on certain issues, rather than common long-term goals.

A. Truth-seeking Mechanisms

Almost all institutions believe that truth-seeking is an important part of dealing with past violence. The customary terminology is “investigation,” which has different meanings and coverage for each organization. Some understand it as the effort to gather information to be made into a chronology of events as campaign material, while others see it as a verification process that comprises relatively complex procedures. Such activity is normally conducted during site visits or when receiving claims from victims, which constitutes the regular work of many institutions.

1. Statement Taking and Testimonies

Since they were established, LPKP and PAKORBA have gathered information on the 1965–1966 victims of violence by distributing forms via their members and branches in various regions. In some cases, such forms can be useful for compiling data. However, they have the potential to create other problems. The victims sometimes consider the form excessively complicated and confusing. Some are afraid to give a written statement, as it reminds them of their past experience with repression and “naming names.” To address this issue, PAKORBA developed a program of biography writing where the victims can express themselves in their own manner and style.

Another important initiative was the oral history program, which has gained popularity over the past two years. TRK has collaborated with the Cultural Network (Jaringan Kerja Budaya, JKB) since early 2000 and succeeded in recording the testimonies of approximately 260 victims of the 1965–1966 violence in eight provinces. The results were then used for writing several essays about the terror.²⁰ A similar activity was also conducted by Yayasan Lontar, a nonprofit organization that works with literature and culture and intends to publish interviews with a number of victims in the form of a short story collection.

At about the same time, SYARIKAT gathered information from some prominent NU figures, members, and supporters that were suspected to be involved in the terror of 1965–1966. Several interviews have been used in the writing of papers and books regarding that incident. According to Chandra Aprianto, who was in charge of the research, this activity was frequently opposed by religious leaders who did not want to reveal NU’s involvement in the incident.

Other important efforts are the public events organized by NGOs to provide opportunities for victims to share their experiences. The office of YLBHI in Jakarta often hosted such activities, which were attended by hundreds of people and covered by domestic and international media. Unfortunately, not many of these activities are properly recorded and documented.

2. Fact-finding Missions

Since 1998, the government has formed several fact-finding commissions that almost always involve civil society organizations. These groups are usually formed following pressure from victims’ families and NGOs. All of the organizations admitted that they had accompanied victims’ families to visit Komnas HAM or Parliament to demand the formation of such commissions, although not all of these organizations are involved in them.

²⁰ Since April 2002, these institutions have collaborated with the International Institute for Social History (IISG), with its headquarters in Amsterdam, to organize oral history workshops that invite certain groups from Aceh, Timor-Leste, and big cities in Java. Currently, TRK is using a similar method to gather the testimonies of families of the students who were shot in 1998–1999 and the families of the victims in Jakarta.

In certain cases, NGOs also collaborate in their own fact-finding mission. ELSAM, KONTRAS, TRK, and YLBHI are the most active organizations in such activities. The information they collect is usually used to prepare a chronological sequence of events and a list of required humanitarian aid. Other organizations that are not directly involved usually provide material support.

Nevertheless, fact-finding missions that try to disclose past cases of violence are quite limited in number, as NGOs consider recent cases of violence of higher priority. LPKP and SNB are exceptions, with their exhumation of the 1965–1966 mass graves in Central Java and East Java, which involved forensic experts, rock climbers, and victims’ families. The first mission succeeded in finding a number of victims’ skeletons that could be identified and were handed over to the victims’ families for appropriate burial.

According to the management of PAKORBA, there was a plan to dig out several locations suspected of being used as mass graves in West Sumatra. However, they were stopped by the security apparatus and armed civilian groups under the accusation that they were trying to build a “communist sacred place.” In Central Java, the LPKP also discovered some victim skeletons.

Several interviews revealed that human rights agencies did not treat such missions as a priority, as there was no guarantee that the government would follow up and because new cases received better attention from the public and the media, and were more likely to be settled legally.

3. Archival Research and Documentation

Archival research is usually conducted in the advocacy process of certain cases. The agencies that handle violence in natural resources conflicts rely heavily on the archive as the basis for claims on land, whereas in cases of political violence, the archive is used as evidence of the involvement of the apparatus or the bureaucracy. However, this activity is usually temporary and rarely reaches any useful conclusion, so it is eventually considered not as urgent in handling cases of violence.

Agencies generally have a special staff or unit in charge of handling documentation. Nevertheless, not all units function effectively. According to the agency’s annual report, documentation activities are generally limited to storing books, reports, or new publications. Some even admitted having improper documentation of previously handled cases, citing lack of resources or staff.

In this context, it is important to notice the efforts made by ELSAM since mid-2001 in collecting documents on cases of violence during the New Order period throughout Indonesia. Currently, the documentation division has collected thousands of government and military documents and other written materials on cases of violence during 1965–1998, all of which was subsequently arranged in a database. Similar effort was made by The Study Institute of Press and Development (Lembaga Studi Pers dan Pembangunan, LSPP) for the regions of Aceh, Maluku, and Papua.

According to Sentot Setyosiwanto from ELSAM, the major impediment for such an effort is limited access to government documents and archives. Public authorities generally claim that archives are confidential and cannot be accessed for security reasons. In his opinion, groups that perform such activities need to claim the enforcement of freedom of information law, which can guarantee access to government documents.

Another outstanding initiative was the archive on the reform movement that was gathered by the Research Institute for Democracy and Peace (RIDEP) in Jakarta. Recently, this agency announced the results of its research on thousands of documents collected since 1998. Despite being limited to certain regions, particularly big cities, collecting such archives can help people understand civil society organizations' thoughts and practice in addressing the transitional period in Indonesia.

Researchers also met with some individuals who own proper documents on the past cases of violence or on certain geographical locations. Such documentation usually comprises results of research originally gathered for study purposes. A historian from the University of Jember, East Java, for example, had collected all written archives on a political prisoners' camp in the island of Buru. Unfortunately, until now there has been no systematic pursuit to integrate dispersed fragments of information.

4. Public Events, Commemorations, and Monuments

Public events, such as common prayers or solidarity nights, have been popular since the last years of Soeharto's reign. Their main purpose was to break the silence that was a byproduct of the New Order's repression. NGOs and victim groups usually conducted these activities in collaboration with religious leaders to discuss various cases and types of violence. In addition to presenting prominent figures to deliver their ideas, such activities were often accompanied by film presentations, photo exhibits, and other cultural events to attract the attention of the public and the media.

Other popular formats include seminars and conferences that invite a large group of people to listen to speakers, followed by a question-and-answer forum. The victim community usually has the opportunity to present its experience, views, and expectations. In the past few years, a more popular format is a public dialogue that tries to eliminate the gap between the source and the audience.

Important celebration days, such as Human Rights Day or International Women's Day, are normally accompanied by parades, demonstrations, or "mass gatherings."²¹ In such events, human rights organizations, victim groups, and other agencies deliver their claims for the settlement of all criminal cases committed by the New Order. In the celebration on December 10, 1998, a group of activists performed the ceremony of *larung* (drifting lamps on the water as symbols of victims) in a river in commemoration of the victims of violence during the New Order, including those of East Timor.

Cultural activities, such as theatrical presentation and erection of monuments, have recently gained popularity. In Surabaya, a sculptor held an art exhibition in memory of Marsinah, a labor activist in East Java, who was killed by the military for leading the labor strikes in factories. In Jakarta, a female artist turned her exhibition venue into a meeting place for female victims to share experience and exchange support. Previously, some artists, with help from KONTRAS and IKOHI, collaborated in the recounting of the anguish of the people who were abducted by the military in 1997–1998.

²¹ Other events that are regularly commemorated are the 1998–1999 students' shooting at the University of Trisakti and the Semanggi Bridge and the May 1998 tragedy. The issues of security apparatus' intervention and dispute cases resulting in human rights violation in the past were also highlighted in the commemoration of the Labour Day and the Agrarian Reform Day.

Commemoration also included visiting victim's graves. Every year, families of the victims of the May 1998 tragedy assemble to visit their relatives' graves. This activity is also used to enlist the solidarity of other victims' families.

5. Publication and Dissemination of Information

The publication of books and reports has been considered one of the most effective ways to reach the Indonesian public. The published texts are generally the results of research and investigations on specific types or cases of violence in certain regions. ELSAM, LSPP, ISAI, and YLBHI are most productive in the publication of such books and reports, occasionally collaborating with commercial publishers in Jakarta and Yogyakarta.

Other formats include audio-visual media. SNB recorded a mass graveyard digging activity in collaboration with a production house that was managed by activists, and distributed the film to the public. ELSAM also funded the production of a film on victims of violence acts in Aceh and is now looking into the possibility of making a feature film on a prisoners' camp in Buru Island. Several organizations have also videotaped their activities; however, because of the lack of resources for processing, such films cannot be presented to the public yet.

During the past three years, international agencies such as the International Crisis Group in Jakarta have published reports on various aspects of transitional justice in Indonesia, and the results of research on cases of violence that have hit Indonesia in recent years. Although these reports are generally addressed to foreign public, the attention of the Indonesian public is quite significant. People generally view the international agencies' reports as continuously reliable and based on careful investigation.

TRUTH-SEEKING MECHANISMS

	Organization	A.1	A.2	A.3	A.4	A.5
NONGOVERNMENTAL	INFID					•
	KPIKD	•			•	
	KONTRAS	•	•		•	
	KPA			•	•	•
	LBH-APIK	•		•		
	ELSAM		•	•	•	•
	SYARIKAT	•			•	•
	PBHI		•		•	
	SNB	•	•		•	•
	TRK	•	•		•	
	YKM				•	•
	YLBHI	•	•	•	•	•
VICTIM	IKOHI	•				
	LPKP	•	•			
	LPR-KROB			•	•	•
	PAKORBA	•				•
ACADEMIC	CSPS-UGM		•	•	•	•
	PSPP-UKDW				•	•
	PUSHAM UII				•	•
	CERIC-UI		•	•	•	•

B. Prosecutions

Prosecuting perpetrators of violence has been the central theme of the reform movement. However, organizations realize they cannot rely on the government to enforce the judicial process. Some even commented that prosecutions can lead to new injustices and extend the chain of impunity, as it did at the Ad Hoc Human Rights Court for East Timor. Others try to develop strategies to question the past cases of violence through legal procedures.

1. Legal Claim

NGOs frequently use legal claims as part of their overall strategy. In the May 1998 violence case, SNB charged the government with failing to provide citizens with a sense of security. At the local level, it has succeeded in obtaining reimbursement for shop owners who were affected during the riot. Meanwhile, LPR-KROB used the same strategy to claim for rehabilitation of the victims of the 1965–1966 incident, and to bring the issue to the government, Parliament, and the Supreme Court.

Another strategy was to sue several military officers in foreign courts. This effort was first made by an organization of East Timor solidarity following the killing at the cemetery of Santa Cruz on November 12, 1991. A high-ranking military officer was pronounced guilty. A similar strategy was implemented after the destruction of the region in 1999. A number of organizations in

Indonesia supported the efforts made by East Timor Action Network in the U.S. to sue Lieutenant General Johnny Lumintang, who was acting as Deputy of the Army Commander.

During the previous years, ELSAM and WALHI collaborated with local organizations and an American lawyer to sue the giant mining company, Freeport McMoran, which is based in the United States. Freeport McMoran was accused of being involved in cases of violence toward the Amungme community living in the vicinity of the mining location that resulted in the deaths of numerous people in 1996. The Mining Advocacy Network (Jaringan Advokasi Tambang, JATAM) made similar charges against mining companies that were involved in cases of violence in various locations throughout Indonesia.

2. Legal Drafting

Given that the root cause of the disabled legal system is its weak laws, human rights agencies are actively involved in formulating legal products. For example, ELSAM had a significant role in the formulation of Law 26/2000 and the preparation of draft law on the Commission for Truth and Reconciliation. The Ministry of Justice and Human rights has also requested that ELSAM provide its views on the drafting and implementation of other laws.

Other organizations, such as YLBHI and PBHI, have been organizing seminars and workshops to formulate inputs to governmental ministries in the drafting of certain laws, and to Parliament for the ratification of these laws. Last year, an NGO involving among others, LBH-APIK, KPIKD, Komnas Perempuan, and other human rights activists, participated in the formulation of laws on the protection of witnesses and victims to complete Law 26/2000.

3. Training of Law Enforcement Personnel

At the formation of the Ad Hoc Human Rights Court, it was suggested that training be provided to prosecutors and judges. Because the government shows no political will in settling cases of violence, most agencies viewed this activity as unproductive and refused to be involved. Only The Asia Foundation allocated funds for the training of several ad hoc judges for several days in Jakarta in 2000.

Meanwhile, women's organizations frequently held meetings and training activities for the police in handling cases of violence toward women with an aim toward making police more sensitive to such issues. For example, a coalition composed of female activists and members of Komnas Perempuan has worked with the officers handling the women's desk at police quarters.

4. Public Education and Campaign

Many organizations were involved in public campaigns highlighting the problems of Indonesia's judicial system, particularly the handling of human rights violation cases. Such campaign networks normally gather information by monitoring the courts and then announcing their findings via seminars or mass media. Organizations with legal aid divisions, such as ELSAM, YLBHI, KONTRAS, and LBH-APIK, are most active in convening these activities.

Currently, KONTRAS and PBHI cooperate with domestic and international human rights organizations, respectively, to launch campaigns that oppose impunity in Indonesia. Activities range from distributing study results and court monitoring reports to sending a delegation to the court session of UN High Commissioner for Human Rights in Geneva and the European Parliament. Aceh and Papua were highlighted in these campaigns.

5. Court Monitoring

Relatively large agencies with sufficient resources usually send their representatives to attend court trials of perpetrators in various regions. Several agencies, led by ELSAM, monitored the Ad Hoc Human Rights Court trials and carefully noted and recorded the court procedures. The results were then published in English and Indonesian reports.²²

YLBHI and PBHI also sent teams to witness trial processes in other regions, such as Aceh and Papua. LBH Makasar will conduct the monitoring of the Abepura case, which will take place in Makasar, in collaboration with ELSAM, and the results will be reported to the public. The findings of the court monitoring are usually published in a report once the trial has finished.

PROSECUTIONS

	Organization	B.1	B.2	B.3	B.4	B.5
NONGOVERNMENTAL	INFID				•	
	KPIKD	•		•		
	KONTRAS				•	
	KPA	•			•	
	LBH-APIK		•	•	•	
	ELSAM		•		•	•
	SYARIKAT				•	
	PBHI	•			•	
	SNB	•			•	
	TRK		•		•	
	YKM		•			•
	YLBHI	•	•		•	•
VICTIM	IKOHI				•	
	LPKP	•			•	
	LPR-KROB	•			•	
	PAKORBA	•			•	
ACADEMIC	CSPS-UGM			•		
	PSPP-UKDW					
	PUSHAM UII			•	•	
	CERIC-UI					

C. Legal and Institutional Reform

Currently, civil society organizations in Indonesia are devoting the most attention to legal and institutional reform. However, based on a survey of their literature, their reform agenda is usually based on the ideals of democracy, good governance, and rule of law, and is not rooted in the specifics of the Indonesian experience. In the past three years, hundreds of new agencies have been formed at the national and regional levels to implement such programs, and are sometimes

²² See “Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta,” available at www.ictj.org/asia/indonesia.asp.

directly involved in the decision-making process by providing recommendations, conducting feasibility studies, or drafting legal documents for the government.

On the other hand, the legal agenda and the institutional reform that start from criticizing the old structure have not made any progress. Agencies operating in these areas are not quite engaged in decision-making process and tend to expect top-down reforms. Such reluctance is usually caused by the assumption that Parliament and the government do not have any political will and clear agenda, and that involvement in this formal process would be a waste of time.

1. Policy Research

Research activities are usually focused on corruption and legal system issues, while bureaucracy policies that resulted in violence have not received much attention.

The study made by the Indonesian Corruption Watch (ICW) and RIDEP on the military force was an exception. ELSAM is also conducting a study on the mechanism of KOPKAMTIB (Command for the Restoration of Security and Public Order), which had a critical role in the repression of the early New Order period. In late 2003, ELSAM will convene an international conference to assemble activists and academics to discuss the authoritarian heritage of the New Order in Indonesia.

Since the New Order period, several agencies, such as KONTRAS, YLBHI, and PBHI, have conducted comprehensive studies on the laws that limited civilians' freedom, including the articles of the criminal law that were used as basis for the New Order to oppress the opposition in the past. One of the targets in 1999 was the controversial National Security Law, which provided an opportunity for the military force to regain its control over the political system.

In the past few years, KPA and a number of organizations dealing with issues of natural resources and indigenous people's rights are actively developing alternative ideas on the Indonesian agrarian system. In their opinion, the laws inherited by the New Order were one of the causes of violence in the rural areas, and therefore they need to be reformed. In addition to national laws, KPA is also focusing on regional regulations that contain injustice inherited by the New Order.

2. Monitoring

One of the new trends of the civil society organization movement in Indonesia after 1998 is the establishment of agencies designated to conduct monitoring on government institutions and the political process in general, such as ICW, Indonesian Transparency Society (Masyarakat Transparansi Indonesia, MTI), Government Watch, Police Watch, Military Watch, and Judicial Watch. Almost all these organizations are based in Jakarta and were established by prominent NGO figures or other civil society elements. Originally constituting an activity unit in other organizations, these groups grew into independent agencies in line with the increasingly complex activities.

INFID pays special attention to overseas funds that the government uses in ways that create conflict and violence. In several of the post-Soeharto cases of violence, such as Central Kalimantan, INFID viewed the projects of an international financial agency, such as the World Bank, that provided loans to the government for transmigration and the processing of turf land, as part of the issues that later triggered conflicts.

On the other hand, KONTRAS paid special attention to security forces, particularly the military, which was suspected of being involved in various cases of violence, including "horizontal

conflicts.” By investigating the career records of certain military officers, KONTRAS identified certain patterns that relate to the mobilization of military officers from one region to another with the political fluctuation in various regions. Several women’s organizations use similar methods to observe the patterns of violence towards women.

The results are normally announced through press conferences, reports, and separate publications. In many cases, these measures are effective in updating the public on the performance of various state agencies and the relevant human rights issues.

3. Public Education and Campaign

Public campaigns on legal and institutional reform are an important part of the reform movement. The anticorruption movement was launched extensively on the regency level, however, national level corruption inherited from the New Order inheritance has not been given adequate attention. In 1999, SNB made a successful campaign to eradicate various discriminatory laws, particularly with regard to citizenship and vital statistics.

Another target of this public campaign are security institutions that were often involved in violence during the New Order period. Groups such as ProPatria and YLBHI organized several seminars, discussions, and public events regarding the reform agenda for the military force and the police. However, this campaign was considered successful only in improving the public awareness on the need for civil control over the security apparatus.

4. Technical Assistance

NGOs generally take the position of watchdog, and only a few try to implement a critical engagement with the bureaucracy. Some even view efforts to improve the capacity of state agencies as futile, because these measures do not seek to alter the source of the problem—the agencies’ power structure. Contact between the bureaucracy and NGOs usually occur only in public seminars or discussions.

Academic institutions play more active role. For example, the government has requested several times that CSPA-UGM assist in dealing with conflicts. CSPA-UGM has also provided training for police cadets on community policing. Pusam UII also provides training for police force in Jogjakarta.

LEGAL AND INSTITUTIONAL REFORM

	Organization	C.1	C.2	C.3	C.4
NONGOVERNMENTAL	INFID	•	•	•	
	KPIKD	•		•	
	KONTRAS		•	•	
	KPA	•		•	
	LBH-APIK	•		•	•
	ELSAM	•	•	•	•
	SYARIKAT				
	PBHI			•	
	SNB	•	•	•	
	TRK				
	YKM	•			•
	YLBHI	•	•	•	
	VICTIM	IKOHI			
LPKP			•	•	
LPR-KROB			•	•	
PAKORBA			•	•	
RESEARCH	CSPS-UGM	•	•		•
	PSP-UKDW				
	PUSHAM UII	•	•		•
	CERIC-UI				

D. Reparations and Rehabilitation

In the beginning, victims of violence issues did not receive special attention. Reform started during the onset of conflicts in regions such as Aceh, Central Kalimantan, East Timor, Maluku, and Poso. There is, however, a major difference of opinion among NGOs. Some organizations view victim aid as the government's responsibility, while other groups regard it as a critical need that must be met regardless of government support.

Victim assistance varies greatly, ranging from direct humanitarian aid to empowerment through the establishment of organizations and groups. On one hand, there is a "red cross" strategy that tries to cater to victims' basic requirements and raise their status as survivors. Some NGOs apply both strategies at the same time.

The most important achievement is the establishment of victim organizations or groups that are directly involved in advocacy activities. Some were established by NGOs, while others were founded by victims, usually those who have been active in social or political organizations.

Since May 2001, a number of NGOs, such as TRK, ELSAM, and KONTRAS, have collaborated with victim organizations in an effort to assemble victims throughout Indonesia. For two years they have organized gatherings in various regions as a build-up to a national meeting in 2003 involving approximately 100 people.

On February 15–17, 2002, Justice Fellowship Indonesia held a similar meeting for ex- political prisoners. Approximately 300 people attended, most of whom were victims of the 1965–1966 violence, and they succeeded in drawing various resolutions to deliver to the public. However, several participants revealed that the meeting discussed more contemporary political issues rather than addressing victims’ concerns.

1. Medical Treatment

Medical treatment is generally provided in recent cases. TRK specializes in medical treatment through direct services as well as assisting the victims in obtaining hospital care. Since 1998, this organization has acted as mediator for NGOs and victim groups throughout Indonesia, with a network of doctors and hospitals to provide medical treatment. CD Bethesda in Jogjakarta also provides services to various conflict areas.

International NGOs, such as Mercy Corps and Médecins Sans Frontières, also provide services in collaboration with local organizations and hospitals. These organizations usually arrange the transport of medicine, medical equipment, and staff from abroad to cover the shortage in their operation in some regions. In some locations, local organizations form temporary crisis centers to assist victims in obtaining medical treatment.

2. Psychological Treatment and Trauma Counseling

In the past three years, trauma-counseling programs have started to gain wider attention. Women’s organizations are mostly active in conducting training and developing similar programs, particularly for women and children. Organizations collaborate with the Komnas Perempuan to build the capacity of crisis centers in providing assistance to women and children victims of violence. Since 1997, LBH-APIK has founded centers that also provide psychological and legal assistance.

