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# TWENTY LESSONS FROM TWENTY YEARS OF TRANSITIONAL JUSTICE IN ASIA



## THE LESSONS AT A GLANCE

1. Strategies to find solutions for mass violations are never fully 'blocked'. Even when there seems to be no space for TJ mechanisms, movement towards the goal of creating a more accountable society is possible through innovative strategies and sequencing.
2. Don't waste time and resources on establishing a TRC unless you intend to appoint Commissioners who are independent and of high integrity.
3. A TRC will have a much greater chance of success if supported by civil society.
4. The terms 'Asian values' and 'reconciliation' are often used to conceal intentions to protect those responsible for serious human rights violations from being held accountable.
5. Deep discrimination is a root cause of many conflicts. Avoiding recurrence requires social transformation, including an understanding that the duty to protect fundamental human rights applies equally to all human beings regardless of race, religion, ethnicity, political opinion, or other factors.
6. The meaning of the term reparations and the duty of the state to provide them are often poorly understood, blocking progress towards practical solutions.
7. Social media can have a major impact on human rights violations, both positive and negative, but the negative effect may be stronger.
8. Often leaders in transitional contexts say that they favor a 'South Africa style' transition, meaning they favor a TRC to provide amnesty instead of prosecuting those responsible. However, this is often based on a misunderstanding of the basic elements of the South African transition.
9. Mass violations, impunity, and a failure to address injustices create a fertile environment for recruitment of youth to violent extremist organizations such as ISIS.
10. The role of perpetrators of large-scale violations, such as torture, may pass from military and intelligence services to police following a transition.

### Twenty Lessons from Twenty Years of Transitional Justice in Asia

#### Edition

First, December 2018

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Extraordinary Chambers in the Courts of Cambodia  
Asosiasaun Chega! ba ita, Timor-Leste



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Asia Justice and Rights (AJAR) is a regional human rights organisation based in Jakarta, Indonesia. AJAR works to increase the capacity of local and national organisations in the fight against entrenched impunity and to contribute to building cultures based on accountability, justice, and willingness to learn from the root causes of mass human rights violations in the Asia Pacific region.

For more information, visit [www.asia-ajar.org](http://www.asia-ajar.org).

11. Creating an opportunity for leaders, parties to the conflict, and the general public to listen directly to victims tell the story of their experiences in their own words can have a transformative effect.
12. The role of holding government to account in transitional settings falls on CSOs. Building an accountable society requires a movement, not sporadic interventions, and CSOs who lead those movements need consistent, long-term support and funding.
13. Victims rights should not be given less priority than programmes for veterans and ex-combatants. Victims are often left at the back of the line, behind others who are more aggressive and have louder voices.
14. The relevance of transitional justice to Asian contexts is often underestimated and not appropriately included in international events, policy, and practice.
15. Despite increasing rhetoric about gender balance, women are not equally included at every stage of TJ mechanisms.
16. "All sides were equally responsible" is usually not true. This is a myth often promoted by the side that was most responsible.
17. Freedom fighters and independence advocates may soon become corrupt and resemble those whom they fought so hard to replace.
18. The control and theft of natural resources are key contributing factors to most situations of mass violations.
19. Legal aid is an important post-conflict reform often not included in the TJ framework.
20. It is unrealistic to expect weak national criminal justice systems to suddenly be able to comply with international fair trial standards, unless they receive substantial assistance.

## INTRODUCTION

According to the United Nations, the term transitional justice (TJ) covers all of the strategies a society employs to address a history of mass human rights violations. Although this may include a broad range of steps designed for particular contexts, usually those approaches will also fit within the four basic pillars of the TJ framework.

The four pillars are:

- uncovering and making public the truth about the violations, including the root causes;
- investigating and prosecuting those responsible for mass crimes;
- taking effective steps to repair the lives of victims; and
- undertaking the social, legal and institutional reforms needed to ensure that the violations do not recur.

The different strategies that relate to each of the four pillars do not need to be implemented at the same time, but rather should be sequenced according to the needs and opportunities of the context. However, all four pillars should be included in a holistic TJ strategy.

This publication does not attempt to deeply analyse or interpret the meaning of transitional justice or the duties under the four pillars, which are more than adequately covered in many academic works. The aim of this paper is to provide a relatively short, simple language guide to some key lessons that have emerged from efforts to deal with legacies of mass violations in Asian contexts.

The lessons discussed are drawn from inputs from the more than 60 Asian TJ experts that are part of the Transitional Justice Asia Network (TJAN), an initiative created and managed by Asia Justice and Rights (AJAR).<sup>1</sup> This paper is informed by the inputs of those TJAN experts who attended a workshop that focused on two decades of TJ lessons in Asia, held in Aceh, Indonesia in March 2018.<sup>2</sup> The paper also draws on the author's own experience in transitional contexts in Asia over the past two decades, marking twenty years since *reformasi* in Indonesia. The material in this work is based on practice rather than theory. Each of the many lessons could itself be the subject of a full study, and there are many more not mentioned here. This paper provides only very brief summaries of each.