Some victims reveal that regular, informal meetings at PAKORBA, LPKP, or similar organizations provide them with strength and help them to feel that they are not alone. At the community level, they sometimes work effectively without the support of NGOs or donor agencies by asking wealthier victims to host such recovery sessions.

Komnas Perempuan is trying to gather information with grassroots women’s groups and organize sessions for them to share experience and information.

3. Socioeconomic Activities

Victims of the New Order violence generally come from the lower middle class; therefore, the fulfillment of their basic needs is critical. Direct assistance in the form of financial allowance is often ineffective and sometimes seen as fostering new dependence on the sponsoring agency. Some NGOs and victim organizations try to develop socioeconomic empowerment programs with the hope of developing independent victim groups.

For some time, TRK tried to develop cooperatives that loaned money to the May 1998 victims, collaborating with several women’s groups that developed similar programs. Other NGOs also provide assistance to victim groups in developing similar activities, but it is not usually integrated into their main work program. At the local level, quite a few NGOs operate income-generating and small-scale businesses that involve the victim community.

Victim organizations at the local level also pay great attention to such economic empowerment efforts. Among the victims of the 1965–1966 violence there are groups that seek to improve the socioeconomic status of victims and educate the public on issues related to violence and victim rights. Representatives from these organizations noted that such activities would be hard to implement on a national level because of the diverse conditions facing victims in different regions.

4. Legal Advocacy

Many human rights organizations provide legal advocacy for victims. Some groups, such as YLBHI, LBH-APIK, and KONTRAS, even have legal advocacy divisions. Upon receiving reports from victims, these agencies will prepare briefs to be delivered to relevant government agencies and accompany victims to meet the related authority. In addition, activists will provide victims with explanation on the available legal instruments they can use to fight for their rights.

NGOs sometimes also file legal suit with government agencies considered accountable for the violence. Following the May 1998 incident, SNB assisted approximately 50 shop owners who lost their belongings and succeeded in obtaining compensation. SNB also tried to sue the state for the failure in providing protection for the victims of the riots; however, until now, there has been no significant response.

Women's organizations are also active in providing legal services, particularly by providing protection to witnesses during the investigation process. YKM, LBH-APIK, Komnas Perempuan, and other organizations have assisted victims from Aceh, Papua, and Timor-Leste to meet with the UN Special Rapporteur on violence against women and arranged for general legal protection campaigns for women and children in conflict areas.

5. Legal Drafting

The legal system in Indonesia does not provide sufficient protection for victims. In the application of criminal law, witnesses, including victims, can be subjected to intimidation by the accused and poor treatment at the hands of law enforcement. Therefore, in collaboration with victim organizations and groups throughout Indonesia, some NGOs have drafted a law on witness and victim protection.

REPARATIONS AND REHABILITATION

	Organization	D.1	D.2	D.3	D.4	D.5
NONGOVERNMENTAL	INFID					
	KPIKD	•	•		•	
	KONTRAS				•	•
	KPA			•	•	
	LBH-APIK		•		•	•
	ELSAM					•
	SYARIKAT					
	PBHI				•	
	SNB			•	•	
	TRK	•	•	•	•	•
	YKM		•	•	•	•
	YLBHI				•	•
VICTIM	IKOHI			•	•	
	LPKP		•	•		
	LPR-KROB		•	•	•	
	PAKORBA		•	•	•	
ACADEMIC	CSPS-UGM					
	PSPP-UKDW					
	PUSHAM UII				•	
	CERIC-UI					

E. Reconciliation

Among NGOs, reconciliation is often confused with conflict resolution and peace building, which are popular concepts in addressing the current conflicts in Indonesia. However, only a few organizations support the idea of reconciliation. According to several interviewees, there are no perpetrators for victims to confront and reconcile with because state institutions have refused to acknowledge the violence that was committed. Given this fact, and the lack of credible reforms the government has made, many view reconciliation as merely dismissing the government's role in past abuses.

Nevertheless, several agencies, like SYARIKAT, have made efforts to assemble the civilian perpetrators, such as NU members who were involved in acts of violence, with the victim community. Such meetings are important in achieving truth and reconciliation at the community level, as victims and perpetrators come together to recognize the command structure that caused the past violence. A similar strategy is used by several organizations for cases in Maluku and Poso.

1. Grassroots Peace Building

Organizations that handle cases of violence and conflicts in Indonesia generally support the idea of peace building at the grassroots level. Several new organizations and groups, such as BakuBae Maluku, try to run these activities in Maluku and support local organizations in the Central

Sulawesi and Aceh in developing similar programs. In addition to providing training for peace activists at the local level, this agency also tries to arrange meetings between conflicting community figures, the police and military, and the local government.

In various regions in Central Java and East Java, SYARIKAT organized meetings at local religious dormitory schools between religious leaders, NU figures, and several delegates of victim organizations, such as LPKP, to discuss the 1965–1966 violence. These meetings were supported by NGOs, such as Lakpesdam NU, and victim organizations like LPKP. In various instances, the grassroots reconciliation initiatives were quite effective in building good relations between the two groups to discuss further activities, such as exhuming graves and agreeing to disclose facts.

Research agencies, including those in civil society, were most active in conflict resolution and peace building, particularly for the relatively recent cases of conflict. So far there has not been any effort to develop such perspective and work frame for past cases of violence. For example, PSPP-UKDW has organized peace building and reconciliation training in dozens of locations that involve various elements from the civil society and the government.

Some international, as well as domestic, donor agencies have special programs for peace building and reconciliation. YAPPIKA collaborated with the Centre for the Study of Violence and Reconciliation from South Africa in organizing trainings for peace strategy and attenuation of violence in Aceh, Papua, and Poso. The training strategy was conducted by exploring the need and capacity at the local level, and analysis on potential elements in the society to create peace in these areas.

2. Public Education

The campaigns for peace and reconciliation have also received wide attention from civil society. NGOs often take the initiative to convene discussions, seminars, or conferences on peace and invite various elements of civil society and the government. Other educational formats comprise distribution of posters with peace messages to the regions inflicted by conflict.

The mass media is also used for disseminating information. Several organizations, such as KPIKD, TRK, and SNB, collaborated with the print and electronic media to organize discussions on violence issues and the promotion of principles of justice and peace. To a certain extent, this campaign succeeded in building the public opinion that stopping security force violence is essential to establishing peace.

LSPP and SNB, respectively, publish popular literature in the form of comic strips depicting conflict and peace in Indonesia. Several individuals from Maluku and Central Sulawesi admitted that this media was effective in conveying the message of peace, and it is often used in the training on conflict resolution at the community level.

3. Political Lobbying

To build peace and reconciliation in the past cases of violence, NGOs are aware of the importance of political lobbying. Organizations often send their delegations to convene limited meetings with bureaucratic authorities to include peace building and reconciliation as part of the attention of their institutions. So far, research agencies have been actively involved in launching this activity.

4. Legal Drafting

The legal foundation that confirms the commitment for peace and reconciliation in Indonesia is very weak. Reform efforts still rely on the good will of the government. One of the legal foundations being fought for is the draft law on the Commission for Truth and Reconciliation. ELSAM is the most active agency campaigning for this draft law and is also directly involved in the formulation process.

However, victim organizations have varied views on reconciliation. The 1965–1966 victim community generally welcomes this step as a legal way to address violence, whereas victims of other cases see it as a block in settling cases via the judicial process.

RECONCILIATION

	Organization	E.1	E.2	E.3	E.4
NONGOVERNMENTAL	INFID				
	KPIKD		•		
	KONTRAS				
	KPA				
	LBH-APIK				
	ELSAM		•	•	•
	SYARIKAT	•	•	•	
	PBHI				
	SNB				
	TRK	•	•		•
	YKM				
YLBHI					
VICTIM	IKOHI		•		
	LPKP	•	•	•	
	LPR-KROB				
	PAKORBA				•
ACADEMIC	CSPS-UGM	•	•	•	
	PSPP-UKDW	•	•		
	PUSHAM UII	•	•		
	CERIC-UI		•		

Chapter 4

REGIONAL DYNAMICS

I. INTRODUCTION

This chapter explores the dynamics of dealing with past cases of violence in various locations in Indonesia. During the project's first workshop, participants discussed how information on the human rights movement was usually limited to organizations located in the large urban areas of Java. Therefore, an emphasis was placed on providing ample space for the discussion of developments in various regions and on viewing these collectively rather than as individual case studies.

This emphasis is also important because life under the authoritarian regime of the New Order differed from one region to another. In Kalimantan and Sulawesi, for example, the New Order was viewed as identical to the centralized power in Jakarta. Dislike of the central authority was shared by victims of violence and community members who were forced to give up power and resources. The central government occasionally responded to their demands for more autonomy with violence.

The intensity of the relationship between the New Order government and local elites also varied between regions. In various parts of Sumatra, the New Order authority had, since the beginning, had close relations with local business and government elites who were often related to repressive measures. However, in other regions, such as the East Nusa Tenggara, relations with the authority for a long time only occurred in governmental affairs and developed beyond this only after the business sector expanded into several regencies in the 1980s.

The 1998 political upheaval also met with varied reactions. In regions that had been power bases for the New Order, change was not widespread. Local elites chose to be loyal to the party in power and thus maintain their positions. The power of the business sector was hardly touched and the people continued to be oppressed. The issue of violence during the New Order era was not dealt with because local elites refused to discuss it.

On the other hand, in regions that received little attention during the New Order—both in terms of economic or political life—there was more space for reform. When the reformation started, despite having been part of the New Order, the local elites did not automatically follow the wishes of the central government in Jakarta. Many saw this as a chance to accommodate the demands of the local population and build support at this level.

The regional autonomy that was stipulated by Law No. 22/1999 was a double-edged sword. As the debates over regional regulations demonstrate, the struggle among local elites to secure benefits provided by the new law dominated the discussions on autonomy. This often resulted in the establishment of regional regulations that reinforced the position of the elites instead of providing a space for the people to participate in government.

However, the elites often felt the need to gather public support by accommodating the demands of the local population. This was particularly evident in the beginning of the implementation of the regional autonomy. Several regional regulations discussed in the following chapters are the result of the people's struggle to restructure relations in the context of regional autonomy.

Civil society also undertook several initiatives under these conditions. Researchers could not make field visits to all of the regions, and during the brief visits not all initiatives could be

identified in sufficient detail. Because a report on each province would require a much more extensive endeavor, this chapter is organized by islands or groups of islands.

II. CENTRAL JAVA

A. Introduction

Field visits in Central Java were conducted in October 2002 and February 2003 with the assistance of a number of staff members. In 20 days, researchers visited NGOs, academic institutions, and individuals who were engaged in human rights, conflict resolution, and humanitarian work. In addition to obtaining information through interviews, researchers also gathered various documents that related agencies had issued.

B. Overview

Since Indonesia's independence, Central Java has been one of the country's most important centers of economic and political activity. In addition to being a source of agricultural produce, it has also served as the location of industrial growth in the past few years. Most of Central Java's 31 million residents work in the agricultural and industrial sectors. During the New Order period, many workers were sent to other regions under the national transmigration program.

Industrialization during the New Order period was one of the causes of conflict, pitting the indigenous population against the government and commercial enterprises extracting natural resources. Land ownership was heavily disputed and violence occurred repeatedly since the colonial period. While these development projects were not as prominent as those in the resource-rich islands of Kalimantan and Papua, the population density of Central Java was such that even small development projects changed the patterns of land ownership.

The 1998 political reform created space for various social groups to form organizations that would fight for their interests. In addition to founding groups that supported the democratization process, fundamentalist organizations fighting for the implementation of Muslim laws began to appear.²³ This political dynamic is undoubtedly linked to what is known as the "floating mass" policy of the New Order, where no political organizing was allowed at the community level.

Central Java, Results of the 1999 General Election

Political parties	Central Java	%	Jogjakarta	%
PDI-P	7,380,900	42.83	643,202	35.65
PKB	2,953,511	17.14	257,240	14.26
Golkar	2,300,625	13.35	258,745	14.34
PPP	1,899,390	11.02	87,865	4.87
PAN	1,197,643	6.95	311,619	17.27

Reactions to regional autonomy are varied within the district (kabupaten) and subdistrict (kecamatan) levels. The new political elites dominated government institutions and impacted disputes over the exploitation of agrarian and natural resources. Several new regional regulations

²³ The Ahlussunah Wal-Jama'ah communication forum (FKAWJ), known as the "Laskar Jihad," was formed in Solo in February 1998, while Majelis Mujahidin Indonesia (MMI) was established in Yogyakarta in early August 2000. Both played important roles in various cases of communal violence in the Moluccas, Poso, and other places.

were issued to manage partnerships between the local community and commercial enterprises that claimed their properties. However, in other places regional autonomy reinforced the interests of the commercial enterprises.

The expansion of violence started with the formation of armed civilian groups. Nearly all political parties formed their own security forces, which were involved in acts of violence toward the community. Local officials would also send out armed groups to confront those who protested against government policies. Some activists suspected that extralegal armed groups were used in place of military and police forces as a strategy to avoid creating a negative public impression of the government, while maintaining the repressive policies.

C. State Violence

Central Java was one of the locations of the largest massacres during the 1965–1966 violence. The Indonesian Army Command Troop Regiment (RPKAD), with the support of the armed anticommunist youth group, launched operations throughout this region against those suspected to be communists and leftists. Former political prisoners and human rights activists estimate that there were tens of thousands of victims within only a few months. Families of victims in Boyolali and Solo recounted their experience of “the rivers that turned red” with the blood of the massacred during that era. In some regencies, such as Purwodadi, the military operation continued until 1968.

The eradication of the leftist movement was carried out in conjunction with the seizure of land and other properties. According to Asep Yunan Firdaus from the Semarang Legal Assistance Agency (LBH), mostly individually owned parcels of land and plantations were taken over by military officers and the commander of the Diponegoro military region VI.²⁴ Violence and land seizures became a general pattern in addressing agrarian disputes that continued even after the communist power, which was the initial framework for such measures, had been exterminated.

General elections were always critical for the New Order. Since 1971, political activists who opposed the New Order’s dominant Golkar party were targeted for violence, including members of the two other political parties, PPP and PDI, that supported the New Order government. In the 1980s, a number of religious leaders and Muslim groups were targets of violence because of their opposition to the state philosophy of Pancasila and the dominance of the New Order state. The military, which had played a leading role in creating stability, labeled its political opponents “subversive communists” to justify adopting repressive tactics against them.

Agrarian and industrial disputes were generally marked by violence. An activist claimed that most government projects sparked acts of violence against the community. Workers who demanded improvements in working conditions faced physical repression, such as arrest and torture, and were accused of being communist. Memory of the 1965–1966 violence was an inseparable part of people’s lives and helped maintain the structure of inequality during the New Order era.

Communal conflicts occurred repeatedly in several cities in Central Java. The primary target was the Chinese minority, which was believed to dominate the economy. A Chinese citizen revealed

²⁴ Land disputes between landlords supported by the military force and small-scale farmers have been going on since the 1950s. It is currently suspected that Kodam VI Diponegoro controls approximately 6700 hectares, or 12.5 percent, of the plantations in Central Java, which are operated by Yayasan Rumpun Diponegoro.

that this problem was also a legacy of the New Order, as the Chinese were accused in 1965–1966 of supporting the Indonesian Communist Party (PKI) and Communist China. In Solo and Semarang, riots occurred at the end of 1980 and in the late 1990s. The May 1998 riot in Solo captured international attention with some of the worst violence Indonesia had seen in decades.

Government handling of past violence has not made any significant progress. After the fall of the New Order, groups responsible for human rights violations, namely the military force and the civil anticommunist organizations, still controlled the government. The post–New Order 1999 general election that resulted in more representative leadership did not automatically change this situation, as the new members were more occupied with efforts of maintaining their immediate political positions rather than addressing problems faced by the people, including human rights violations.

However, there were small changes in several locations that were considered major achievements by victims as well as the local community. For example, the National Agrarian Agency, Badan Pertanahan Nasional (BPN), in Ambarawa revoked a company's license on land use for business purposes following protests from the community. In Wonosobo, regional government officials assisted in legalizing the official documents of former political prisoners, which they needed (and had been denied) to obtain retirement benefits and exercise their civil rights.

D. Civil Society and Handling Past Violence

Human rights issues during the New Order were generally addressed by legal aid agencies that had been growing since the 1980s. In addition to providing public legal assistance, they also conducted investigations of violent acts involving the military and police. As in other regions, human rights has only recently become a focus.

Religious organizations, such as the youth groups of NU, Muhammadiyah, and church institutions, also became involved in advocacy activities and addressing cases of human rights violations. Activists from these communities, together with students and lawyers, were later involved in the formation of various human rights NGOs. Their main activity is to provide legal services, but, they also educate the public on human rights principles.

Since the late 1980s, these groups began to be involved in advocacy, particularly for displaced farmers. These activities were not restricted to legal assistance, but also included organizing victims. Jogjakarta, which is known as a center for student movements, housed several committees whose members are victims of land seizures and other human rights violations. These groups protested against unfair government policies and acts of violence committed by the military and police in their enforcement.

The 1998 reformation movement led to the formation of various organizations that addressed the eradication of corruption and the enforcement of civil and political rights in the provincial and district levels. Another development was the emergence of communal organizations, particularly among farmers and workers who advocate their cases with the support of human rights NGOs and legal aid agencies. Victims also formed groups at the local level, such as the G- September 30 Victims Communication Forum (Forum Komunikasi Korban G-30-S, FKKGS), in Solo.

In various places, informal groups developed in order to deal with specific cases. In Cepu, dozens of former members of the leftist Association of Oil Workers (Persatuan Buruh Minyak, PBM) demanded rehabilitation of their reputation, which had been tarnished by their summary dismissal in 1965–1966 from work with neither severance pay nor retirement benefits. Meanwhile,

hundreds of teachers, whose jobs had been terminated in the 1960s, applied for a similar claim at the Ministry of Domestic Affairs in Jakarta. They also demanded the rights to their land and property, which had been seized in the eradication operation of the leftist movement at the time.

Human rights NGOs and groups formed by lawyers, students, and pro-democracy activists also play an important role in directing advocacy and other forms of activities. The role of victim communities was usually limited to gathering members, while NGOs and the activist community assisted in designing their programs.

1. Truth-seeking Mechanisms

The awareness of the importance of disclosing cases of human rights abuse that occurred during the New Order period was relatively strong among human rights activists and victims' families. To them, the idea of reconciliation, peace, and welfare as envisioned by the government would be effective only if past acts of violence were disclosed. They also believed that the current reformation movement was hampered by problems that were the legacy of the New Order. The victim community emphasized the importance of disclosure in freeing members of their families, particularly children, from being victimized by various stigmas.

The disclosure of the 1965–1966 violence cases received wide attention from various groups and organizations.²⁵ NGOs, such as LBH Semarang, LBH Atma di Solo and Yayasan Percik in Salatiga, and INSIST and SYARIKAT in Yogyakarta, conveyed that they were conducting research on various cases in Central Java. Academics and researchers made similar efforts.

Representatives of PAKORBA in Wonosobo collaborated with LPKP in Jakarta in November 2000 to conduct exhumations of the graves of victims of the 1965–1966 violence. Twenty-four corpses were found and given to their families for proper burial. This activity received extensive public attention and evoked various reactions, particularly from groups who did not want this case investigated. Supported by the local military force, they labeled such efforts as attempts to “bring communism” to life in Indonesia.

Activists of Yayasan Geni in Salatiga and Yayasan Lontar in Jakarta collaborated in gathering oral testimony. Similar activities were also carried out by INSIST and Pusat Studi HAM UII di Jogjakarta, who videotaped the victims' testimonies in a documentary film. Another method of disseminating findings was through the publication of bulletins and reports. In the past few years, Likes in Jogjakarta, which had been established by the NU youth organization, published books and organized forums for victims to present their testimonies.

Other cases that received attention were generally related to agrarian disputes from the 1980s, acts of violence against women, and the murders of journalists and activists during the final years of Soeharto's regime. Investigations into agrarian disputes and violence during the conflicts generally took the form of interviewing victims and collecting related documents and newspaper clippings. In recent years, LGH Semarang has gathered information on abuses related to the expansion of plantations and forest exploration enterprises owned by the state, the Soeharto clan, and Yayasan Rumpun Diponegoro. LBH Atma in Solo, which handled land dispute cases, also conducted similar investigative activities in Solo and Salatiga. However, as one activist admitted, such activities were merely conducted to encourage advocacy efforts. In certain cases, attention

²⁵ Other political violence under investigation included the repression of Muslim activists in the 1980s. Pusat Studi HAM UII was one of the few agencies that gathered such information.

was given to specific information that could be used to support legal claims without mentioning issues of violence.

2. Prosecutions

So far, no agency or group has made any effort to prosecute the perpetrators of past human rights abuses. Legal action was taken only to claim for compensation and rehabilitation. For example, in 1996 LBH Atma assisted a former air force officer in pursuing such a claim at the state court of Sukoharjo. Currently, this agency acts as the legal proxy for a number of victims of the 1965–1966 violence. Similar efforts are now being made by the LBH Independen, which also assisted the *jugun ianfu* (comfort women) in Jogjakarta.

This strategy was chosen for various reasons. First, activists thought that civil claims provided an opportunity to obtain the government's acknowledgement of past acts of violence. Second, this measure addressed the victims' restlessness, as most live in poverty and compensation could lessen this burden. Third, the possibility of winning the case created optimism among victims' families about the possibility of enforcing truth and justice.

However, not all agencies approved of such a strategy. Some activists emphasized that there was no guarantee this measure would succeed. If it failed, the frustration in the victim community would only grow. The strategy is also problematic because it relies on a government with no political will and a weak judicial system.

The mechanism stipulated under Law 26/2000, by which past acts of violence were to be settled, did not get much attention. So far, Komnas HAM has not investigated any human rights abuse cases in Central Java. Only a few organizations expressed interest in discussing the formation of the Commission for Truth and Reconciliation (KKR).

3. Legal and Institutional Reform

Regional autonomy provided an opportunity for legal and institutional reform at the provincial and district levels. However, according to human rights activists, because there were not any changes in the basic structures of authority, this opportunity was manipulated by those who did not favor reform, especially those who did not want the disclosure and settlement of past acts of violence. Those who attempted to initiate reforms, such as the district government of Wonosobo, were faced with resistance from the central government.²⁶

The NGO and university communities widely believe that legal and judicial reform is crucial. Institutions, such as the Indonesian Court Monitoring, suggest that in addition to amending laws that condone violence against the population, judicial personnel should be selected at the local level. Meanwhile, INSIST recommends the formation of a national human rights commission at the local level.

²⁶ By end of December 2001, the regional government of Wonosobo enacted a regulation on the management of community-based forest resources that responded to the concern that disputes over natural resources had for years been the basis of violence toward the local population. However, this decision was opposed by the Ministry of Domestic Affairs, who subsequently demanded that it be revoked. After arguments between the Regional People's Representative of Wonosobo and the central government, it was agreed that the regional regulation be revised.

With respect to legal reform, NGOs formulated draft laws that were submitted to the Regional House of Representatives (DPRD) to be ratified. Some NGOs, aware of the limited capacity of state officials, provided specific training. Pusat Studi HAM UII, for example, has conducted training activities for the police, and Yayasan Percik in Salatiga has provided similar training for members of the DPRD.

Some groups have created a national network to facilitate the campaigns for certain draft national laws, while others, such as CSPS-UGM, assisted in formulating draft regional laws for conflict areas. CSPS-UGM was also involved in the training for the community policing program in Aceh and The Moluccas. Normally, university-based organizations have better access to the police and other governmental institutions.

4. Reparations and Rehabilitation

Currently, victim advocacy is often replaced with the concept of community organizing, which has been popular since the early 1990s. LBH Semarang, for example, engaged in organizing farmers to reclaim their land in Ambarawa. Some NGOs working with labor issues also used this strategy. When the victim community encountered problems with security forces, organizations would often provide legal advocacy and assist in formulating an action program to deal with these problems.

Specific advocacy for victims' rights is not very common among civil society organizations. The victims of the 1965–1966 violence and their families were one of the few groups that received such attention. LBH Atma in Solo was one of the most active agencies that assisted victims in obtaining legal documents from the Regional Employment Agency so that they could claim their retirement and other rights as former civil servants. Other organizations built relationships with victim communities without any plans for a systematic or long-term program.

The strategies that civil society organizations use also vary. Legal aid agencies and human rights organizations normally assisted with public advocacy activities, such as approaching government agencies or representative bodies. Meanwhile, women's organizations emphasize the importance of a holistic approach to advocacy, from establishing relationships with victims to providing them information, and presenting various alternatives for victims to make their own decisions.

Only a few agencies focus their attention on the issue of trauma. In these cases, assistance is provided only to victims from regions outside of Java. PSPP UKDW, for example, provided trauma counseling training for activists and victims' families in the Moluccas and Poso. Some activists confessed that minimal attention is given to this issue because of the limited knowledge and capacity of organizations that handle human rights abuse cases. So far, there has been no collaboration with universities or the medical community that have such a capacity.

5. Reconciliation

Most activists stressed the dilemma faced in reconciliation efforts. The most fundamental issue is the still unclear picture of the acts of violence, which makes it difficult to determine which parties should be involved in reconciliation. This issue is strongly related to the failure of the government and civil society to establish a truth that all parties can accept. Some believe that a reconciliation process at the national level would take too long. Therefore, the possibility of starting efforts at the local level requires further consideration.

Agencies in Central Java, such as SYARIKAT Indonesia, generally stress the importance of reconciliation at the local level. In recent years, this agency has conducted activities that brought together the victims of the 1965–1966 violence and members of the NU community, which is suspected of participating in that massacre. To avoid the tension that might have existed in a formal meeting, SYARIKAT made use of more relaxed formats, such as village discussions, religious ceremonies, or traditional performances of each community to help bridge the distance between the conflicting parties.²⁷

The academic circle and research institutions generally focus their attention on reconciliation between parties involved in the communal conflicts in Poso and the Moluccas. CSPS-UGM and PSPP-UKDW provide trainings to the local community on mediation and conflict resolution, as well as general education on peace building. Meanwhile, several other agencies also invite representatives of the conflicting groups to Jogjakarta to attend reconciliation meetings or discussions to help facilitate peace in their respective regions.

E. Findings and Analysis

Leaders and activists express different views on the human rights situation and see various opportunities to pursue justice. The majority saw a lack of fundamental change from the previous regime, and felt that in the past few years, the possibility for the return to an authoritarian regime, even if under a different format, is increasing. Suparman Marzuki, from the Pusat Studi HAM UII, believes that so far there has not been any fundamental change of regime. In various instances, the situation was even worse as each competing political force tries to benefit from the uncertain situation.

Different attitudes were also expressed about regional autonomy. Some activists viewed it as a setback because it resulted only in new power holders at the local level squandering state revenue and increasing taxes without making any positive changes. In contrast, some activists view regional autonomy as an opportunity to encourage reformation at the local level. According to them, the problems lie with the limited capacity of civil society organizations in preparing a common agenda.

Another issue was the dominance of NGOs, particularly legal aid agencies and human rights organizations, in the establishment of a discourse on justice in the transitional period. Even if there were victim groups or community organizations that fought for their own purposes, NGOs primarily controlled most of the agenda and initiatives. These agencies generally handle human rights abuses on a case-by-case basis, despite the strong belief that each one is part of a systematic political repression.

The dominance of legal advocacy has several implications in the overall design of strategies. In agrarian disputes, for example, NGOs tend to emphasize issues of land ownership rather than physical violence. Community organizations, particularly among relocated farmers, focus more on land seizures, restructuring of production, and legal recognition by the government. The handling of violence was often viewed as wasting resources and shifting the attention to less important matters.

²⁷ In such a meeting, SYARIKAT activists usually presented some of their research findings on violence cases in the related region as topics of discussion. In some regions, this method proved to be effective in accommodating different views on past events. By presenting an overview of the military operations launched in 1965–1966, SYARIKAT activists tried to demonstrate that the present NU community had been made the “scapegoats” for a crime in which they had not taken part.

Even if human rights violations were addressed, it is only in select cases. The selection relied heavily on the presence of claims or victim movements that are considered sufficiently significant. For example, in comparison with families of the students killed in 1997–1998, the victims of the 1965–1966 violence were able to draw relatively significant public attention in Central Java by forming various organizations. Most activists favored handling specific cases through legal means over systematically addressing all acts of past violence.

III. EAST JAVA

A. Introduction

The population of East Java suffered various human rights violations during the New Order period. Political opposition has existed since the 1960s and often led to acts of violence. This conflict created numerous issues between the state and the community, as well as among certain elements of the community. This section records various government and civil society organization initiatives in addressing past violence.

Research for this section was collected by means of correspondence, interviews, and on-site visits made from December 2002 to February 2003. Researchers met with a number of institutions and individuals who were engaged in human rights activities and have specific programs related to transitional justice.

B. Overview

The province of East Java covers a land area of 147,130 square kilometers and predominantly comprises forests, paddy fields, and dry cultivation fields. It is a center of agricultural and industrial activity. With a total population of 34.9 million, East Java is the densest province in Indonesia. The majority work in the agriculture (22 percent) and industrial (13 percent) sectors, while 10 percent are unemployed. This region is also the origin of the largest number of migrant workers in Indonesia, exporting approximately 40,000 workers to various countries in the Middle East and the East Asia in the year 2000.

East Java, Migrating Population, 1971–1995

Type of migration	1955	1980	1990	1995
In-migrants	273,228	433,451	564,401	808,995
Out-migrants	749,848	1,597,851	2,479,487	2,879,389
Total net migrants	-479,620	-1,164,400	-1,915,086	-2,070,394

The Madura Island, located east of Java, sends the largest number of migrants to other locations. Most of migrants from this region are now residing in Kalimantan and are repeatedly involved in hostile conflicts with the indigenous population. In recent years, the conflicts have forced many transmigrants to return to their places of origin and have caused serious social problems.

Since the colonial times, East Java has been the center of the growth of Muslim religious boarding schools (pesantren) in Indonesia. It is currently estimated that hundreds of pesantrens are found in rural and urban areas constituting the basis of NU power. The religious leaders and leaders of the pesantrens (santris) play an important role in the sociopolitical life of the region and are taken into consideration by the government in formulating its justice enforcement strategy.

After the resignation of Soeharto, many military officers paid visits to these boarding schools to gather their support in facing public criticism.

Another social force is the farmer and worker organizations, whose numbers increased after the fall of Soeharto. The 1998 political reform was marked by frequent worker protests and efforts by farmers to reclaim their land in various regencies. The santri groups and supporters of PDI-P were central to this community organizing. In addition to defending the people's rights, they also demanded the settlement of past violence.

However, after the 1999 general election that witnessed the victory of the reformation supporting party, such demands diminished. The new leaders recommended that the people give existing mechanisms the opportunity to settle their issues. The appointment of Abdurrahman Wahid as President, which was widely supported throughout East Java, brought about reformation and further encouraged the santris and their followers to trust the existing system.

East Java, Results of the 1999 General Election

Political Party	Number of Votes	Number of Seats at Parliament	%
PKB	7,034,707	24	35.48
PDI-P	6,703,699	23	33.81
Golkar	2,510,025	9	12.66
PPP	1,206,862	4	6.09
PAN	940,342	3	4.74

The reaction to regional autonomy is varied. Some activists saw it as an opportunity to build an even better system at the provincial and district levels, despite the difficulty of facing the New Order power that still dominated governmental institutions. The Regional House of Representatives that had initially been expected to create various breakthroughs, as the majority of seats were held by the reform-oriented parties, turned out to be incapable of functioning as expected.

A more vital issue was that the relationship between the community and the government development projects, as well as foreign investors, did not undergo any significant change. The only distinction was that during the New Order era, ownership and control over such activities were centralized in the hands of the national government, and this has been widely expanded to the regions. Political parties and movements that initially supported the reformation are now focused on competing to obtain various assets and resources previously controlled by the New Order regime.

C. State Violence

As one of the most important centers of the leftist movement in Indonesia, East Java was one of the biggest “massacre fields” in the 1965–1966 violence. The killings continued through 1968 as the government faced opposition from a number of Communist Party (PKI) members in South Blitar. According to a former political detainee, many in this region were victims of slander. Thousands of hectares of land that had been claimed in the communist-led “unfair actions” during the early 1960s were taken over by the military and several state plantation corporations.

By the mid-1970s, the New Order authority started to stage intelligence operations to gain information on movements that resisted the state principle of Pancasila, and particularly targeted the militant Muslim groups scattered throughout the various regions of this province. A substantial number of people were arrested, tortured, and prosecuted on charges of subversion or assault against the government. The repression of Muslim movements occurred throughout 1970s and 1980s, intensifying during the approach of the general elections, which were regularly conducted to provide official legitimacy to the New Order regime. In collaboration with youth organizations, the military arrested and tortured a number of cadres of opposition parties, with the aim of coercing them to support the ruling Golkar party.

The New Order's development projects that commenced in the mid-1980s also resulted in repeated incidents of violence toward the resisting community. In September 1993, the local community that opposed the development of a water duct in Nipah, Madura, was attacked by members of the military and police. Four people were reportedly killed in this incident. A similar case occurred in Jenggawah, where the military shot farmers who opposed the government's policy of transferring the ownership of their land. According to LBH Surabaya, from 1980 to 1998 there were dozens of similar cases that nearly always resulted in the loss of more lives.

In addition to these shootings and acts of violence toward the community at large, the military and police also targeted defenders of community rights. In 1983, a lawyer in Sidoarjo was kidnapped by the military for defending farmers who opposed the actions of a real estate entrepreneur. Several years later, a lawyer who defended workers' rights suffered a similar fate. In late 1997, several youth and student activists were abducted for their involvement in the opposition movement.

In the early 1990s, the regional government proclaimed the eastern tip of the island of East Java, known as the horseshoe, an industrial zone. Hundreds of factories were constructed on paddy fields cheaply purchased or expropriated from the local population. In a few years, this zone had become one of the industrial centers that was repeatedly shaken by protest actions and strikes. The government's response to this unrest was to send the military to arrest and torture activists. One of the most well-known cases was the 1993 murder of Marsinah, a female worker activist from Sidoarjo.

Between 1996 and 1998, an increase in inequality and social unrest resulted in frequent riots. It was suspected that the military was behind the communal violence in an effort to shore up popular support for the New Order government. The resulting destabilization left the local population with no other choice than to invite the military to the region to create stability. In various other locations, religious leaders and leaders of the Muslim boarding school (saniri) were accused of being "black magic shamen."

After the resignation of Soeharto, calls were made, especially by student and youth movements, for a thorough investigation of past cases of violence. In particular, the public wanted investigations into the killings of "black magic shamen" in Banyuwangi, the assassination of Marsinah, and the 1965–1966 acts of violence. To date, the regional government has not responded significantly, particularly because of the involvement of some officials in such cases. Claims about agrarian injustices, which had been a prevailing pattern in the New Order period, were even responded to with increasing repression.²⁸

²⁸ In March 1999, the governor issued a decree requiring the local military and police authorities to provide special protection to a number of plantations deemed as "assets." This decree was made based on a request by the Association of Plantation Corporations.

Several leaders of the new parties, especially those from PDI-P and PKB, proclaimed the importance of disclosing past cases of violence; however, they did it in their capacity as citizens rather than in their role as political leaders who could push for concrete measures. In several incidents, the former New Order officials also admitted their past wrongs, but the majority avoided any discussion of their involvement in cases of violence.

The district and subdistrict governments, currently dominated by reform-oriented parties, have not taken any measures to address human rights issues that were the legacy of the New Order. The attempts of civil society organizations to bring certain cases to the government's attention were futile. Regional government officials normally claim that they are not authorized to address such issues and referred these organizations to Parliament in Jakarta.

D. Civil Society and Handling Past Violence

The human rights movement in East Java started with the establishment of legal aid institutions, NGOs, and student organizations in late 1980s. They generally focused on certain cases, in particular those regarding land expropriation and industrial disputes. This movement was also supported by intellectuals working at local universities and religious organizations under the NU and the Catholic Church. Nearly all of these organizations made human rights part of their program, although none specifically focused on this issue.

Attention shifted to human rights issues in the early 1990s. Newly established institutions focused their work on human rights education for specific social groups, such as workers, farmers, and women. Investigations into certain cases that received significant community attention were conducted for advocacy purposes. Victim aid was normally limited to assistance in approaching government offices, representative bodies, or security forces.

After 1998, new organizations and groups were established with financial aid from various donor institutions. As in other regions, these organizations focused on corruption, governance, and policy drafting. Only a few specifically addressed human rights issues. A critical development was the increasing interest in human rights among academics and religious institutions, which was marked by the establishment of several new organizations.

Even though there is no agency that specifically handled past cases of violence, there are initiatives in this direction. Nearly all of the organizations acknowledged the importance of investigations into the violence committed in the New Order period. However, they also conveyed that their resources were focused on current cases of violence and, hence, they did not have the capacity consider past abuses and address them systematically.

1. Truth-seeking Mechanisms

LBH Surabaya is the most active agency that handles the investigation of past violence. According to Director Deddy Prihambudi, the past needs to be disclosed as a basis of enforcing justice and enabling victim recovery. In his view, the most appropriate strategy is to allow the victims speak of their experience, including the desire for revenge. In this regard, the agency assisted various victim groups and held regular discussions to provide input on their struggle.

Several other agencies focused on the investigation of specific cases of violence, particularly land expropriation and industrial disputes that were marked by security force abuses. Humanika and Yayasan Arek focus on workers' issues. They conducted a number of studies on the pattern of

violence in the industrial sector, including an investigation into the assassination of Marsinah in 1993. Yamajo, in Jombang, collaborated with the Nadhatul Ulama Institute for Human Resources Assessment and Development in gathering information on the series of killings of “black magic shamen” in Banyuwangi.

KKPD, a women’s organization in Surabaya, has repeatedly staged activities that allowed victims to testify in public. The parents of the activists who were abducted in 1998, activists involved in the Marsinah assassination case, and victims of the 1965–1966 violence have all come before the public to share their experiences. This group also used radio broadcasts as a means of allowing victims to discuss issues related to the enforcement of justice.

The 1965–1966 violence received substantial attention from the human rights community. Groups that are based on university campuses, such as INSPIRASI in Surabaya, collaborated with the East Java LPKP to investigate various incidents of assassination within this region. In November 2002, they organized a training for students who were interested in volunteering to help in such activities. This agency also paid specific attention to violence committed against Chinese ethnic groups and is currently involved, alongside SNB and INTI, in the campaign to oppose racial discrimination.

2. Prosecutions

Nearly all interviewees were uncertain if ad hoc human rights trials could achieve justice. They generally viewed such trials as an instrument of the government to justify past wrongs. Even the judiciary at the local level did not take any measures to follow up on various reports received from the community. They commented further that the judiciary was still under the control of the New Order, which in the past had played an important role in protecting perpetrators. Because of this lack of trust in the judicial system, the network of groups and organizations that investigate past abuses do not have any plans to bring their findings before the legal system. An activist confirmed that this lack of engagement was based on the concern that if they delivered any information to law enforcement officials, security forces would use it to intimidate the reporting victims. Several organizations did engage in monitoring the judicial process. One of these, Pusat Studi Ham Universitas Surabaya, focused on monitoring corruption, lack of compliance with procedures, and various other issues.

3. Legal and Institutional Reform

One of the most significant aspects of the New Order legacy is the division of the TNI into regional commands (Kodam). Kodam Brawijaya was central in crushing the leftist movement in the 1960s. It was always involved in political affairs, from assisting corporations in clearing land to silencing workers’ claims for the nomination of provincial and district-level leadership positions. Human rights and pro-democracy activists believe that one way to escape from the grip of the New Order is to eliminate such regionally based military structures.

In Surabaya, PusDeHAM repeatedly convened workshops with academics and regional leaders to discuss the idea of eliminating the Kodam. This idea was once supported by military officials, such as the former Commander for the Army Strategy (Pangkostrad) Agus Wirahadikusumah, and the government of Abdurrahman Wahid. However, after the 2000 political reformation support diminished as the Kodam played a fundamental role in the national military structure.

Advocacy for legal reform was often part of the initiatives pursued by organizations that addressed violence against women and environmental issues. In East Java, unjust agrarian

policies were a cause of the outbreak of violence in the village areas. To combat these biased policies, Cakrawala Timur and LBH Malang are monitoring the drafting of a stipulation on the renewal of agrarian and natural resource management that will be brought before the National People's General Assembly. Meanwhile, KPPD is collaborating with Komnas Perempuan to amend a law to protect women from all forms of violence. Some of the organizations in East Java are involved in advocacy at the national level, collaborating with a number of institutions in Jakarta. Many organizations educate the public about the human rights abuses resulting from unjust government policies.

Only a few institutions pursue efforts for legal and institutional reform at the local level, despite a belief that there is significant opportunity to do so. One reason for such lack of involvement was the practice of money politics that dominate legislative bodies, as well as other government institutions. An activist conveyed that many current members of Parliament actually did not object to the ideas put forth by NGOs. Unfortunately, every draft proposed at Parliament receives adequate attention only when sufficient monetary funds are made available to "attract members."

4. Reparations and Rehabilitation

Victim assistance generally consists of accompanying victims to legal proceedings, helping them obtain health services at hospitals, or preparing activity programs in their communities. Women's organizations, such as KPPD, made this assistance more substantial by assisting traumatized victims. Their present focus is still limited to cases of domestic violence. They are currently urging the regional government to establish a specific agency to assist female victims in East Java.

Other groups, such as Humanika in Surabaya and the Commission on Justice and Peace (Komisi Keadilan Perdamaian) of the Diocese of Malang, also have programs to improve victim welfare by providing assistance in finding employment and helping with agricultural projects. Such support is viewed as being empowering to victims. Many pro-democracy organizations, such as Yayasan Arek, believe that encouraging the victim community to form independent groups dedicated to fighting for their rights and assisting in their own welfare is part of the wider struggle for democracy in Indonesia.

National victim organizations, such as LPKP and PAKORBA, receive substantial support in East Java, despite their activities being limited to the families of victims of the 1965–1966 incidents. They admitted to having difficulty in connecting with victims of other cases, particularly the militant Muslim groups that are scattered in various cities, because of the existing prejudice that they have certain political objectives. These organizations' activities are directed by their main offices in Jakarta.

5. Reconciliation

The idea of a Commission for Truth and Reconciliation was well received by various NGOs, as well as academics engaged in human rights. In December 2001, the Study Centre for Human Rights Affairs at the University of Surabaya collaborated with ELSAM in organizing a seminar on truth commissions that have taken place in other countries. This seminar was attended by dozens of human rights activists representing various groups, including victim communities. On a smaller scale, other organizations held similar activities with local officials and members of the Regional House of Representatives in various districts.

However, there is a significant difference of opinion on the possibility of achieving reconciliation in East Java. Muslim Abdilla, from Yayasan Madani Jombang (Yamajo), commented that reconciliation could be implemented only if the truth about human rights violations is disclosed and the perpetrators are prosecuted. Reconciliation that does not go through such a process, such as the *ishlah* (reconciliation) approach adopted by some state officials, would not bring about any significant results and would only further repress victims.

Aribowo MS, from PuSDeHAM Surabaya, commented that, lately, the quest for reconciliation has lost its momentum. Elites, including the perpetrators of past violence, had succeeded in maintaining their power and economic resources after the 1998 instability. The reconciliation offer that had initially been considered as a “compromise” measure is no longer relevant since without having to admit to their wrongdoings and apologize for them. They also still retain most of their sources of finance and their authority.

E. Findings and Analysis

On the whole, truth-seeking activities receive the most attention. Initiatives comprise research, statement taking, oral history projects, and forums where victims could deliver their testimonies before the public. Human rights cases that received the widest attention were the 1965–1966 violence, the May tragedy, the massacre of “black magic shamen,” and acts of violence against workers and farmers in the 1990s. Such truth-seeking activities are normally linked to advocacy campaigns organized by NGOs.²⁹

Transitional justice was thought of as an “instrument” to bring about a comprehensive reformation. Activists had the expectation that a mechanism, such as the Commission for Truth and Reconciliation or a trial, could serve as a critical step in dismantling the repressive pattern in society. Another view was that such a mechanism could be effective only if it was preceded by full-scale society reform. This tension was consistently brought up in the discussions, seminars, and informal meetings.

Another issue was the repression of grassroots efforts to seek truth and justice. Organizations emphasized the importance of the victim’s voice in the process of justice and reconciliation. Involving victims was essential in directing the strategy and settling the ultimate goal of the initiatives. However, most of these agencies admitted that victim involvement was still limited. They stated that victims are still in the process of building solidarity, and all that NGOs can do is to support these efforts.

The increase in the number of NGOs after 1998 allowed for the division of tasks among more organizations and reduced the expenses of the previously existing agencies. However, these new organizations have been criticized for not being clearly focused, which results in the frequent overlap and subsequent competition of programs that prevents further collaboration. Discussion forums and informal meetings have helped alleviate the situation even though the problem still exists.

²⁹ The decision on which cases to address was often contingent on the level of mass media coverage or the opportunity to present the case at a national or international level. The assassination of Marsinah, for example, was not the only act of violence against workers in East Java. Because the incident received wide attention domestically and internationally, a lot of institutions made it their priority. On the other hand, the case of Nipah, which initially received wide public attention, is no longer as important to the public and NGOs.

To overcome such issues, several interviewees expressed the need to empower community or victim organizations, as they are the parties most concerned with the disclosure of truth and pursuit of justice. They asserted that NGOs should function as resource centers that support these groups but refrain from organizing their activities. They further stressed that transitional justice should be linked to the movement for democracy.

IV. KALIMANTAN

A. Introduction

The 1998 political reform in Kalimantan opened up space for the development of a movement that demanded the settlement of human rights violations and the systematic marginalization of communities. Human rights activists targeted local government officials as well as multinational mining, plantation, and forest enterprises.

After making preliminary contacts with various individuals and agencies, the researcher held a workshop in Banjarmasin on March 1–3, 2003. During field visits to four of Kalimantan’s provinces, the researcher met with 21 agencies and numerous activists.

B. Overview

Kalimantan is the second-largest island in Indonesia after Papua, bordering on Malaysia and Brunei Darussalam. Based on the 2000 census data, the majority of the 9.4 million people live in the provinces of West and South Kalimantan. The indigenous population of Kalimantan is the Dayak tribe, who live mostly in West and Central Kalimantan. Since colonial times, Kalimantan has been a destination of transmigration, admitting various ethnic groups, such as the Bugis, Chinese, Javanese, and Madurese.

Kalimantan, Land Area and Population, 2000³⁰

Province	Area (sq. km)	Total Number of Population
South Kalimantan	36,985	2,611,305
East Kalimantan	211,440	1,899,167
Central Kalimantan	153,564	1,442,143
West Kalimantan	146,807	3,410,100
Total	546,769	9,362,715

During the New Order, this transmigration flow increased significantly, creating problems between the transmigrant and indigenous populations. In East Kalimantan, for example, the Dayak tribe accounted for only 10 percent of the total population. They occupied the more remote areas along the rivers, whereas the transmigrants generally lived in the urban areas and centers of economic activity. This trend grew with the implementation of a transmigration policy by the New Order government in the 1970s.

The 1998 political upheaval signified by outbursts of protest actions was restricted to the urban areas and did not address issues of violence and structural imbalances during the New Order era. The reformation agenda was swiftly appropriated by the elite groups that steered public sentiment

³⁰ See <http://banjarmasin.wasantara.net.id/wilpos9/index.htm>.

toward the imbalance between central and regional governments. As a result, vital positions in the government bureaucracy and representative bodies still remained in the hands of old power elites, with no real change.

Kalimantan, Results of the 1999 General Election

Province	Golkar	%	PDI-P	%	PPP	%
West Kalimantan	511,513	29.8	405,543	23.2	209,792	21.1
Central Kalimantan	221,940	27.7	283,564	35.4	88,824	11.1
South Kalimantan	357,278	24.0	316,565	21.3	251,182	16.9
East Kalimantan	221,940	29.7	383,168	33.7	117,868	10.3

Even though regional autonomy was expected to address issues of unequal representation within the government, it created an even worse situation. New Order officials who dominated the regional bureaucracy were able to manipulate the demands of different interest groups. The regional expansion that resulted in an increase in the number of district-level administrative units served the interest of local government officials to gain control over local revenues. Participants of a workshop in Banjarmasin emphasized that this was one of the roots of the conflict and violence from 1999 to 2002.

For some time, Kalimantan has been the victim of multinational and domestic companies that exploited the region's natural resources. Nearly the entire island has been divided into parcels of land used for mining, plantation, and forest concessions. During the New Order era, the presence of these extractive ventures was a source of revenue for those in power. The state often provided protection for these corporations, which caused violent disputes with the local community.

C. State Violence

Kalimantan's history of gross human rights violations can be divided into four major phases. From 1965 to 1969, there were mass murders, arrests, detentions, and the forced removal of leftists and nationalists. Throughout the 1970s, waves of violence continued in the form of land expropriation for development projects and commercial businesses. In the third phase, indigenous communities protesting against the expansion of business and government projects were targeted. As in other regions, the decline in the power of the New Order saw an increase in the arrests, detentions, and torture of students and human rights activists in Kalimantan.

Efforts by TNI and civil military groups to eradicate the leftist movement had been underway since October 1965. Murders, arrests, and detentions were followed by measures to maintain strict control over the population.³¹ In various locations, such as West Kalimantan, a military operation to eliminate the PGRS/Paraku armed opposition movement in the border territory continued until 1969. It was estimated that thousands of people were killed and many were forced to take refuge in camps under military control.

The survivors of this conflict lost their civil and political rights for a significant length of time. Some activists revealed that discrimination against their families continued even after the

³¹ Interview with the people of Sanggau, February 26, 2003. According to those interviewed, during this time the military issued a restriction against the upriver population carrying out any activities in the forest. Those who violated this restriction were arrested and labeled as communists, and some were even killed on site.

downfall of Soeharto. The accusation of being a communist was also a powerful weapon wielded by the government and corporations against people's legitimate demands for justice and improved living standards.

The eradication of the leftist movement and the disabling of civil society were followed by the expansion of development projects and business interests throughout Kalimantan. Individuals who protested this expansion had portions of their land seized. This land was then given to transmigrants who had been transported in mass numbers from Java and Madura since early 1970s. This was the same pattern of repression exercised by the state, particularly the military and police, in other regions.

The involvement of the state in land seizures created opposition to the New Order since the early 1980s. While the local community had supported the military operation to eradicate the 1960s leftist movement, it was against the annexation of land by the government and corporations.³² The New Order responded to this opposition with violence. An activist in Pontianak stated that in the early 1980s the church frequently received reports from the community regarding the arrest, detainment, and torture of members of the congregation who opposed the presence of corporations in their villages.

Nevertheless, in the early 1990s, local people's movements, especially in the Dayak community, were increasing. Throughout the region, people gathered to defend their land from forest exploration concessions, mining enterprises, and plantations. Demonstrations and efforts to reclaim the seized land occurred repeatedly. The government and corporations reacted by sending the military to eliminate the leaders of the opposition movements.

The government and the corporations involved in human rights violations have thus far refuted the investigative findings of various human rights agencies. They even accused the agencies of instigating instability and hired security forces to expel those who resisted their policies. These corporations sometimes even tried to attract government officials by creating social funds to support various development projects.

D. Civil Society and Handling Past Violence

Church institutions play an important role in addressing the human rights abuses of the New Order period. Since the 1980s, churches have handled public complaints on various cases and provided services to victims. Other important elements are the Dayak students and community, which established the first human rights agencies in various cities in Kalimantan.

Yayasan Karya Sosial Pancur Kasih (YKSPK), established in Pontianak in 1981, is one of the oldest organizations whose purpose is to address issues faced by the Dayak community. Its main activities were in the areas of social services and economic development. However, since the 1990s, YKSPK began to handle advocacy through the Institute of Dayakology Research and Development (IDRD). Through research and publications, it sought to direct the public's attention to the life of the Dayak community and the oppression it faced at the hands of the government and corporations that operated in West Kalimantan.

³² During the mid-1970s, the military dismissed the civil military force originally used to help them eradicate the leftist movement. A military document mentions that the civil military force and civil defense force was dismissed for having "committed an extreme activity," namely, fighting against the presence of commercial enterprises.

Increasing public attention, as well as the need to provide legal aid to victims, motivated IDR, WALHI, YLBHI, and YKSPK to establish Lembaga Bela Banua Talino (LBBT) in Central Kalimantan and Lembaga Bina Banua Puti Jaji (LBBPJ) in East Kalimantan. The mandate of these two agencies was to provide legal empowerment and defend the rights of the Dayak community. Yayasan Talusung Damar (YTD) was established in Central Kalimantan with similar purposes, although, according to some activists, its development was relatively slow.

The focus on human rights grew stronger in the mid 1990s, and through the collaboration of ELSAM, LBBT, and LBBPJ, the East Kalimantan human rights committee, KOHAM Kaltim, was established. After this, the number of human rights activists operating in East and South Kalimantan increased significantly. Lembaga Pemberdayaan Masyarakat Adat Borneo Selatan (LPMA) was established to defend the rights of the South Borneo traditional community.

After 1998, the NGO sector started to grow quickly. Dozens of new organizations working on human rights and indigenous community advocacy were established in four provinces. One of the most significant organizations in the context of transitional justice is Lembaga Bantuan Hukum dan Hak Asasi Manusia (LBH-HAM), which was established on the initiative of ELSAM and LBBT in Pontianak.³³ Several women lawyers, with the support of LBH-APIK in Jakarta, formed an organization with a similar name in Pontianak. Meanwhile, the mining advocacy network, Jaringan Advokasi Tambang (JATAM), in Jakarta also supported the establishment of the mining and environmental victim community organization, Lembaga Masyarakat Korban Tambang dan Lingkungan (LMKTL).

1. Truth-seeking Mechanisms

Almost all agencies that worked on human rights and environmental issues expressed their involvement in truth-seeking activities. Some even say that truth-seeking is a priority. However, their main focus is on human rights abuses that occurred within the past few years, and only a few organizations paid attention to cases that happened during the New Order period. Usually, these cases of past violence are related to current or cases.

Organizations often pay attention to cases involving recurring social riots or communal violence. IDR and LBBT, for example, investigated the 1997 riot in Sanggau Ledo, West Kalimantan. These agencies gathered information on the cause of the riots, the names of the victims, and the property destroyed in the incident. Such efforts were also made by student activists in Pontianak, who provided assistance to refugees affected by the 1999 riots.

JATAM and WALHI, with the support of several lawyers in early 1999, formed a team to investigate land seizures committed by a mining enterprise that involved acts of violence from 1981 to 1992 in West Kalimantan. Based on their findings, the team urged Komnas HAM to further investigate the case. In a few months, Komnas HAM sent some of its members to investigate but declared that no gross human rights violations had occurred. Nevertheless, the commission found some violations and recommended that PT-KEM provide compensation to the local community.

At about the same time, Kalimantan Dayak Association (PDKT) formed a team to investigate land seizures and violence committed by PT Lonsum in 1998 against the Benuaq Dayak community. This team succeeded in gathering information and documents on the incidents and

³³ Since 2002 this organization has changed into an association under the name of PBH-HAM (Perkumpulan Bantuan Hukum dan Hak Asasi Manusia) or Legal and Human Rights Aid.

prepared a report to be used as a basis for advocacy by NGOs and victim groups in Samarinda and Jakarta.

Another initiative was taken by the Pontianak Historical Assessment and IDRD, which had carried out a study on the 1999 riots in Sambas. In addition to collecting information on the sequencing of the riots, this initiative also tried to map of the land abandoned by the victims. The data was then raised as an issue in the peace dialogue and published in a book.

Activities that gave voice to the victim community, such as public hearings, were often carried out. In 1997, victims of PT-KEM's land seizures, with the support of JATAM and other environmental organizations, intervened in the company's shareholders general meeting in London. Similarly, last year LBBT held an event where victims and other speakers addressed the ecological destruction committed by mining corporations in Kalimantan.

2. Prosecutions

Most agencies and activists were pessimistic about the Indonesian judicial system. They recognized that after 1998, no significant change had occurred in the leadership positions within the judiciary. TNI, police, Regional House of Representatives, and the local governments blocked efforts to settle cases of human rights abuse by legal means. Nearly all efforts resulted in the intimidation and harassment of the plaintiff.³⁴

For this reason, some agencies tried to develop initiatives outside of the judicial corridor by making use of customary law and negotiations with the corporations. Currently, the East Kalimantan Human Rights Commission, KOHAM Kaltim, tried to establish accountability by reporting human rights violators at their places of employment. In 2001, this agency reported to the military police on a police officer who committed human rights abuses. Although this effort did not succeed in bringing the culprit to trial, it did result in a temporary halt to the violence.

Negotiation with commercial enterprises was another alternative to pursuing legal measures. NGOs and victim communities normally pressure corporations to negotiate and use traditional customary law as a basis of negotiation. In West Kalimantan, the traditional council decided to punish a military battalion who perpetrated acts of violence in Ngabang. This battalion was required to pay a penalty and bear the medical costs for the victims' complete recovery. Interestingly, the military agreed on the penalty and paid it accordingly.

3. Legal and Institutional Reform

Regional autonomy paved the way for initiatives to improve the legal system and institutions at the local level. However, such efforts are still quite limited in Kalimantan. Initiatives often came from human rights and environmental organizations based in Jakarta. For example, in the 1999 drafting of a regional regulation on the Sanggau village, West Kalimantan, LBBT collaborated with an indigenous community working group, Kelompok Kerja Masyarakat Adat (KKMA), to ensure legal protection for villages that were destroyed during the New Order era.

³⁴ Almost all participants in a workshop in Banjarmasin voiced similar restlessness. A lawyer who was maltreated by the police in Pontianak mentioned that this tendency had grown stronger in recent years, especially as the public more frequently questioned violence cases befalling on to them.

Public attention was also given to the drafting of a law on natural resource management, which was initiated by a number of environmental agencies in Jakarta. Considering such mismanagement led to numerous human rights abuses, some human rights organizations and activists deemed it necessary to represent the victims' voices to policymakers.

4. Reparations and Rehabilitation

Many organizations provide support for victims of human rights abuses. This assistance includes providing legal consultation and improving the institutional and economic capacities of the victims' families. PBH-HAM of West Kalimantan provides legal aid and assists in organizing victims of violence and land disputes. Similar efforts are made by the Human Rights Commission of East Kalimantan in organizing the victims of forced relocation and the 1965–1966 violence.

The establishment of victim-based organizations is widespread. In West Kalimantan, LBBT, WALHI, and PBH-HAM are among the most active agencies in organizing victims. In East Kalimantan, Nurani Perempuan, an organization dealing with gender issues, has assisted in establishing a group for female victims of violence. In West Kalimantan, the establishment of victim-based organizations was supported by economic development initiatives, such as the formation of a credit union for land seizure victims. Such efforts are expected to solve part of the victims' economic problems, and help organize the victim community.

5. Reconciliation

Efforts at reconciliation are often made in areas hit by communal violence, such as West and Central Kalimantan. In West Kalimantan, human rights organizations such as the Foundation of the Sambas Riot Victims (Yayasan Korban Kerusuhan Sambas, YKSS), convened a dialogue that brought together conflicting ethnic groups. An NGO network supported artistic efforts, such as a theatrical presentation by children of victims.

Various organizations in the Pancur Kasih network also tried to support reconciliation efforts by conducting studies on various attempts at building peace. Meanwhile, the Pontianak Historical Assessment Center opened a dialogue between the perpetrators and victims in Singkawang and Pontianak in 2000 and 2001. Despite these efforts, human rights activists admitted that such initiatives were not always effective because of the social prejudices that each ethnic group held strongly.

Some agencies are engaged in conflict resolution as a concept introduced by international agencies. In these types of programs, peace is expected to be fostered through meetings, while the disclosure of past human rights abuses is sidelined. This often resulted in reconciliation occurring only among elite groups, while the larger population remained in conflict.

E. Findings and Analysis

In Kalimantan, there are limited efforts to address past human rights abuses. Most agencies are focused on recent cases of violence. The eradication of the leftist movement from 1965 to 1969 and the land seizures and forced relocations in the 1970s receive very little attention.

Among transitional justice initiatives, truth-seeking and victim advocacy received the most attention, as most organizations had pursued these types of efforts for some time. Investigations of past abuses are usually conducted in an attempt to settle ongoing communal violence. These efforts, including statement taking, reparations, and rehabilitation, are restricted to certain cases

for advocacy and hardly discussed. In the rare instance that organizations conducted these activities, collaboration was quite limited. After 1998, reconciliation efforts started to gain attention, although they were limited to the ethnic groups involved in violence. In this situation, government and security forces acted as mediators with the support of several NGOs and donor agencies.

The increase since 1998 in the number of NGOs did not automatically expand the capacity of civil society to address past violence. Frequent meetings held by NGOs to strategize on the role of the civil society most often ended with generally agreed-upon ideas that were not translated into a clear strategy or work agenda. These problems are complicated by competition, internal conflicts, and the domination of donor agencies in determining the focus of an organization's program.

V. SUMATRA

A. Introduction

Sumatra, the second most populous island after Java, is subsumed by layer and layers of human rights issues inherited from the New Order. Aceh, situated on the northern tip of the island, has been the scene of 26 years of conflict causing tens of thousands of casualties. In other places, particularly North Sumatra and the southern part of the island, such as Lampung, demands for justice by the local population were met by the New Order with repression.

Research for this section was gathered on field visits to six of the eight provinces located in Sumatra. These visits were followed by a workshop in Padang on February 17–19, 2003. On this occasion, civil society leaders from human rights NGOs and victim groups discussed their experiences.

B. Overview

With an area of 473,481 square kilometers, Sumatra is the second-largest island after Kalimantan. Its population in 2002 was estimated to be 42 million, with the biggest percentage residing in the north, and it comprises diverse ethnic and religious groups.

Sumatra (excluding Aceh), Land Area and Population

Province	Area (sq. km)	Population
North Sumatra	70.787	10,847,756
West Sumatra	42.229	4,680,005
South Sumatra	103.686	7,775,800
Riau	94.561	5,448,561
Jambi	44.924	2,500,805
Bengkulu	21.168	1,801,887
Lampung	35.376	7,994,970
Bangka Belitung	16.334	978,897

During colonial rule, Sumatra became the first destination area for the colonial government's transmigration program. This project provided laborers for the region's plantations and operations involving the extraction of natural resources. The influx of these migrants increased significantly

during the New Order period, with the expansion of forest-based industries and vast plantations in Central and North Sumatra. Lampung has received the most migrants in Sumatra, followed by North Sumatra. The migrants in Lampung account for 24 percent of the population. They generally came from various regions in Central and East Java. The migrants work in the agricultural sector as sharecroppers or farm workers. Communities of agriculture workers from Java have been established in North Sumatra since the nineteenth century, with their numbers increasing during the New Order period.

The population of Sumatra is culturally diverse. Each province is populated with different ethnic groups, who in the pre-independence era lived under independent kingdoms.³⁵ The majority are Muslim, except in North Sumatra, which is populated by the Batak ethnic group, two-thirds of whom are Christians. Ethnic and religious issues have played a central role in the sociopolitical life of the region. Only a few governors, regents, or other political leaders had cultural origins from outside their area of work/service.

Economically, Sumatra supplies approximately 70 percent of Indonesia's total revenue. The most important sectors are oil, gas, and other mining industries, followed by forestry and agriculture. However, the ownership of these products is held in the hands of multinational corporations and the government in Jakarta in collaboration with local entrepreneurs. Such inequality is one of the reasons for the instability in areas such as Aceh and Riau since the 1990s.

The 1998 political upheaval did not bring about any significant changes in this region. As in other regions, the New Order elites instantly merged with the new political power. The loss suffered by the Golkar party in the general election was not as significant as expected because critical positions in government institutions did not undergo much change. The North Sumatra KONTRAS noted in one report that repressive politics continued even after the resignation of Soeharto.³⁶

Sumatra, Results of the 1999 General Election

Province	PDI-P	Golkar	PPP	PAN
North Sumatra	2,052,680	1,128,529	520,121	465,542
West Sumatra	212,347	459,528	400,469	430,880
Riau	583,583	632,609	295,924	216,668
Jambi	286,042	400,495	126,621	88,721
South Sumatra	1,378,668	781,517	299,779	279,104
Bengkulu	198,512	190,731	59,939	51,794
Lampung	1,322,032	636,570	265,503	173,491

Since 1998, there has been little change in the economy. Protest movements against several mining and agricultural corporations lasted only several months and did not impact the structure of ownership or the patterns of inequality. The new political leaders, some who were former New

³⁵ The Aceh Independence Movement, GAM (Gerakan Aceh Merdeka), claimed that they struggled for the autonomy of the people of Aceh who once was an independent sultanate prior to merging with the Republic of Indonesia. A similar claim was also expressed by some politicians in Riau shortly after the resignation of Soeharto; however, it did not receive any significant support.

³⁶ KONTRAS Sumatra Utara. *Data-data Kekerasan terhadap Petani dan Mahasiswa di Sumatra Utara, 1998–2002*. Unpublished monograph.

Order officials who joined new parties, maintained the alliance between the government, businesses, and military, thus protecting the economic structure.

Regional autonomy created only superficial changes in the configuration of power. A number of new figures emerged who merely participated in controlling the local revenue that used to be under the control over the central government before enactment of the law on regional autonomy. Similar to Kalimantan, Sumatra also experienced an increase in the number of new district- and subdistrict-level administrative units of local government. In this process, local leaders frequently use arguments based on ethnic identity or indigenouness to justify separation from existing administrative boundaries.

C. State Violence

The legacy of violence in Sumatra does not differ much from abuses committed in other parts of Indonesia. It began with the government's operation to exterminate the leftist movement. In October 1965, under the lead of the Commander of Bukit Barisan Military Area in North Sumatra, the military began targeting agricultural and mining workers' movements that had grown relatively strong during President Soekarno's reign. In North Sumatra alone, an estimated 40,000 farm workers were arrested, detained, or unilaterally dismissed from their places of employment on the charge of being involved in leftist labor organizations. In the first months of 1966, mass killings took place in West Sumatra, South Sumatra, and Lampung. The violence of 1965–1966 resulted in thousands of people being detained or killed.

The next step of the New Order government was to control the legislative bodies at the regional and national levels. Since the late 1960s, the military had launched a number of operations to crush political opposition to the ruling Golkar party. The main target was the Muslim political groups scattered in urban centers throughout Sumatra.³⁷ Organizations deemed to be resisting the New Order were dismantled and their leaders arrested. This repression continued until 1980 and resurfaced with the emergence of militias in the late 1980s.

During the same period, local communities protested against the expropriation of their land for government and commercial plantation projects. Since 1981, residents of the villages in Bengkulu have opposed state plantations, which used the military to set local houses on fire. A number of local leaders were arrested and tortured, and subsequently lived under the strict supervision of the military and police authorities. The development of the plantations throughout Sumatra was marked by similar acts of violence up to the end of the 1990s.

In the beginning of the 1990s, the people's struggle received support from student movements but had to face increasingly violent responses from the state. Activists in Lampung and North Sumatra were targets of repression. A number of people were shot while protesting and numerous others disappeared. Such violence was not only committed by the military and police authorities. In North Sumatra, hoodlum groups that normally operate under pro-government youth organizations were repeatedly involved in human rights violations that the local government later claimed were simply "fights."

³⁷ A number of leaders that were targets of repression in 1965–1966 joined with the military to crush the leftist movement. Some of them were charged with involvement in the bomb explosion incidents in the 1970s.

In the 1998 protests, students and NGO activists began to demand resolution of human rights abuses during the New Order era, particularly those committed in North Sumatra and Lampung. For the most part, the provincial government did not respond to these demands, and some activists thought it was worthwhile to approach the national government and House of Representatives (Parliament) in Jakarta. However, such claims were often muffled by accusations that these NGOs and activists were communists.

D. Civil Society and Handling Past Violence

In Sumatra, the focus on human rights issues began with agrarian disputes and the repression of Muslim groups in the late 1970s. Initially, only a small number of law school graduates provided assistance to victims by advocating their rights in court. A more systematic response began in the 1980s with the establishment of branches of the Legal Aid Institutions (LBH) in a number of cities.

Concurrently, the environmental movement became active in Sumatra, addressing issues of environmental damage caused by government and commercial projects. Wahana Lingkungan Hidup (WALHI), a prominent institution in Sumatra, joined forces with a number of NGOs and other advocacy groups to form provincial networks. Their activities were also supported by various nature groups and student organizations that were more active in providing assistance to the rural community.

Religious organizations in North Sumatra, particularly those associated with Protestant and Catholic churches, were also central in the formation of the regional human rights movement. Several major churches, such as the Batak Church (HKBP) and the Catholic Church, ran social and justice service programs. With the support of international organizations, they established NGOs and recruited activists who supported the human rights movement in this region.

From the advocacy networks formed within the human rights movement, various new institutions emerged that specialized in human rights research and education. Unfortunately, the allocation of tasks was not particularly effective. It was typical for an institution that was initially established to address a particular issue to expand and start to engaging in other programs. As a result, its activities lacked focus, and internal conflicts erupted that normally ended with the formation of new institutions.

Another notable development was the emergence of community-based organizations among workers, farmers, and traditional indigenous communities. These groups usually started from community groups assisted by NGOs dealing with certain human rights abuse cases. After 1998 these organizations increased in number and played a significantly important role in the civil society movement in Sumatra. Some of these, for example the Farmers Union of North Sumatra (SPSU) also prioritized the resolution of cases of violence.

1. Truth-seeking Mechanisms

The human rights community paid the greatest attention to land expropriations, which had taken place throughout Sumatra since the early 1970s. Investigations were conducted as a basis for advocating the legal settlement of the cases and to protest against the government and corporations. These initiatives normally started because of complaints from the community regarding seizure of their land. Hence, investigations were focused on recent cases of violence.

Hardly any organizations in Sumatra engaged in systematic efforts to collect information on patterns of human rights violations during the whole New Order period. This lack of engagement was attributed to the limit in available resources and the belief that past cases were not a priority. Nevertheless, there were several major initiatives, such as the effort by LBH Palembang to investigate violence committed against farmers, workers, and the traditional community in South Sulawesi. WALHI's office in Bengkulu had engaged in similar information-gathering efforts in order to strengthen the local community's claim to their land, which was later expropriated for the purpose of development or commercial projects.

The findings were then submitted to the Regional House of Representatives and the government as a reference in the formulation of agricultural policies. Violence against the local community was hardly addressed in these advocacy efforts, partly because of the limited available information. These efforts were in several locations supported by the local officials who considered such incidents as part of the New Order regime that had to be abandoned.

The extent to which attention was paid to agrarian and natural resource cases was because of the domination of the human rights movement by environmental activists, students, and lawyers. Physical violence frequently linked to agrarian issues, such as mass killings, was considered a separate issue and received less attention. Another factor was that advocacy for cases of violence did not produce tangible benefits compared with agrarian cases that could give back the farmer's title to their land.

However, since early 1992 various agencies have also focused on the government's repression of Muslim groups in 1989. LBH Lampung started an investigation and brought together student groups and the victim community to undertake the investigation themselves. They formed the Smalam Committee, which was committed to addressing the 1989 violence against the Muslim community. In addition to carrying out investigations and advocacy, this committee joined KONTRAS in assisting the victim community in asking the National Human Rights Commission in Jakarta to establish an independent investigation.

Another initiative was a workshop in October 1998 for the victims of land expropriation by major plantations. Organized by WALHI Bengkulu, this workshop was attended by representatives of victim communities from Aceh, West Sumatra, South Sumatra, Lampung, and Bengkulu. After a discussion on the various issues facing the victim communities, a resolution was formulated demanding that the government protect the farmers' rights, discontinue military intimidation, and review the legal regulations used by plantations to expropriate the people's land.

During the previous month, the indigenous community of Bengkulu held a meeting and invited farmers to form an assembly with them to defend their land and forest. This meeting succeeded in delivering a declaration of "Tanah Bagi Rakyat" or "Land for the People." The participants produced a list of demands, including the return and acknowledgement of legal titles for land and natural resources, review of statutory laws, and for the government to take legal action against capital owners who stole and opened up access to the land by setting it ablaze.³⁸

³⁸ The Statement of the Attitude of the Traditional Community and Farmers of Bengkulu, 24/9/98.

2. Prosecutions

Despite the considerable involvement of civil society organizations in legal assistance and advocacy, the level of trust for the judicial institutions in Sumatra is generally quite low. People view attempts to settle cases through the judicial system as ineffective because of widespread corruption and government intervention. Some activists believe that legal advocacy was useful only to draw public attention to a case, while more effective means of follow-up were protesting and sending people's delegations to the government agency responsible for the case.

Using such a strategy, NGOs in Lampung succeeded in urging the government to form a special team to handle disputes over natural resources. Upon receiving complaints, this team summoned all of the involved parties to negotiate and settle the issue peacefully. Approximately 80 percent of 360 existing cases have been settled using this mechanism.

The advocacy groups in North Sumatra chose to send delegations from victim communities to the various government agencies. In the case of the repression of student activists, LBH Medan, along with families of the victims, met with the Head of the Police Force in Jakarta on the conduct of his staff in the field. These activists believed that advocacy efforts would not produce any change at the local level, because law enforcement institutions were still controlled by networks of thugs that had perpetrated acts of violence against the community.

3. Legal and Institutional Reform

Regional autonomy provides ample space for the regional government and the Regional House of Representatives to stipulate various regulations. Civil society organizations are frequently involved in assessing the need for a specific regulation and in the process of formulating it. However, civil society organizations primarily focus on issues of good governance, such as the stipulation of the procedures for nominating regional government positions and the responsibility of corporations for community development and the management of natural resources.

Civil society organizations have not considered the issue of addressing issues of violence in detail. The Lampung Legal Aid Office (KBH) did organize a series of discussions with the police, prosecutors, and judges on the issue of protection for women and children. However, such deliberations did not touch on cases of past abuses. The participants talked about a few basic principles and norms included in international human rights instruments and how to integrate them into the existing legal instruments.

As a result of extensive public campaigns, violence against women and children received more attention from the government and Parliament. Women's organizations, such as DAMAR in Lampung, repeatedly approached the Regional House of Representatives and academic institutions to discuss the issue and presented draft bills that have been developed in collaboration with national networks based in Jakarta.

4. Reparations and Rehabilitation

Support for victims is usually linked with an organization's service program. The Legal Aid Institute conducts legal advocacy and consultation, while welfare organizations support economic empowerment programs for families of the victims. Several NGOs, such as YPBHI, KBH Bengkulu, and LBH Lampung, have special units to handle such activities, while other organizations conduct such initiatives as part of their regular program.

Komite Smalam in Lampung is an exception to this pattern. Activists of Muhammadiyah Students Association established this committee in July 1998 to address the 1989 mass murder of 246 people in Talangsari. Originally, the group's activities were limited to investigating and advocating for victims at various government institutions in Jakarta. In their advocacy efforts, they received support from dozens of NGOs in Jakarta, including KONTRAS and YLBHI.

Currently, this organization focuses on visiting victims and their families, which are scattered throughout Java and Nusa Tenggara, in an effort to organize them. Komite Smalam faces a number of challenges in this process, one of which is the proposal for *ishlah* (reconciliation) from perpetrators who want to divide the victim community and weaken its struggle. Despite having no formal organization, the victim community of Talangsari is quite active in efforts to empower itself. It participated in a meeting in Jakarta in May 2003 that sought to bring together victims of various incidents of violence.

Although they are not directly involved with past violence issues, farmers' unions, such as SPSU in North Sumatra, have programs to help improve the lives of victims of violence, such as establishing cooperatives and self-help groups.³⁹ As yet, there have been no efforts to bring together agencies that specialize in helping victims of violence and community organizations. Based on their experiences, some activists believe that such cooperation has the potential to benefit both parties.

5. Reconciliation

Reconciliation measures taken by institutions in Sumatra are quite complicated. Civil society organizations have not approached reconciliation from the perspective of abuses committed by the New Order government against the population at large, so views on the conflicting parties needing reconciliation varied greatly. For example, activists focusing on agrarian issues saw the need for reconciliation to take place between the migrant community and local population. This discord was always highlighted in agrarian conflicts. Meanwhile, the indigenous community viewed the need to reconcile with the plantation and mining workers.

Since the increase in communal conflicts in Indonesia, many donor agencies started to develop peace-building programs through various organizations, including those that had completely different areas of focus. Warsi, an organization focused on environmental issues based in Jambi organized meetings that brought together the local and transmigrant communities to discuss the tensions between them. According to Deputy Director Rahmat, these meetings helped both communities in understanding their role as victims of the New Order's erroneous policy.

E. Findings and Analysis

There were a significant number of civil society initiatives to address the legacy of abuse under the New Order in North Sumatra, South Sumatra, and Lampung. In other provinces, the human rights movement is still focusing on recent cases of violence that are mostly related to disputes over the commercial or governmental use of land and natural resources. This distinction is partly

³⁹ Farmer groups unified under SPSU usually had suffered acts of violence in disputes with the government or plantation corporations. As in other locations, farmer communities who suffered from violence have not been commonly referred to as "victims of violence," but simply as activists. During several meetings it was mentioned that the term "victims of violence" gave the impression of placing repressed people in a weak position.

influenced by the varying degree of involvement by the victim communities from one area to another.

However, despite their involvement, NGOs still play a dominant role in deciding the importance of a case and the advocacy strategy to adopt. This was inevitable because NGOs hold the advantage in terms of capacity, resources, and facilities to lead such activities. The consequence, however, is that addressing past human rights abuses relied heavily on the programming and scheduling of the respective NGOs. As a result, most cases are dealt with only partially or on an ad hoc basis, if at all.

Cooperation among the civil society organizations dealing with past abuses is quite limited. Normally, an organization working on a case involves another group only for advocacy purposes. Women's groups that assist victims with trauma issues tend to form an insular community instead of sharing their expertise with other communities. This can be attributed to the trend of the NGO movement to treat categories of human rights abuse as professional turfs to be exclusively managed by specific organizations.

Truth-seeking activities are the most prevalent type of initiative; however, the focus is limited to advocacy and campaigns. Only a few agencies have proper documentation units that are available to the public. The gathered information normally comprises government documents, records on the chronology of events, and newspaper clippings on the cases. More systematic statement-taking or truth-seeking efforts have not been widely implemented. The handling of the Talangsari case by the Smalam Committee was exceptional.

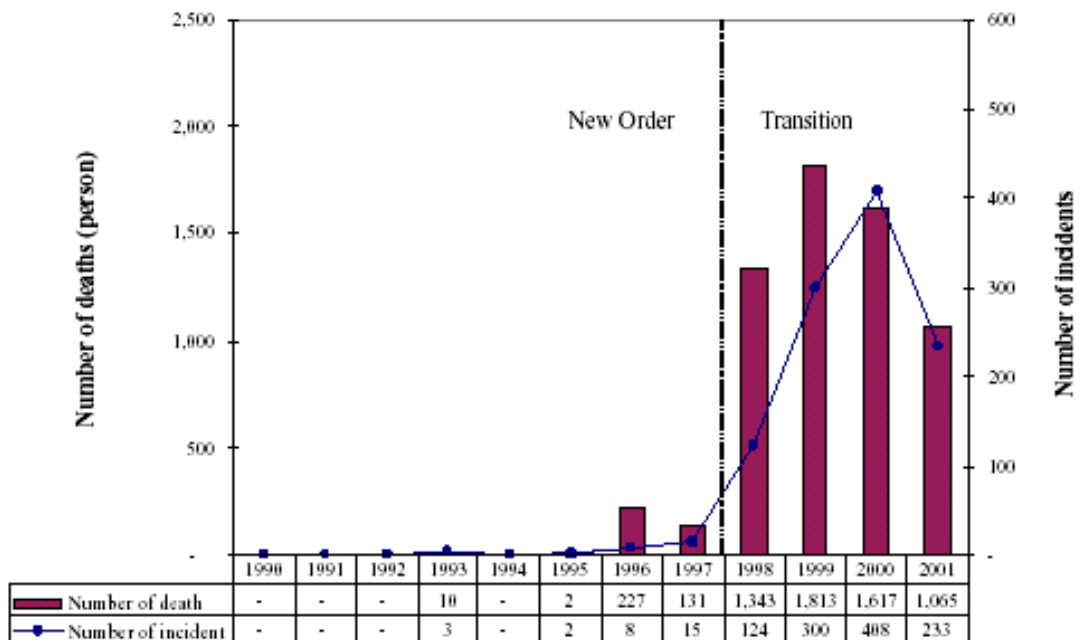
On the other hand, there is vast potential for transitional justice initiatives. The current situation creates an opportunity for the drafting of regional regulations that facilitate the disclosure of truth about past abuses and the achievement of justice. Several regions are relying on alternative justice mechanisms, such as the relatively respected customary judicial system. Unfortunately, there has not been any in-depth discussion on using those initiatives to address the past cases of violence.

Chapter 5 TRANSITIONAL JUSTICE IN CONFLICT SITUATIONS

I. INTRODUCTION

The concluding years of the New Order were marked by widespread conflicts and violence in various regions in Indonesia. From 1995 to 1998, large-scale riots occurred in Nusa Tenggara, West Kalimantan, East Java, and various cities along the north coast of Java. A week before Soeharto's resignation in May 1998, riots broke out in Medan, Palembang, Jakarta, and Solo, causing no less than 1500 deaths. Further violence occurred in 1999–2002 in Central Kalimantan, Central Sulawesi, and Maluku.⁴⁰ It is estimated that by end of 2002, 15,000 people had been killed, and more than one million homes were destroyed.

Violence in Indonesia, 1990–2001



Researchers and commentators have linked the escalating cases of violence since 1998 to the destabilization efforts by the New Order authorities, who wished to discredit the reform movement and weaken the civil government. Some evidence exists to support this claim, such as the involvement of the military and police authorities in the prolonged conflicts in Maluku and Poso. Various investigations conducted by the government and civil society organizations have arrived at such an explanation, but there has never been any follow-up to their findings. Instead, as a number of pro-democracy activists have argued, the series of violent incidents has strengthened the military's position and led the public to think that the civilian government cannot function properly.

Opposition movements in Aceh, East Timor, and Papua increased after 1998. In the first months after the Soeharto's resignation, the government implemented a lenient policy by allowing pro-

⁴⁰ See Mohammad Zulfan Tadjoeddin, *Database on Social Violence in Indonesia*, United Nations Support Facility for Indonesian Recovery, Jakarta, April 2001.

independence groups to organize in their respective territories. However, as the territorial secession prospects grew stronger, particularly in the East Timor referendum of 1999, the military began to stage various military operations to crush these movements.

There was a significant difference between the regions affected by communal conflicts and those engaged in self-determination conflicts. The origins of the conflicts, the social forces involved, and the results varied greatly. In Maluku and Poso, people became segregated on the basis of religion, while in Central Kalimantan they were divided along the lines of ethnicity. In Aceh and Papua, the conflict took place between the resistance movements and the government.

Regardless of the differences, armed conflict—however it occurs—places citizens in the same situation. Threats of violence are present every day and persist for a substantial length of time. The violence in Maluku and Poso, for example, lasted for three years, and even though it has quieted in recent months, there is always the possibility for resurgence. The government has launched various military operations in Aceh and Papua since mid-1999 and has been involved in battles with the resistance movements that have claimed the lives of civilians.

In such a situation, civil society organizations engaged in human rights normally place the cessation of violence and the provision of humanitarian aid as their priorities. Their activities focus on conflict resolution through ceasefires, negotiations between the warring parties, or informal meetings at the grassroots level. The establishment of transitional justice strategies and initiatives in such regions must necessarily differ from those for other regions.

This section is based on visits to Papua and meetings with human rights activists and humanitarian workers from Aceh that took place in September and October 2002, followed by various meetings in Jakarta and Jogjakarta between November 2002 and January 2003. In March 2003, the researchers visited Central Sulawesi to gather information on transitional justice strategies and practices in the Poso case. Information on Maluku was collected through meetings with various organizations and individuals working in this region.

II. PAST VIOLENCE AND SELF-DETERMINATION

The political crisis in Indonesia since the mid-1990s has been marked by the demand for independence in several regions. The Aceh Independence Movement, Gerakan Aceh Merdeka (GAM), had been under severe military repression since the mid-1970s, but was able to expand following Soeharto's resignation in 1998. Many Acehnese poured into the streets to demand a referendum on independence. At the same time, tens of thousands of people in Dili swarmed the streets with a demand for a referendum in East Timor. In Papua, at about the same time, the pro-independence group performed flag raisings and peaceful campaigns in several cities.

Political observers in Indonesia have remarked that the resurgence of the pro-independence movements is linked to the repression that had been imposed by the Soeharto regime. The concept of national unity and integrity was enforced through violence, ranging from intelligence operations to the brutal occupation of East Timor. The fall of this regime subsequently prompted many groups to question the very concept of the Indonesian nation.

For the first time in history, some local elites in Riau and Bali voiced their aspirations to establish an independent state. In other regions, criticisms towards the government were frequently mixed

with ideas to form an independent state.⁴¹ Not all of these were serious attempts. For example, when Abdurrahman Wahid was removed as president, some East Javanese Youth called for independence for East Java; however, no one in that province seriously considered secession.

In Aceh, East Timor, and Papua, the movement for independence is closely linked to the long list of human rights violations. The memory of suffering is one catalyst for the widespread aspiration for independence. The demand for the settlement of human rights violations is linked with the struggle for independence. In these regions, the notion of “transition” has a distinct connotation that is not limited to a post-Soeharto shift from authoritarianism to democracy, but also addresses secession and the formation of an independent state.⁴²

III. ACEH

A. Background

Aceh has a unique place in Indonesian history. During the colonial period, Aceh was the only territory in Nusantara that the colonial government did not overtake. This territory was under the control of a sultanate that had its own military and conducted its own international relations. During the Indonesian struggle for independence in 1945–1949, Aceh was again the only territory that the Dutch could not reclaim.

This unique historical experience has created a pride among the Acehnese elites as the people who have never yielded to foreign domination. In 1953, the government of Soekarno faced an armed rebellion under the leadership of Daud Beureuh, who was fighting for the establishment of an “Indonesian Muslim State.” This rebellion ended only in early 1960s, when Soekarno offered a number of compromises, including the establishment of Aceh as a “special region” in appreciation of its unique characteristics and history.

With the toppling of Soekarno in October 1965, Aceh was one of the first locations where PKI members and other leftists were massacred. The military, using religious symbols, received fairly wide support from Acehnese who had initially been against the Jakarta government. According to one activist, many expected that the fall of Soekarno would result in the establishment of a state that respected Muslim values.

However, dissatisfaction re-emerged in this region in connection with the allocation of revenue from its natural resources, especially oil and natural gas. While a significant number of Acehnese became high-ranking officials and military officers during the New Order period, some Acehnese politicians were upset by the marginalization of the province within the Indonesian economy.

During the mid-1970s, a group of activists led by Hasan di Tiro proclaimed Aceh to be an independent state. The Indonesian military repressed this movement but failed to win the local community’s sympathy. This movement resurfaced at the end of 1980s. This time the Jakarta

⁴¹ In addition to the demand for independence, the idea to form a federal state and liberal autonomy (otonomi luas) for all regions also came up. This concept was particularly popular in Sumatra and Sulawesi as the basis of federalism political force in the 1950s.

⁴² There were different views on transition with regard to the pro-independence movement in Aceh, East Timor, and Papua. One view sees political independence as an absolute requirement for transition, while another view considers that expansive and special autonomy offered by the government can be seen as a transition that leads to independence.

government reacted even more violently: it declared Aceh a military operation region (DOM) and launched various military and intelligence operations that led to massive human rights violations. Human rights organizations estimate that more than 2000 people were killed from May 1990 to August 1998.

After the resignation of Soeharto, new hopes emerged. The government lifted the military operation territory status of Aceh, following mass campaigns and the disclosure of human rights violations throughout the territory. On announcing this change of policy, the commander-in-chief of TNI, General Wiranto, apologized for his subordinates' crimes and said that all of the "nonorganic" soldiers, including the Special Forces (Kopassus), would be withdrawn.

Following this, several members of Parliament in Jakarta formed a Fact Finding Team in cooperation with the regional government and local community leaders. This team made a four-month "road show" to various localities to meet families of victims, civil administration and military officials, and community leaders. Recent reports mention that more than 1700 cases of human rights violations occurred during the DOM period. Komnas HAM carried out a similar fact-finding mission, and its report mentions 1100 violations. In the following year, the government of Abdurrahman Wahid established an independent commission for the investigation of violations in Aceh (KPTKA), which listed approximately 5000 cases of human rights violations that occurred during the DOM period and recommended that the perpetrators be prosecuted.

These findings were surprising to many parties. Unlike East Timor, the violence in Aceh was not as widely known. The uncovering of mass graves and the testimonies of victims' families broadcasted on television provoked strong reactions from various parties. Under such pressure, the military headquarters apologized for the victims' suffering. At the official appointment of Abdurrahman Wahid as president, Parliament held a closed session on the conflict in Aceh. At this occasion, several high-ranking military officers and government officials testified about their involvement in human rights violations in Aceh since 1989.

GAM used this time to gain support in the villages and to launch campaigns against the government. On November 8, 1999, around half a million people, or 10 percent of the Aceh population, were involved in a demonstration in Banda Aceh to demand a referendum and prosecutions of human rights violators.

By end of 1999, the situation worsened with the increasing armed conflict between TNI and GAM. Negotiations between the government and GAM, facilitated by Henry Dunant Centre, succeeded in arriving at an agreement for a "humanitarian pause" in May 2000. However, this agreement lasted for only several weeks. The violence re-emerged and the Indonesian military demanded the president authorize strong military actions toward GAM. In April 2001, Abdurrahman Wahid issued a presidential decree that allowed the military to launch an operation against GAM. Approximately 1000 Acehnese lost their lives within the first four months of this operation, while thousands of others were displaced.

The government tried to muffle the demand for referendum through various symbolic reforms, such as changing the name of the Special Region of Aceh (Daerah Istimewa Aceh) into the more culturally sensitive Nanggroe Aceh Darussalam (NAD) and allowing the use of symbols of an autonomous government. In July 2001, Parliament ratified a Special Autonomy Law for Aceh that authorized the regional government to prepare a new set of rules (qanun) to include various Islamic laws within the local judicial system. The law also improved the distribution of revenues

from the natural resources that had long been the cause of the regional elite's dissatisfaction with the central government.⁴³

However, this law lost its significance amid the rising military conflict. Negotiations between GAM and the Indonesian government did not make significant progress. There was the impression that discussions at this level were not relevant to the incidents on the ground, because the civil bureaucrats, as well as GAM's negotiators, could not always control the armed troops in Aceh. The regional government and the Regional House of Representatives (DPRD) in this case did not take a leading role and could not implement the special autonomy laws effectively.

In December 2002, another negotiation took place in Geneva and produced the Cessation of Hostilities Agreement (COHA). This agreement differed from the one previously achieved. It was backed by the highest levels of the Indonesian government as well as international donor institutions, including the embassies of major countries. This agreement also allowed an international monitoring agency to investigate and report cases of breach of this agreement.

Civil society organizations regretted that negotiations and agreements were made only between the military forces and did not provide sufficient opportunity for involvement of civil society representatives. As a result, critical agendas, such as the enforcement of justice and the protection of human rights and humanitarian assistance, were not included. They were also concerned that the impact of the breach of the agreements would be much worse than the previous ones.⁴⁴

B. Civil Society and Handling Past Violence

The civil society movement in Aceh started to develop in the early 1970s, with the establishment of religious foundations, such as *dayah*, that sought to empower people through education and income-generation efforts. Campus-based meetings of international agencies and academics, as well as students, encouraged the accelerated growth of NGOs, and in the mid-1980s a number of new organizations, such as FORSIKAL and YADESA, were formed. These groups were the pioneers of some of the current NGOs.

Between 1990 and 1994, a number of organizations were formed that changed the character of the NGO scene. The movement that had been formerly centralized in Banda Aceh began to spread to other regions and expand the issues of concern. Some of them—such as Yayasan Cordova, Suara Hati Rakyat (Sahara), Yayasan Sinar Desa Indonesia (Yasindo), LBH Pakat Tabela, and YAPDA—began to pay special attention to human rights issues. The development of NGOs was marked by the ups and downs of the restructuring and reorientation, internal conflicts, and the establishment of new institutions designed to counteract the programs of the NGOs. It is currently estimated that there are approximately 200 active NGOs in Aceh.

⁴³This Law stipulates that 70 percent of the net income from the regional natural gas must be submitted to the regional government, however, there has not been any clarification as to the actual amount to be received. So far the total amount of the income has been fully submitted to the central government and the use of the fund has never been discussed with the local government leaders. Such practice has always created tension between the central government (Jakarta) and the regions.

⁴⁴ At the preparation of this report, the Indonesian National Armed Forces leaders said that COHA had failed and they would shortly launch a military operation to crush the Aceh Independence Movement (GAM) thoroughly. Agencies that had previously carried out the monitoring to ensure the compliance with the agreement became targets of violence.

Student organizations that led the protest movement against Soeharto made the resolution of human rights violations one of their principal demands. In peaceful campaigns on campuses, families of victims were invited to share their testimonies. Later, many had important positions in NGOs dealing with revealing cases of violence or assisting victims. Some leading organizations from this group are Sentra Informasi Referendum Aceh (SIRA), Forum Rakyat (FR), and Front Perjuangan Demokratik Rakyat Aceh (FPDRA). In addition to launching campaigns to support a referendum, some groups also carried out investigations of human rights violations, prepared databases of the incidents, and assisted the refugees, which began to increase after 1999.

Following are brief profiles of some NGOs that were involved in addressing human rights issues, particularly the violence occurring during the implementation of DOM in Aceh.

- *Aceh NGO Forum*. This organization was established in January 1990 by NGO activists in Aceh as a communication and information forum for the NGO community. The initial format was a working group that disseminated information to 43 NGOs and 11 dayah, or Muslim religious schools, that were among its members. Its current number of members has tripled, and it now has a different program of activities. Until 1998, this forum played a crucial role in the investigation of and campaign against human rights violations. This role decreased with the establishment of a coalition of human rights NGOs that specializes in addressing such issues.
- *ACSTF, Aceh Civil Society Taskforce*. In September 2001, a number of student, NGO, intellectual, and religious leaders, representatives of GAM, and members of the Regional House of Representatives (DPRD) held a meeting in Washington to discuss the worsening developments in Aceh. They succeeded in reaching an agreement to establish a task force that could influence the settlement of the Aceh issue from the perspective of the civil society. In October 2002, agencies that were involved in its establishment held a meeting in Medan and produced an agenda of activities, including the revealing of facts about the violence and demanding that the perpetrators be prosecuted. Currently, this task force is also involved in the monitoring team for the implementation of COHA in Aceh in collaboration with a number of other domestic and overseas organizations.
- *Flower Aceh*. This group was established in 1989 by student activists and university lecturers who were concerned with the unbalanced gender relations in Acehnese society. Its main activities deal with education and training for women in villages covering gender analysis, environmental issues, reproductive health, and human rights. In 1998–1999, Flower Aceh took a critical role in assisting the victim community in presenting its testimony of life under military repression. Currently, some of its activists are involved in an oral history project on women and the acts of violence that they experienced during the DOM period.
- *JARI Aceh, Women's Network for Justice*. This network was established in Lhokseumawe in 1993 by a number of activists who were engaged in human rights and environmental issues. Its main interests are women and children victims during the DOM period in Aceh. It collaborates with an organization of the victims' widows who are grouped in a forum of widows of DOM victims (FORJADOM), consisting of approximately 250 individuals. Its main activities are providing scholarships to victims' children through an economic activity group that also provides physical and mental health services.
- *Koalisi NGO HAM Aceh (Aceh Human Rights NGOs Coalition)*. This coalition was established in September 1998 by NGO activists and intellectuals who had been involved in the human rights movement since early 1990s. Its initial purposes were to support research

activities, collect information, and launch campaigns on human rights violations during the DOM period. The findings were delivered to government agencies, Parliament, domestic and international human rights organizations, and the public in Aceh. To reach the people at the district level, this coalition opened legal aid offices and reporting stations that also serve as information distribution centers.

- *KONTRAS Aceh*. This organization was established with the support of KONTRAS in Jakarta, and was one of the leading human rights organizations in research and advocacy campaigns. With the support of volunteers and student activists, this organization formed an effective monitoring network to reach remote areas and provide legal protection and assistance for victims of violence.
- *LaKasspia, Aceh Institute for Social Political Studies*. This research institute was established in Banda Aceh in 1999 with the focus on issues related to conflicts in Aceh. So far it has conducted various studies on ethnonationalism in Aceh and conflict resolution. The findings were published in the mass media and presented at seminars and workshops. With the increasing level of conflict, its studies are focused on human security, peacemaking, and peace-building issues.
- *Lembaga Bantuan Hukum (Legal Aid Institute) Banda Aceh*. This branch office of YLBHI was established in Banda Aceh in 1996 to defend the rights of those living in poverty. Just like its parent organization in Jakarta, this institute focuses on the providing legal aid for victims of violence and injustice in general. Since its establishment, this institute has had an important role in gathering information on cases of human rights violations, educating the public, and defending pro-democracy activists who were the targets of the repression in the late 1990s. In recent years, it has been involved in organizing, particularly among victims of violence.
- *LPL-Ha, Aceh Environmental and Human Rights Defense Institute*. This institute was established in 1992 at the initiative of 15 NGOs in Lhokseumawe and has been active in the advocacy of environmental and human rights issues. Its main activities are the monitoring human rights violations and promoting peace ideas in general. It has frequently acted as a facilitator for the dialogue between the community and the local government, as well as assisting the victims of human rights violations in seeking justice through the legal process.
- *MADIKA, Society for Popular Democracy*. This group was formed in Lhokseumawe in 1998 and focused its activities on democracy and human rights issues. The activities comprise, among others, encouraging public participation in the decision-making process through various trainings and providing assistance to community organizations. It provides assistance for victims of violence, particularly farmers and women who face discrimination. In its public education work, activists of this agency participate in a radio program, organize monthly discussions, and publish posters and comic strips containing peace messages.
- *Pakat Tabela Legal Aid Institute*. This institute was established in 1994 by a number of lawyers in Banda Aceh. Its initial purpose was to provide legal aid to the poor people of Aceh who are frequently victimized by the government. In addition to providing consultation and assistance services for court trials, this institute has also held paralegal training sessions, seminars, and workshops on human rights, and has been involved in drafting laws.
- *PCC Aceh, People's Crisis Center*. This group was established in Banda Aceh by student activists in 1999 to address the humanitarian crisis inflicting this region. With the support of

approximately 200 volunteers, this group opened its branches in five regencies and became the biggest humanitarian organization in Aceh. Its main activity deals with the distribution of humanitarian aid, providing assistance to internally displaced persons living in camps, and delivering information on the development of conflict situation. It also focuses attention on women and children.

- *RATA, Rehabilitation Action for Torture Victims in Aceh.* This group was formed in Banda Aceh in 1999 with the aim of assisting victims of the torture committed during the DOM period in Aceh. In addition to providing medical and psychosocial services, this organization also develops a network to address victim rehabilitation.
- *RPUK, Women Volunteers for Humanity.* This women's group was established in Banda Aceh during the armed conflict when the number of victims of violence escalated dramatically. Its main activity is distributing humanitarian aid to victims, particularly women and children. This group also organizes alternative education for children, develops economic ventures, and provides trauma counseling for victims.
- *SPKP-HAM, Solidarity for Victims of Human Rights Violations.* SPKP is the biggest victim organization in Aceh. It was established through a congress in Banda Aceh in 2000. Its activities comprise collecting data on victims of violence throughout Aceh and providing shelter and advocacy on the human rights of victims. Its members are victims of violence and their families, including those of the DOM period and after.
- *SSG, Sue Support Group.* This group, established in Banda Aceh in 2000, specializes in assisting women victims of state violence through education, campaigns, and economic empowerment. All of these activities are aimed at facilitating the healing from injuries and trauma inflicted on women victims. It assists and supports around 45 groups in 8 districts, with 25 to 40 women members in each group. Trauma handling is normally conducted by counseling at the community level, with a long-term objective of establishing solidarity among victims.
- *YASINDO, Indonesian Foundation for Rural Community Development.* This organization was established in Banda Aceh in 1990. Its activities range from the development of economic activities in villages to the promotion of human rights and peace. In relation to the conflict situation, this organization provides support to groups of widows of DOM victims and delivers alternative education to their children. It supports the grassroots reconciliation process in Central Aceh between the frequently conflicting Acehnese, Gayonese, and Javanese ethnic groups.
- *Yayasan Cordova.* This agency was established by the university community in Banda Aceh in 1990. It focuses on researching and documenting human rights issues and educating the public in democracy and human rights. Since its establishment, this agency has completed several studies, in collaboration with LSPP in Jakarta, on incidents of violence in Aceh during the DOM period. Other activities include the dissemination of information on cases of violence through domestic and international human rights network.

C. Major Initiatives

Thus far, the concept of transitional justice has been discussed only within a limited community, particularly human rights activists and academics. Several NGOs have held discussions and seminars on various aspects of transitional justice, and made comparisons with mechanisms that

are under way in other countries. These activities were normally performed in collaboration with agencies in Jakarta, such as ELSAM and KONTRAS. In many cases, these activities are considered merely intellectual exercises and are not yet related to the strategies of the respective agencies.

Below is a description of various initiatives undertaken by civil society organizations in addressing cases of violence in Aceh.

1. Truth-seeking Mechanisms

Information gathering on human rights violations has been conducted since late 1980s. Repression by the military authority prevented the release of information to the public in Aceh. Reports prepared by local agencies used to be delivered to international organizations, such as Amnesty International and Tapol, by LBH, WALHI, etc. This situation changed only after the DOM status was lifted in late 1998.

The demands for revealing the violence during the DOM period and prosecuting the perpetrators have been integral to the movement for a referendum on self-determination. The protests staged at government offices, the DPRD, and campuses often brought forward victims of violence who testified before the public. According to Juanda, an activist who led such protests, this testimony normally had a strong impact on public awareness and motivated other victims to appear.

The close link between the human rights community and victims of violence was conducive for the investigation conducted by the government-established investigation commission. The above-mentioned human rights organizations, with the support of student activists, assisted the victims in meeting members of the commissions, uncovered locations that were suspected of being mass graves, and delivered data produced by their own investigations.

However, unrest started to emerge when the investigation commission lacked the power to urge the government to immediately follow up its findings through the legal process. At the same time, military repression re-escalated. Victims of violence and their families—as well as student activists and human rights organizations—who were assisting in the truth-telling process became the military's targets. A number of people were arrested and victims were discouraged from giving their testimonies in public.

The attention from the electronic media on incidents of human rights violations greatly impacted the political discourse of the resistance. The pro-independence movement had initially based its discourse on the history of the legal relations between Aceh and Jakarta, but soon it began to talk about human rights violations to reinforce its demand for independence. A shift of discourse took place within GAM. Political leaders released circulars calling on the guerrilla leaders and GAM activists to protect the human rights of the people as well as the enemy soldiers who surrendered.

The Aceh Human Rights NGOs Coalition gathered information in a database. Similar work was also done by RATA for cases of torture occurring in several districts. Flower Aceh and a number of other women's organizations collected information on the pattern of violence against women committed by TNI and GAM. Such activities were then developed in an oral history project with the support of research institutes in Jakarta and Amsterdam.

Some video recordings were made about various cases of violence, testimonies of victims, and protests that demanded the prosecution of the perpetrators. Some recordings were then processed

into short films to be distributed to the national and international public.⁴⁵ Because of resource limitations, not all of these recordings could be processed into campaign materials, and to date the producers are still waiting for other parties to support them.

Yayasan Cordova has documented cases of human rights violations since 1998 and has made an investigation into the patterns of violence in Aceh. The investigation findings were then published in a book in collaboration with LSPP. Similarly, Flower Aceh published stories of the female victims of the 1999 violence. Other organizations usually assisted research activities by presenting witnesses, providing access to their own documentation, or supporting the publication financially.

However, in the past year, such activities have been reduced as the activists have not seen any significant progress. The donor institutions that had previously provided financial support for investigation and documentation are now more likely to support the handling of terrorism.⁴⁶ NGOs are generally more focused on assisting refugees, conflict resolution, peace process, and the 2004 general election.

2. Prosecutions

Unlike in other regions, the Indonesian government has occasionally staged court trials of the human rights perpetrators in Aceh. Of the some 5000 cases listed by human rights organizations, only five passed the KPTKA's screening to be recommended for further legal process.⁴⁷ Of these five, only one was finally brought to a court trial in Banda Aceh. In that case, a civilian and 24 TNI soldiers were convicted and sentenced to prison terms ranging from eight-and-a-half to ten years. The court was known as a "connection" court because the panel of judges included both civilians and members of the military. Prior to that case, five soldiers were brought to a military tribunal in February 1999 and sentenced to prison terms of two to six-and-a-half years for abusing five prisoners at the Lhokseumawe jail.

Human rights organizations normally view this judicial process as inadequate. The controversial "connection" trials were opposed by a protest campaign. According to human rights activists and lawyers that were interviewed in this research, the court was vulnerable to the intervention of the Jakarta government. According to them, the current judicial system in Aceh has reached its lowest standard. Many judges and prosecutors fled Aceh, and court houses in conflict areas have been closed down—some even plundered and set ablaze.

⁴⁵ In 2000 Aryo Danusiri, a filmmaker from Jakarta, made a film on the torture locations based on the testimonies of victims, with the support of ELSAM.

⁴⁶ An activist suspected that the change of attitude of this international agency was related to the predicate of Aceh as the "base of terrorists" in Southeast Asia. International agencies sometimes also undertake political interventions, for example at the disclosing of cases of violence in North Aceh that led to the claims on the petroleum company, Exxon, in the United States. Following this incident, a funding institution discontinued its support to the group that was in charge of such case.

⁴⁷ These cases comprise the rape in Pidie (August 1996), the torture and disappearance at Rumoh Geudong, Pidie (1997–1998), the extrajudicial execution of seven civilians in Idi Cut, Est Aceh (February 1999), the extrajudicial assassination of 35 civilians in Simpang KKA, North Aceh (May 1999), and the extrajudicial killing of Tengku Bantaqiah, a religious leader and a leader of a Muslim dormitory in West Aceh (July 1999).

Human rights organizations also consider that the remaining prosecutors and judges do not have sufficient comprehension of the cases and human rights principles. Nevertheless, they admit that NGOs have had their own weaknesses and did not encourage a proper trial process.⁴⁸ The opportunity for appropriate legal treatments of the cases is getting slimmer as the government is returning to a policy of repression.

Unlike that of Papua, the Autonomy Law for Aceh does not mention any settlement of violence. Human rights activists do not address this issue, because in the years after DOM, they still had the expectation for a proper court trial in Jakarta or even an international tribunal. To date, several organizations—such as Koalisi NGO HAM, KONTRAS Aceh, LBH Banda Aceh, and student organizations—still demand the establishment of a tribunal that has the capacity to handle cases of violence in an overall manner.

3. Legal and Institutional Reform

The majority of civil society organization leaders generally admitted to having difficulty envisioning legal and institutional reform in Aceh without touching upon the issue of self-determination. According to them, the conflict will continue as long as the government insists on maintaining a repressive policy. Obviously, this will only make things worse. In the midst of the hardship of living, poverty, and violence, the people's perception of legal and institutional reform is quite poor.

However, several agencies have tried to use the provisions of the special autonomy law to draft a qanun that respects democratic and human rights principles.⁴⁹ On one hand, they are aware that such attempts are not capable of thoroughly removing the authoritarian legacy of the New Order, because the current leaders are applying exactly the same methods used by the New Order in addressing the Aceh conflict. Nevertheless, awareness has emerged that this condition cannot be allowed to worsen, and that participation in the formulation of policies is a positive step for the movement.

Interestingly, there is a strong tendency among the pro-independence groups for the idea to reform the government. The autonomy law is a sort of “training ground” to try out ideas for the Aceh constitution to be drafted in the future.⁵⁰ Thus far, student activists and intellectuals have been quite actively discussing these issues in limited groups, despite the lack of any publications or documents about the autonomy laws.

Institutional reform is under way at the grassroots level. Significant reforms have occurred in areas controlled by GAM. The regional rule is practically paralyzed as the majority of government employees have fled their offices. In such a vacuum, the people have started to

⁴⁸ A TPF member explained that the team succeeded only in collecting “social facts” based on the recount of victims of violence instead of “legal facts.” For improved quality of the research, the Human Rights NGOs Coalition plans to collaborate with the TIFA Foundation in organizing forensic anthropologic training.

⁴⁹ SPKP-HAM Aceh, for example, was involved in drafting qanun on the rehabilitation that was planned to be delivered to the Regional House of Representatives, DPRD, by the end of 2002. In the process, the draft was circulated to the victim community for response and comments, particularly with regard to the articles on compensation.

⁵⁰ Pro-independence activists in Timor-Leste have taken similar measures to respond to the government's offer for special autonomy to this region.

implement restructuring with or without the support of GAM. They have elected village heads and carry out governmental functions pursuant to the accord with the local population.

Civil movements normally position themselves as the “alternative path” between GAM and the Indonesian government. They view the Indonesian government and GAM as incapable of reaching a settlement. They would like to see a referendum that could allow the people to make their own choice. This view is supported by the majority of intellectuals and students in Aceh. However, they realize that this process could be possible only if the armed conflicts were to stop altogether and each party was given an opportunity to express its views peacefully.

4. Reparations and Rehabilitation

Compared to other regions, such as Timor-Leste and Papua, victim-based movements in Aceh are very powerful. A congress of victims of violence was convened in November 2000 and attended by approximately 800 former political prisoners and relatives of assassination victims from throughout Aceh. In addition to pressuring the government for an immediate settlement of human rights violations through court trials, they also discussed programs for the victim communities and formed the organization SPKP Aceh.

This group expressly rejected *ishlah*, the so-called Muslim approach for reconciliation, proposed by some governmental officials and political elites in Aceh.⁵¹ As the claim for the referendum began to spread, many members of this organization participated in peaceful marches that took place all over Aceh. While the focus remains on the prosecutions of the perpetrators and rehabilitation of the victims, the demand for a referendum and the enforcement of the Aceh’s autonomy remain unchanged as the central core of this movement.

In February 2000, nearly 400 women from all parts of Aceh attended a conference convened by various women’s and human rights organizations. The participants also demanded the settlement of human rights violations during the DOM period and thereafter, and urged that women be given more votes in the process. Various groups of female victims emerged in other regions and, with the support of NGOs, conducted socioeconomic empowerment program for their members.

Meanwhile, several other organizations, such as RATA, focused on providing direct assistance to victims of violence during the DOM period. These programs included physical and mental rehabilitation and community development that specialized in the victim community. This activity was performed to reduce victims’ dependence on the humanitarian institutes that provided medical treatment and financial support. Other organizations, such as Flower Aceh, performed similar activities that specifically focused on the widows of the DOM violence.

This victims’ movement, to a certain extent, succeeded in getting the provincial government to extend financial support. Social services have been provided under a budget for physical and mental rehabilitation; however, SPKP activists are concerned that without strict supervision, corrupt officials may squander the money. Hence, they demand that the law on rehabilitation be ratified immediately as a confirmation of the state’s responsibility for the victims of violence.

⁵¹ In a meeting in one regency, the governor offered an oil palm plantation as compensation for the suffering that afflicted the people. This offer was turned down, which reconfirmed the idea that the regional government could not be expected to settle cases of human rights violations.

5. Reconciliation

There are some interesting proposals regarding the reconciliation and peace process in Aceh that are related to the revealing of past violence. All the peace agreements made by TNI and GAM were concerned with technical issues, such as the terms for a cease-fire and for reducing the number of troops. According to some activists, the weakness of the peace process was caused by the lack of measures to address human rights issues, particularly in revealing the truth about the violations committed by both parties.

Based on this idea, some groups are seeking to form a Commission for Truth and Reconciliation at the local level as part of the peace process. This commission can take up the task of revealing past incidents, addressing past wrongdoings committed by both parties, and setting up actual measures to remedy them.

IV. PAPUA

A. Background

The province of Papua is located at the eastern tip of Indonesia. Its long history of violence is rooted in a failed decolonization process in 1960s. Soekarno's "independence campaign" in 1962–1963 forced the Dutch authorities to enter into negotiations that resulted in the transfer of power to a United Nations Transitional Administration (UNTEA). This UN administration held a mandate to conduct a referendum to determine the future of Papua. The rise of the New Order in October 1965 affected the whole process, as it intensified the military campaign to coerce Papua's integration with Indonesia.

The flawed decolonization process culminated in the Act of Free Choice in 1969, when about 1000 Papuans were forced to vote for integration with Indonesia. Political groups that did not take part in the process rejected the results and started to wage an incessant struggle against Indonesian rule under the banner of the Organisasi Papua Merdeka (OPM, Free Papua Organization). Soeharto's government retaliated by dropping bombs on coastal areas and sending troops to terrorize the population by subjecting citizens to physical violence, starvation, and forced sterilization.

Atrocities caused the forced migration of people, and some sources estimate that half of the total population in the central area has been uprooted during the military operations. Multinational corporations engaged in mining, timber logging, plantations, and other projects started to operate at the onset of this forced migration. This generated conflicts with the local population. The massive influx of migrant settlers (25 to 30 percent of the population today) under the aegis of the government-sponsored transmigration program resulted in further marginalization of the indigenous people. To many Papuans, government policies and military operations are part of the same strategy to obliterate Papuans.

This bitter experience of living under Indonesian military rule gave rise to a collective conscience, aptly termed "memoria passionis," or the memory of suffering, by Theo van der Broek of SKP Jayapura. The history of violence tainted the image of integration with Indonesia and is part of the current problems and options for the future. Papuan leaders clearly express that peace cannot be achieved unless the central government acknowledges past crimes and brings the perpetrators to justice.

The fall of Soeharto in May 1998 raised the hopes of Papuans that past injustices would be revealed. Students led peaceful demonstrations. Forums were held at which people could release their memory of suffering into the public sphere. Protest actions arose demanding investigation into past human rights violations and termination of military rule in Papua. The government in Jakarta responded by initiating a series of dialogues with Papuan leaders, followed by symbolic gestures of respect of Papuan identity, such as allowing the hoisting of the “Morning Star” flag and changing the name of the province from Irian Jaya to Papua.

In her first Independence Day speech, President Megawati Soekarnoputri offered an apology to the people for their suffering caused by past repressive policies. She explained that her government would enact policies that respect Papuan identity and characteristics, and introduce a form of special autonomy that would allow the provincial government to manage its own affairs. In Papua, the regional military commander made similar statements while insisting that his troops would not tolerate activities aimed at the separation of the province from Indonesia.

Papuan leaders took advantage of the situation by organizing mass gatherings, conferences, and political campaigns. They formed new organizations to accommodate the increasing animosity against Indonesian rule. In August 1998 church leaders, political figures, intellectuals, and NGO activists established the Forum for the Reconciliation of Irian Jaya Society (Foreri), which instantly became the principal vehicle of Papuan ideals. In February, it sent a delegation of 100 key figures to a meeting with President Habibie to express its aspirations for independence.

Representatives of the forum went to the districts to mobilize support, culminating in the Second Papuan Congress—drawing a connection with the first congress held in 1961—on May–June 2000. Delegates from 14 districts attended the congress along with representatives from Papuan communities overseas. The principal aim of the congress was to “rectify history” (*meluruskan sejarah*), by rejecting the idea that Papua’s integration into Indonesia had been peaceful, as the government incessantly propagates. It insisted that the Act of Free Choice in 1969 was conducted under coercion, intimidation, and military violence.

Another result was the establishment of the Presidium of the Papuan Council (PDP) as a surrogate for Foreri in mobilizing popular support for independence. The emergence of a civilian leadership has changed the nature of the resistance against Indonesia in that the civilians have been promoting a peaceful solution to the problem. Theys Eluay, the traditional leader from Sentani, proclaimed himself as the leader of the council and appointed Thom Beanal as vice-chairperson. In August 2001, more than 500 female delegates from all districts attended the Papuan Women’s Congress in Jayapura. The congress denounced military violence and criticized male domination in Papua as its by-product.

The rise of Papuan nationalism and the spread of peaceful mass demonstrations provoked a reaction from the military. After a short cessation of hostilities, the Indonesian military began cracking down on political activities again, arresting political leaders and charging them with subversion, and killing a number of people during mass demonstrations. The killing of Theys Eluay on November 10, 2001, marked the end of the period of relative openness. At the same time, the government in Jakarta constantly persuaded Papuans to accept the Special Autonomy status. Tensions increased as the governments in Jakarta and Jayapura and Papuan political figures could not reach an agreement.

As a matter of fact, the Law 21/2001 on Special Autonomy transfers more power to the provincial administration and parliament, including the long-disputed management of natural resources. However, Papuans are inclined to see this law as merely an attempt to counter independence,

rather than a genuine effort to solve the region's problems. PDP and other political groups rejected the law and cling to their ideals of independence. The government has reacted by sending in more troops, including the notorious Special Forces (Kopassus), and has created local militias, such as Laskar Merah Putih, similar to the pro-integration militias in East Timor.

Since late 2001, a new cycle of violence has swept the province. The leading human rights organization, ELSHAM, claimed that there were 136 cases of extrajudicial killing and 838 cases of arbitrary detention and torture between 1998 and 2001. Human rights organizations and activists themselves have become targets of various military operations. The most recent operation—Operasi Adil Matao—is explicitly aimed at pro-independence groups “hiding behind human rights issues.” Other sources of conflict have also begun to appear, like the strengthening of primordial sentiments that often overlap with political differences.

In response, several NGOs, church institutions, and political leaders, in cooperation with the local government and the regional police, organized a peace conference in Jayapura on October 14–15, 2002. The aim of the conference was to declare Papua as a “zone of peace” instead of a “conflict zone,” as it is now known. Guerrilla leaders of the TPN/OPM gladly received the proposal, while the Indonesian military instantly rejected it by stating that peace proposals would only provide an opportunity for pro-independence sentiments to proliferate.

B. Civil Society and Handling Past Violence

“In 1961 Papuans started to plait their noken [a kind of bag]. But Indonesians came and sent people to prison, killed and tortured people. The perpetrators were never brought to justice. Papuans only want to plait the noken freely.”

—Rev. Herman Awom, Vice-Chair of the GKI Synod, Papua

During interviews and meetings, Papuans almost always allude to three basic and interrelated problems that cannot be addressed separately: (1) the failed decolonization process in the 1960s; (2) gross human rights violations during Indonesian rule (for the most part, since 1969); and (3) the deterioration of the living standard of Papuans as a result of the development projects that largely ignore the interest of local people.⁵² So far, the post-Soeharto governments have merely brought about minor changes in the administration of the province, which do not affect the power structure and the bureaucracy.

“Memoria passionis” is central to an understanding of contemporary Papuan political and cultural discourses. Papuan leaders of various political and religious persuasions often refer to past human rights abuses and the need to fight for a better future in their speeches and sermons. Ruling political parties, such as Golkar and PDI-P, are called on to include human rights protection and promotion in their party programs in order to get support from Papuans. To some extent it explains the party leaders' support to form a commission of law and human rights in the local parliament in 1997 and their avid interest in investigating past human rights abuses.⁵³

⁵² There is a difference of opinion on the period of suffering for Papuans. Some say that the suffering started in 1965 when military operations escalated throughout the region, while others see the Act of Free Choice in 1969 as the turning point in Papuan history. However, all of them seem to agree that the violence is rooted in the failed decolonization process that started in 1962–1963.

⁵³ In August 2002, the local parliament issued a statement demanding the National Human Rights Commission to form a commission to investigate the assassination of Theys Eluay and gross human rights violations in Papua since 1963.

Law 21/2001 on Special Autonomy also incorporates the demand to reveal past injustices. The drafting commission appointed by Governor Jaap Salossa emphasized the need to open a political dialogue to deal with the “rectification of history” and past human rights abuses. Chapter XII of the law requires the central and provincial government to respect, uphold, promote, and protect human rights by appointing a representative of Komnas HAM, and creating a human rights court and a Truth and Reconciliation Commission (Article 45).⁵⁴ It also specifies that the provincial government is obliged to promote and protect women’s rights.

Various reactions prevailed as the law was promulgated by the Parliament in November 2001. Pro-independence leaders view the law to be a scheme to impede aspirations for independence, although some acknowledge that it addresses certain concerns. On the other hand, some political and human rights activists see that the law is a step forward in finding a peaceful solution. KONTRAS Papua started a round of meetings with academics, local parliament members, and the media to formulate a special regulation (peraturan daerah khusus) on a truth commission. The governor supported the initiative and suggested that the drafting team should learn lessons from other countries, such as South Africa. USAID-OTI has supported various groups to hold open dialogues on human rights in the media.

In these meetings, participants expressed their concern regarding the mandate and the composition of members of the commission, as well as on the issue of amnesty. Human rights activists stated that the mandate of the commission, as stipulated in Law 21/2001, is insufficient to confront problems with the military. They also reject the appointment of military and police officers as members of the commission and argue that it should instead allow broader public participation.

Another concern is the limited definition of “human rights violations.” Participants highlighted the relationship between the expropriation of land and other natural resources and gross human rights violations. LPPMA, a support organization for indigenous communities that has been involved in a national initiative on land conflict and transitional justice, suggested that the commission should refer to the experiences of South Africa’s land commission. SKP Jayapura, meanwhile, argues that poverty, famine, and the lack of education and health services are crimes against humanity, and that any initiative must address these issues when investigating past injustices.

However, the worsening situation hampers further discussion. Human rights activists are compelled to deal with a new round of violence and peace negotiations. Discussions on concepts and mechanisms of transitional justice are limited to NGO circles and based on scant information, in some ways reflecting a gap between the urban elite and the general population.

NGOs have played an active role in dealing with different aspects of transitional justice. In the past 10 years, the NGO sector has grown rapidly, and a significant number of new organizations have been established to deal with specific issues. Religious institutions also have a long record of involvement in human rights issues but rely a great deal on individual tenacity. Following are brief profiles of several organizations and groups that were involved in the handling of past acts of violence in Papua.

⁵⁴ Political activists complain vehemently about the stipulation that the establishment of the Truth and Reconciliation Commission is aimed to “clarify history in order to place national unity and the Unitary State of Indonesia on a firm basis” (art. 46, para. 2).

- *ADP, Alliance for Democracy in Papua.* This group was established by student activists in Abepura in 2000 to fight for democracy and justice in Papua. Its main activity is advocacy, including, among other things, providing legal aid, political education, research, and publications. Organizational activities are conducted at the grassroots level with the aim of establishing self-help associations that are capable of striving for their own interests. This group played an active role in the Papua peace process by delivering legal advice to the PDP political leaders.
- *BHH Sinode GKI, Law and Human Rights Desk, GKI in Papua.* This organization is part of the Christian church and was established in 2002 with the objective of raising the issues of human rights and violence against Papuans. With approximately 70 volunteers, it receives reports and complaints from the community and provides education on human rights, democracy, and justice. In various incidents, this newly established organization acts as a mediator for the frequently occurring conflicts among the Papuans.
- *ELSHAM Papua, Institute for Human Rights Study and Advocacy.* This organization was formed by human rights activists, church leaders, and communal leaders in Jayapura in 1997. Its main activity concerns investigating cases of violence and providing legal services for the victims. It played a central role in the Papuan conflicts as representative of the civil society movement to promote the principles of peace.
- *Justice and Peace Bureau of the KINGMI Church in Papua.* This bureau was established in a Kingmi church conference in Jayapura in 1999 to address the violence inflicted on the church congregation since the 1960s. With only three staff members, it has actively undertaken investigations, advocacy campaigns, and assistance to trauma victims in various areas supported by the local church administration.
- *KONTRAS Papua.* This organization was established with the support of KONTRAS in late June 2000. Its main activity is the investigation of human rights violations in Papua, particularly the cases of abduction and disappearances. Another significant activity is drafting of laws at the provincial level that relate to the protection and promotion of human rights.
- *LBH (Legal Aid Institute) Papua.* This branch of YLBHI was formed in 1985 at the request of the church leaders in Papua. Just like LBH offices in other areas, its activities focus on legal services and advice, and assistance to victims. In the context of 40 years of violence in Papua, this institute has provided assistance through research, public education, and policy reform.
- *LP3A-P, Institute for the Study and Empowerment of Women and Children.* This institute was established in Abepura in 2000 to address the issues of women and children as victims. It supports the establishment of women's groups whose aims include the struggle for the realization of their members' human rights. It focuses on providing protection for victims of violence and campaigning against the violence against women.
- *LPMS, Institute for Civil Strengthening.* This institute was established in Jayapura in 2001 as a resource center for the civil society movement in Papua. It focuses on researching and monitoring human rights and educating the public about democracy, governance, and legal reform. Its research findings are normally delivered through formal meetings with the regional administrators, members of the DPRD, or in seminars and workshops that are accessible to the public.

- *PAHAM, Center of Human Rights Advocacy.* This agency was established in Merauke in 1997 and is engaged in the enforcement and protection of human rights. Its main activities comprise investigation into cases of violence, assistance for victims, legal services, and community training in various villages in Merauke.
- *Papua NGOs Forum.* This forum was formed by a number of NGOs operating in Papua in 1991. As a network secretariat, its main function is to assist in the growth of the NGO movement, public organizing, traditional institutions, and other civil society organizations in Papua. It holds trainings for NGO activists in various sectors, providing consultation services to new groups and disseminating information to NGOs on the development in Papua, including handling human rights violations.
- *PPMA Papua, Association for Papua Indigenous People's Study and Empowerment.* This organization constitutes the extension of YKPHM that was formed in Jayapura in 1988. It reorganized in 2001 to improve the capacity and range of its services and now focuses on empowering the indigenous communities throughout Papua through training, workshops, legal education, and community organizing, as well as reinforcing the traditional institutions. It was involved in mapping past conflicts in Papua.
- *SKP Jayapura, Office for Justice and Peace in Jayapura.* This office was formed by the Catholic church in Jayapura in 1998. Its main activities comprise advocacy on cases of human rights violations, research, and publication of sociopolitical initiatives for peace at the community level. With the support of volunteers throughout Papua, this office also assists in the formation of communal groups that undertake social analysis and empowerment activities at the local level.
- *SKP-KAM, Office for Justice and Peace Archbishop of Merauke.* This organization was formed in 2001 as a unit of the Catholic church in Merauke. It covers cases of violence and prepares reports.
- *SP2CK2, Papuan Women Solidarity for Justice and Peace in Biak-Numfor.* This group was formed following the cases of violence against Papuan youth who were involved in the protest campaigns in Biak on July 6, 1998. This group investigates cases, assists in legal defense, and provides protection for victims. To empower the people at the grassroots level, it organizes collective prayers for women's groups.
- *YAHAMAK, Non-Violence and Human Rights Foundation.* This group was formed in the early 1990s by female victims of violence in Timika. It conducts investigations, distributes information, and assists in establishing economic empowerment groups. In 2000, it became a foundation.

C. Major Initiatives

Just like in Aceh, the term “transitional justice” is not familiar to the civil society organizations and activists in Papua. Agencies outside Papua disseminate information through discussions and seminars that involve various parties. Interviews in Jayapura and Jakarta reveal that demands for accountability have particular resonance in Papua because of a combination of decades of repression and the subsequent establishment of independence movements.

The following descriptions illustrate some initiatives that civil society organizations have taken in addressing human rights violations in Papua.

1. Truth-seeking Mechanisms

The church institutions have a long tradition of investigating and recording human rights violations since late 1960s. A number of church officials and priests have produced books and reports on various crimes committed by the Indonesian military and engaged in campaigns to protest them overseas. In the early 1990s, a group of church leaders, NGOs, and student activists formed the Irian Jaya Working Group for Justice and Peace (IWGJP) to investigate and record human rights violations. Meanwhile, international organizations and support groups such as Amnesty International, Human Rights Watch, and Tapol (London) also started to compile reports based on testimonies from refugees, church workers, and researchers working in Papua.

A source of debate among human rights groups and political organizations is the timeline of human rights violations. Some assert that investigations should start from 1963, the starting point of Indonesian aggression to Papua, while others argue that investigations should concentrate on the New Order period. In some ways the debate is politically motivated and related to the demand to “rectify history,” where truth-seeking is considered an important step to expose deficiencies of the decolonization process.

All of the human rights organizations visited during the trip expressed their interest in conducting investigations into past human rights abuses. Major organizations like ELSHAM and SKP Jayapura have been collecting information on past abuses through their network in 14 districts since 1999. KONTRAS Papua focuses its attention on forced disappearances. The Papua Democratic Alliance (ADP), supported by USAID-OTI and CSSP, has produced a report on violence and conflict in three districts covering the period of 1995–2002. The report was presented in a seminar in Jayapura, inviting victims of violence to testify and express their concerns.

NGOs and other institutions are using various media to bring the sufferings of the people and the “*memoria passionis*” to public attention.⁵⁵ ELSHAM Papua organizes art performances and other cultural events along with families of victims and student organizations, while STT Walter Post, a theological college in Sentani, holds photo exhibitions and public dialogues on human rights. Truth-telling is another form usually conducted by church institutions at the local level. Benny Giay, a leading intellectual figure who has attended some of the gatherings, has stated that it is still difficult for people to come forward and tell their stories. He asserted that the trauma of past abuses is so deep that it also occurs in the form of denial and refusal to discuss the past.

It is unfortunate that most organizations tend to work separately, and there has been no significant effort to bring all the initiatives together. Organizations are prone to work on various projects, such as joint investigation, workshops, publication of books and statements, or other short-term activities, but find it difficult to cooperate on long-term programs and build sustainable partnerships.

⁵⁵ SKP Jayapura is probably the only organization that routinely publishes results of investigation through its “*memoria passionis*” series since 1998. In Australia, New Zealand and Europe, Papuan communities are using the Internet to expose human rights violations, by creating mailing lists and websites such as www.westpapua.net and www.koteka.net.

2. Prosecutions

There has been no fair trial of past human rights abuses in Papua.⁵⁶ As in other regions of Indonesia, the criminal justice system lacks the capacity while the state lacks the political will to prosecute perpetrators of past abuses. Only two out of hundreds of cases were brought to a military court in the 1990s after enormous pressure from international agencies and foreign governments. The fall of Soeharto in 1998 brought about minor changes and judges appear to act more independently as reflected in the court decisions to release PDP leaders from charges of subversion. Human rights lawyers at the Papua Legal Aid Institute (LBH Papua) said that the capacity of prosecutors and judges is a key problem. They claimed that none of the officials have an adequate understanding of human rights norms, let alone the history of violence in Papua, and so far have not shown any attempt to improve their knowledge.

The establishment of a human rights court in Papua as stipulated in Law 21/2001 is a prevalent topic of discussion in human rights circles.⁵⁷ Most human rights activists are indeed skeptical about its prospects. Referring to the Ad Hoc Human Rights Court for East Timor, Johannes Bonay from ELSHAM said that, “If they can manipulate the court in Jakarta, then even less can be expected from a court in Jayapura.” However, he asserted that changes could ensue if there is a strict selection of judges, no interference from the military, and involvement of academics who could act as advisers or consultants.

3. Legal and Institutional Reform

The Papuan wariness of Indonesian institutions is embedded in the bitter experience of living under a de facto military rule for almost 40 years, so that any change or gesture—regardless how significant it might be—is normally suspected to be another deceit to subdue the people. In all the discussions, people raise the concern that the central government is not seriously taking Papuans into account. “They like our land and natural resources but not the people,” said a political leader. The general feeling is that institutions and laws are created to control the people and allow others (settlers and foreigners) to benefit.

Popular protests since 1998 have forced some changes upon the government, which felt obliged to introduce Law 21/2001 and grant special autonomy to Papua.⁵⁸ Governor Jaap Salossa appointed a team of academics from the Cenderawasih University to draft the law and representatives from NGOs and religious institutions assisted the team. The team then went to the various districts to search for input from the local communities and the PDP, but the latter was reluctant to discuss the autonomy proposal as it is inconsistent with their goal of independence.

The main features of the law as drafted by the team include: (1) respect for local social and cultural expressions; (2) representation of local traditional leadership in the administration; (3) a major share of profit from the exploitation of natural resources; (4) a political dialogue about the

⁵⁶ In the 1980s, a South Pacific Human Rights Tribunal took place in Port Moresby, Papua New Guinea, to expose repression by the Indonesian military. Eleven refugees testified before the judges while Indonesian embassy officials refused to attend the trial.

⁵⁷ There are three human rights courts in Jakarta, Makassar, and Medan. The Abepura killings in 2000 are currently being addressed at the court in Makassar.

⁵⁸ The following paragraphs, unless otherwise mentioned, are based on Sekretariat Keadilan dan Perdamaian, “Recent Developments in Papua: Special Autonomy, Its Process and Final Contents,” *Socio-Political Notes* no. 5, December 2001.

past or “rectification of history”; (5) justice and human rights; and (6) the request for a referendum if special autonomy is not implemented properly. The draft was then sent to Jakarta to get the approval from the government and Parliament, who subsequently made enormous changes. Demands to open a dialogue on the past and thus problematize Papua’s integration into Indonesia were omitted and consequently eliminated the possibility for a referendum. Changes in the administration, representation of traditional leadership, and respect for local expressions as proposed by the draft were restricted in the final version.

However, compared to the Law 22/1999 on regional autonomy enacted by January 2001, the Law 21/2001 delivers a range of possibilities for Papuans to improve education, health care, and the local economy, and also to promote and protect human rights. Instead of being a scheme to manipulate political demands, Theo van der Broek and activists at the ADP said that the law is, in a way, an achievement of the popular struggle. Some NGOs take a similar position and engage in efforts to formulate new regional regulations (*peraturan daerah*) in accordance with human rights norms and principles.

The law also stipulates the formation of the Papuan People’s Assembly (MRP) that has the authority to define and formulate regional regulations (*peraturan daerah*); bestows *adat* (customary) institutions with power to manage their own affairs and to establish a special court to handle disputes over land and natural resources. NGOs in support of indigenous communities praised the developments, as they provide an opportunity to strengthen local democratic institutions. However, some of the activists also see the risk that the law might stir up primordial sentiments, like intraclan or intravillage wars, and lead to a range of new problems connected to the *asli-pendatang* (indigenous-settlers) division.⁵⁹

The Papua Regional Police (*Polda Papua*) seems to be the most pro-reform state institution. After its separation from the armed forces or TNI, it has initiated several changes and has promoted “community policing.”⁶⁰ In Papua it has started to recruit more Papuans into the police force and to take a moderate stance to peaceful protests. Along with human rights NGOs and the local house of representatives, the police co-sponsored a peace conference on October 14–15, 2002. However, some political leaders noted that the changes have been initiated by the then-head of the police, I Made Mangku Pastika, and do not necessarily reflect a change in the institution. There is a widespread concern that things may return to “normal” after his term ends.⁶¹

Nevertheless, these small steps by the police have been offset by the military’s adamant resistance to any kind of reform. In fact, the law on Special Autonomy forces the military to relinquish its power into the hands of the police, and has become a source of competition and conflict between the two institutions.⁶² Johannes Bonay affirmed that any reform agenda could

⁵⁹ Edison Giay, director of LPPMA, said that clan-based conflicts have often been used by the churches, the Indonesian military, and multinational corporations to expand their operation and influence since the 1960s, and left a deep scar in the relationship between clans.

⁶⁰ “*Polisi Rakyat: Sebuah Paradigma Baru bagi Perdamaian di Papua*” (People’s Police: A New Paradigm for Peace in Papua), paper presented by the Head of the Regional Police, I Made Mangku Pastika, at a conference in Jayapura, October 15, 2002. The Asia Foundation has sponsored a project to implement “community policing” principles in Abepura, Jayapura, and Sentani since September 2001.

⁶¹ I Made Mangku Pastika has been appointed to head a special team to investigate the bombing in Bali. As of October 2002, he is no longer the head of the police in Papua.

⁶² Human rights groups claimed that some of the recent killings are committed by elements of the military in order to destabilize the region.

achieve success only if there is civilian control over military institutions. Student activists and PDP supporters even argue that the only palpable solution to the security problems in Papua is the withdrawal of military troops.

In a group discussion with NGOs, church workers, and student activists in Jayapura, participants underscored the role of foreign governments and multinational corporations. A researcher at the Centre for Human Rights Studies of the Cenderawasih University noted that reforms supported by the international agencies such as USAID-OTI and The Asia Foundation are not instantaneously pertinent to the interest of Papuans. Political activists and human rights groups are commonly critical of the role of the United States in the history of Papua, but at the same time see the need to communicate and cooperate with U.S.-based institutions and organizations working for peace, democracy, and human rights.

4. Reparations and Rehabilitation

Paradoxically, there has been no institution or organization that specifically deals with victims of violence. Some of those interviewed said that rehabilitation and reparation programs conducted outside the framework of prosecution or trials would be ineffective and even might obscure the responsibility of the state. Others maintain that rehabilitation and reparation projects for highly traumatized victims, particularly victims of sexual abuse and violence, are urgently needed and should not be delayed for any reason.

The church as an institution has no special unit or division that deals with victims, but some church officials assist victims as part of their routine pastoral work. Human rights NGOs are conducting similar chores but limit themselves to victims of recent abuses. KONTRAS Papua is one of the few organizations that pays particular attention to victims' assistance programs. It has helped to organize a branch of the victim group, Association of Families of the Disappeared (IKOHI). Other organizations, like LP3A and JKPIT in Jayapura and Yahamak in Timika, have been helping victims of sexual abuse and violence, focusing on trauma counseling. ELSHAM Papua has recently opened a women's desk that will facilitate its efforts to provide assistance for women.

Former political prisoners are probably the most active group of victims in Papua. After a mass amnesty from President Habibie in 1998, hundreds of ex-prisoners formed various organizations as part of the rising political movement. The PDP designated ex-prisoners as one of the eight "pillars" of the movement. Rev. Herman Awom, a leader of the PDP, said that the move is also a form of rehabilitation as former prisoners are reintegrated into the society. A number of ex-prisoners stated that their suffering is a consequence of the struggle, so rehabilitation and reparation are not necessary, although they agree that families of victims who were killed, tortured, or disappeared have the rights to demand for compensation and rehabilitation.

Human rights organizations have different views and acknowledge that there have been no in-depth discussions on that matter. Many said that the most valuable form of reparations is nothing less than freedom or independence. There is a strong (mis)belief that all the past wounds and sufferings would be restored if Papua gained its freedom.

5. Reconciliation

There are different perceptions of the concept of "reconciliation" itself. In political circles, it has become a code word for political consolidation or a condition to unify different factions of the independence struggle. Many religious institutions, meanwhile, promote a theological

connotation of the concept, insisting on the need to forget and forgive in order to build a stronger foundation for the future. Only a few human rights activists see reconciliation in its proper meaning as a result of careful examination of the past to acknowledge suffering, condemn violations, and alter institutions to prevent violations in the future. They also point to the fact many Papuans have been involved in past crimes and efforts to expose their involvement—in a truth commission, for example—might be a source of disagreement between the various groups now fighting for independence.

As for the truth commission, Pieter Ell from KONTRAS Papua insisted that reconciliation (consolidation) among Papuans has to occur before a commission could operate. The commission should be a mechanism to channel grievances *and* to strengthen unity.

Chapter 6 CONCLUSIONS AND RECOMMENDATIONS

The conclusion is divided in three parts: (1) the existence, structure, and performance of civil society organizations involved in the handling of past cases of violence; (2) the situation during the transitional stage; and (3) analysis of the types of transitional justice initiatives that have been established. Each item is followed by points of recommendation.

I. EXISTENCE, STRUCTURE, AND PERFORMANCE

The human rights movement in Indonesia grew out of the emergence of legal institutions. Lawyers and legal experts played an important role in determining the movement's focus and strategies. The principal activity of these institutions was to provide legal services to the underprivileged, such as workers, farmers, and the poor in urban areas. Their support base consisted of student activists, intellectuals, and the urban middle class. Communication with the community they assisted was limited, and it normally occurred during the handling of cases.

After 1998, several new actors emerged, such as victim groups, research institutions, religious institutions, and communities concerned with the human rights situation. However, this development was only temporary and did not fundamentally alter the support base of the human rights field. These groups interacted with NGOs only on an ad hoc basis for the purposes of campaigning and advocacy. Despite their important role in addressing certain cases, these new actors were not overly involved in strategizing about how to address past cases of violence.

With the emergence of victim communities and organizations, the term "victim" became an important part of the dialogue in the human rights movement. There are varied definitions of "victim." Some refuse to use this term and chose "survivor" as an alternative. Others tried to expand the definition to refer to every person and community that suffered loss caused by economic development schemes or the authoritarian regime.⁶³

The evolution of the human rights movement in Indonesia was marked by the rise and fall of various organizations and groups. Many activists discussed this trend and emphasized several aspects related to the sustainability of the movement.

- *Leadership and organizational culture.* In many cases, NGOs relied on public figures to develop their activities. Skill, knowledge, and respect usually revolved around individuals, rather than the organization, resulting in a weak organizational culture. A minority of people who did not always represent the interest of the constituents often made important decisions on an organization's programmatic activity. Problems occurred when public figures left organizations.
- *Issues on the strategy and focus of activities.* Quite a few NGOs and other civil society organizations originated from action committees, campaigning coalitions, or other ad hoc forums, indicating that such groups were often created because of specific situations, not based on a clear, long-term plan. The focus of their activities frequently followed the trend dictated by donor agencies or mass media. Subsequent issues arose when the financial support base eroded or media coverage decreased.

⁶³ Using this formulation, organizations made up of the urban poor, the farmers movement labour unions, and traditional communities can also be viewed as groups of victims.

- *Weakness in the caderization.* With most NGO workers being drawn from student activist circles, most organizations suffer from limited human resources. So far, there have been no specific educational programs to prepare human rights or humanitarian workers, despite the numerous resources being contributed to training workshops that addressed only specific needs.
- *Reliance on donor agencies.* Almost all organizations mentioned in this report relied on donor agencies for financial support. In many aspects, the activities of these NGOs were influenced by the framework employed by the donor agencies, rather than the local situation. In addition, donor agencies did not always communicate with each other, resulting in duplication of efforts. Donors normally chose to cooperate with reliable institutions, and as a result, certain organizations were stretched too thin, while many promising initiatives did not receive any support and finally disappeared.
- *Continued repression and pressure.* Repression of human rights defenders also impacted the existence of institutions, particularly in regions hit by armed conflicts. NGOs who traveled abroad to discuss the human rights abuses taking place in Indonesia were accused by the government and some elites of having betrayed their country. Although this pressure did not directly affect the existence of institutions, such accusations did sometimes hinder these groups in garnering local support.

The relationships between secular NGOs, religious NGOs, universities, and victim communities varied greatly. In some places, such as Central Java and East Java, various groups cooperated, as most had taken root in regions institutions. In certain regions, such as Nusa Tenggara, family relations also played an important role in the interactions of various elements of civil society and the government, as sometimes members of the same family would work in both places. However, generally speaking, close relations through mutual ideas or programs seemed to be quite limited.

Meetings between various elements of civil society normally took place in networks or forums where NGOs dominated the formulation of strategies and the execution of programs. This discrepancy was caused by the different strengths and competencies of the organizations and groups, as well as a lack of opportunity to jointly formulate the forums' vision and program in a democratic way. As a result, the workload that should have been shared among participants ended up with one of the network members and eventually constrained the expansion of the movement.

Recommendations

- Broaden the social base of the human rights movement
- Support initiatives by other elements of civil society
- Design projects to enhance cooperation between various sections of civil society
- Support academic and research institutions to focus on education
- Map out and evaluate support by donor agencies
- Solidarity for the protection of human rights activists and humanitarian workers
- Create a regional forum to define priorities

II. ACTIVITIES IN TRANSITIONAL PERIOD

There are significant differences in the approach of NGOs located in areas hit by conflicts (often referred to as “conflict areas”), such as Aceh, Papua, and recently Maluku and Central Sulawesi, and the other areas of Indonesia. Conflict areas can also be distinguished by the type of conflict

and the occurring violence. Areas like Aceh and Papua, in which struggles for self-determination were taking place, differ in many aspects from Central Kalimantan, Maluku, or Poso, which were affected by communal conflicts.

A close relationship between past violence and current politics was often found in areas hit by political conflicts. In Papua, for example, almost all elements of civil society viewed the handling of past violence as necessary for peace. On the other hand, in Maluku and Poso, there has been a trend to avoid any discussion on the violence during the past three years, as it is liable to open fresh wounds and extend the conflict.

Such differences greatly affect an understanding of the transitional period. In conflict areas, violence is still occurring. Consequently, as human rights abuses continue, local activists have argued that despite political change, a fundamental transition in Indonesia has yet to occur. Meanwhile, in more peaceful areas, people are aware of the difference between the New Order period and the reformation era, despite a lack of basic reforms.

At the national level, institutions generally agree that the reformation movement has lost momentum and direction, making it more difficult to pursue truth and accountability for past human rights abuses. However, the 1998 political upheaval at the regional and local levels opened up new space for various initiatives to be pursued. In such a confusing situation, most NGOs are currently focusing their attention on human rights violations that have been increasing since 1998.⁶⁴ Such a reality brings up questions about the meaning of “transition,” because in many areas there has not been any significant reform after Soeharto’s resignation. The focus on the New Order as a regime that used violence to maintain its power faded with the appearance of new actors who perpetrated abuses.

In the context of dealing with the New Order’s authoritarianism, many activists admit that NGO movements must wait for a more opportune time to focus on past abuses. They generally agree that particularly after the 1999 general election, the reformation movement that created an opportunity to address the past cases of violence has abated. Activists are concerned that after the 2004 general election, transitional justice issues will no longer be relevant.

Efforts to address the violence normally focus on certain cases. There is the illusion that handling certain cases will encourage the adoption of reforms. Therefore, NGOs tend to apply a strategy of highlighting in the public arena without any clear strategy as to what to do afterward. In many cases, NGOs rely on the judicial structure that they criticize to address these cases.

Fundamental criticisms are also made against institutions operating at the national level, as they provide little attention to regional issues, particularly those unrelated to Java. Organizations based in Java, particularly in Bogor, Jakarta, and Jogjakarta, play an important role in selecting the cases that are addressed at the national level. A number of activists at the national level are aware of this dynamic. While these organizations often act with insufficient regard to local dynamics, they are more likely to adopt cases if there is a local movement campaigning for them. The existence of victim movements at the local level will affect the strength of national-level campaigns.

Politics also impacted the focus and type of efforts in which groups engaged. For example, when gathering support for a political party or promoting a particular ideology, political agendas often

⁶⁴ See Mohammad Zulfan Tadjoeddin, *Database on Social Violence in Indonesia*, United Nations Support Facility for Indonesian Recovery, Jakarta, April 2001.

influence the handling of past cases of violence. The disclosure of abuses committed by the New Order is used by political groups, as well as some victims, to prove that they are in the right. The involvement of victim communities as a whole, not just those claiming to be representatives, becomes quite critical.

Recommendations

- The need for a common understanding of the transition in Indonesia
- Map out achievements and failures
- Communicate with receptive individuals in the government to identify the possibilities of promoting transitional justice initiatives

III. INITIATIVES TO ADDRESS PAST CASES OF VIOLENCE

During the visits and interviews, the researchers found a number of transitional justice initiatives. Because there was no documentation on each initiative, the researchers had a problem assessing what obstacles had existed in the implementation of the programs and what had been achieved so far. New activities are normally formulated immediately prior to being implemented, and their creation relies more on individual creativity than on objectives the human rights movement wants to achieve.

It is obvious that public campaigns stand out as the most prominent activities. Most organizations at the national level focus their attention on the formation of public opinion through official statements to the media or seminars and discussions. However, a few initiatives have been seriously directed at reinforcing the victim communities as part of the human rights movement.

A. Truth-seeking Mechanisms

Truth-telling activities tend to be based on public complaints and grievances regarding human rights abuses. Only few institutions provide special attention to understanding patterns of violence by type or geography. NGOs tend to gather information as grounds for conducting public campaigns without doing the type of intensive investigations required to pursue prosecution. There is a strong expectation that if a case gains public attention, any efforts to further address it will be much easier.

So far, institutions that gather information on cases of violence have operated separately, resulting in a lack of common agenda in approaching the cases. Consequently, the gathered information was quite fragmented and inhibited an awareness of the systematic violence committed by the New Order regime.

The involvement of national level organizations in Indonesia's various regions is still quite limited. The cases that are addressed are generally located in areas that have received extensive coverage by the national media. This criteria was set by these institutions and often did not take into account the views of the local human rights movements.

Recommendations

- Identify existing campaigns and efforts to document human rights abuses in order to develop a coordinated national strategy based on clear strategic objectives
- Design projects to focus on a particular area or particular form of human rights violation

- Improve capacity of local organizations and groups

B. Prosecutions

There is a belief among activists that prosecution is the best way to address past cases of violence.⁶⁵ Discussions on justice were entirely focused on prosecutions; however, concrete measures to achieve this objective were scarce. Critical engagement is seldom made with government institutions that are involved in the settlement of violence cases, and is even viewed by some as being in vain. NGO efforts in this area seemed to adopt somewhat contradictory strategies. On one hand, they were aware that the existing legal system was unreliable; however, in practice, they relied heavily on this system.

Recommendations

- Identify opportunities and problems in concrete terms
- Conduct a study on different judicial mechanisms that might be used to pursue accountability (civilian court, military court, and the human rights court)
- Criticize the inadequacies of the Ad Hoc Human Rights Court for East Timor and continue to emphasize the need for accountability for crimes in East Timor and elsewhere
- Consider establishing mock trials, such as the Tokyo Tribunals, in order to draw attention to the absence of accountability in Indonesia

C. Legal and Institutional Reform

There were numerous programs on legal and institutional reform, but they were generally focused on good governance and were not rooted in the Indonesian experience. Such initiatives were generally unrelated to human rights abuse cases and failed to provide recommendations to ensure that such cases would not reoccur. There were only a few legal reform initiatives, such as proposing alternative draft laws to the People's Representative Assembly.

In conceptualizing institutional reform initiatives, NGOs focused on the conduct of the state rather than the structures of the institutions. Their concentration on issues such as corruption limited their ability to engage in more effective structural reform.

Recommendations

- Identify and analyze steps taken by the post-Soeharto governments to alter institutions and repressive laws
- Amplify the need to confront legacies of New Order authoritarianism in reform-oriented projects
- Conduct a study on legal and institutional bases that cause human rights violations, including extrajudicial institutions, and include a specific analysis of the new modes in which the military continues to exert undue influence in political and economic matters
- Engage in dialogue and negotiations with government institutions at different levels to introduce and encourage ideas of reform

⁶⁵ The domination of lawyers and legal experts in human rights movement as a whole played an important role in this case, as discussions with victims communities often disclosed various other dimensions of justice. Such discussions had not yet been given adequate space to develop.

- Demand legal and institutional reform based on particular cases of human rights violations that have been successfully brought to a court

D. Reparations and Rehabilitation

The relationship between NGOs and victim communities at the national level was still limited and had only developed with the emergence of several victim-based organizations in 1999. NGO activities at the national level were still limited to public awareness campaigns on human rights abuses and did not involve providing services for victims. Various organizations or institutions providing assistance to victims were normally outside of human rights circles. Victim organizations frequently had limited resources, making it difficult to establish regular communications with their constituents and conduct their programs.

Recommendations

- Design meetings and forums for various groups and organizations working with victims
- Map out types of activities and services in different areas
- Encourage exchange programs (regional and international) to allow organizations dealing with victims to engage in reciprocal learning and information sharing
- Develop socioeconomic and cultural projects
- Support community-based initiatives

E. Reconciliation

Of the five elements of transitional justice, reconciliation is the weakest. Discussions on the issue lack a substantive focus, due to misunderstandings over how reconciliation is defined. For example, reconciliation is still confused with providing an amnesty for perpetrators rather than being identified as a commitment to achieving accountability and combating impunity.

Recommendations

- Integrate other transitional justice initiatives in peace processes and seek to resist simplistic notions of reconciliation that lead to amnesia or impunity
- Support genuine community-based reconciliation
- Design socioeconomic and cultural projects for re-integration and peace-building based on a sophisticated analysis of the successes and failures of similar programs in Indonesia and internationally

IV. GENERAL RECOMMENDATIONS

Below are some of the more promising recommendations from the report and the subsequent workshop attended by local and international human rights experts to strategize about its findings.

- *Networking.* One of the common weaknesses in all of the regions was the lack of coordination among civil society organizations. Even in Aceh and Papua, where groups cooperated much more than in other areas, the lack of collaboration stifled their progress. One of the key recommendations is the creation of a sustainable network of organizations working on transitional justice, which would provide a means for strategizing on transitional justice issues. It was suggested during the project's final workshop that a local transitional justice alliance be created. The alliance would comprise civil society organizations working

on transitional justice issues throughout Indonesia. This forum would allow activists to share their experiences and ideas. The alliance would help bring together all of the fragmented information that exists from individual organizations' documentation of past abuses, lending to an analysis of the systematic violence that has occurred in Indonesia. The alliance would also provide space for organizations to discuss their successes and failures. This network would strengthen weaker, resource-deprived organizations by providing them with information and possible partners for initiatives.

- *Capacity building.* Transitional justice is a relatively new concept to most Indonesian human rights activists. Aside from a few workshops, there are no concrete ways to disseminate information or train activists in this field. In addition, many civil society organizations in Indonesia are weak and lack adequate resources. Even organizations operating at the national level are not able to sustain programs for significant periods of time. Resources are often concentrated into one program, but when the public's attention shifts to a new case or problem, the program is no longer considered relevant and is dropped. The capacity of civil society organizations to develop transitional justice initiatives needs to be strengthened.

One of the key recommendations is the establishment of a transitional justice fellowship program. The program could run for several months in conjunction with classes at a local university. Part of the fellowship could be an immersion course that would have some theoretical basis but be geared more toward the exploration of transitional justice case studies. Local guest speakers could address temporary issues that are specific to Indonesia, providing an impetus to find links between the challenges facing Indonesia and the transitions that have taken place in other countries. Participants could spend part of the time doing an internship. This experience would provide the participants with a better understanding of the connections and differences in patterns of abuse and initiatives to address this legacy in other parts of Indonesia.

Another recommendation is the creation of a local Indonesian transitional justice newsletter. The newsletter could be issued on a monthly basis and include summaries of transitional justice news events throughout Indonesia. It could also include a version of the ICTJ's "Transitional Justice in the News" in order to expose activists to the experience of other countries. This newsletter would serve to increase knowledge about transitional justice strategies and create a network among the civil society organizations.