<sup>1</sup> Transitional Justice Asia Network, <https://asia-ajar.org/transitional-justice-asia-network/>; Asia Justice and rights, <https://asia-ajar.org/>

<sup>2</sup> Two Decades of Transitional Justice in Asia: A View from the Ground, <https://asia-ajar.org/2018/10/workshop-on-two-decades-of-transitional-justice-in-asia-banda-aceh-indonesia/>



In the deep mud of anger, pain, division, and hope that are entangled in every transition, civil society organizations (CSOs) across Asia are courageously finding ways to move the cart of justice, truth, and dignity for victims forward. Often the heavy weight of past crimes in the back of the cart and the thickness of the mud beneath seem too great to overcome, and forward movement appears impossible. Still the CSOs move forward, inspired by the courage and determination of the survivors. The lessons in this paper are dedicated to those survivors and the human rights defenders who stand beside them.

**1. Strategies to find solutions for mass violations are never fully 'blocked'. Even when there seems to be no space for TJ mechanisms, movement towards the goal of creating a more accountable society is possible through innovative strategies and sequencing.**

In some contexts, investigation and prosecution of those responsible have commenced in the first months of the transition. In others, criminal trials are impossible for decades due to the power and influence of the perpetrators. In those situations, CSOs and survivor organizations do not rest but continuously work to create a greater demand for justice and the political and legal space for it to be possible. They may also create dossiers of statements of witnesses to inform the prosecutions when they are possible. In some contexts where prosecutions are blocked, establishment of a Truth and Reconciliation Commission (TRC), viewed as less threatening to perpetrators, might be possible. If a TRC is blocked, civil society often works on unofficial truth-seeking initiatives such as documenting the stories of victims or holding public events where they can share their experiences. Where governments refuse to honor their obligations by providing reparations for victims, civil society may use alternate strategies to find relatively modest forms of assistance for them. If no funds at all are available, CSOs sometimes help victims find a way through the bureaucratic maze or past discriminatory blocks to access government benefits for vulnerable people.

There are probably thousands of inspirational examples of the work of Asian CSOs that illustrate this strategic approach to TJ, adjusting and sequencing approaches to move the cart forward. The following are just a few of them.

- In Bangladesh, 50,000 stories were collected by school children whose teachers asked them to record their grandparents' experiences during the 1971 genocide, when an estimated three million people lost their lives. This programme was designed and implemented by the Liberation War Museum (LWM), a national CSO, as part of its 'Reachout Program'. LWM bound the stories from

the children into books that were given back to each participating school.<sup>3</sup> In addition, LWM incorporated the stories into a traveling human rights museum housed in a bus that already has been visited by over 350,000 people.

- In Indonesia, faced with official opposition to the investigation of past crimes, more than 50 CSOs joined together for a "Year of Truth" programme that included victims testifying at public hearings, radio and television talk shows, art performances, press conferences, school and university activities, and the publication of a report on the various situations of mass violations.
- In Thailand, CSOs have used strategic litigation to bring legal challenges and publicity to emblematic cases of torture in the Deep South, dragging those cases from the darkness into the light. The use of the court system has in some cases provided some level of protection from the intimidation of the current junta. However an intolerance of the military to any form of criticism has led to increasing use of computer crime laws against activists who publish reports and analysis of human rights cases.
- In Timor-Leste, CSOs helped to form a national victims association and then successfully advocated for those survivors to be provided services and assistance under programmes of the Department of Social Services.
- "Comfort women" who were victims of mass rape programmes conducted by the Japanese military during World War II organized a "Women's Tribunal" in Japan where they courageously shared their stories to a worldwide audience.
- In Sri Lanka, strong networks of women's organizations continue to represent the interests of up to 100,000 widows left at the end of the war. In the face of years of official denial and refusal to provide details of the fate of the disappeared CSOs campaigned for a new freedom of information law. They are now using the rights recognized by the new law to compel the provision of available information.
- Nepalese NGOs brought evidence and witnesses to charges of torture by a government soldier during the war with the Maoists to a court in the UK where the soldier was tried under universal jurisdiction laws.<sup>4</sup> Although one charge was dismissed and the jury could not agree on the other, the case achieved widespread publicity, sending a message that the era of impunity in Nepal is beginning to crumble. The case joins an increasing body of examples from national courts far away from the site where the mass crimes were committed, sending a message that perpetrators can no longer feel

<sup>3</sup> See Liberation War Museum, <http://www.liberationwarmuseumbd.org/reachtrech-program/>

<sup>4</sup> The Kumar Lama case. See <https://redress.org/news/colonel-kumar-lamas-acquittal-prosecuting-torture-suspects-should-remain-a-priority-of-the-uk/>

- safely protected by a blanket of impunity as they have in the past.
- In Jakarta, family of victims of human rights violations have for more than ten years demonstrated every Thursday outside the Palace of the President in Jakarta. The survivors, inspired by previous similar actions by the mothers of the Plaza de Mayo in Argentina, hold black umbrellas against the heat of the sun, some bearing photos or the name of their killed and disappeared child, calling for truth, justice, and recognition.

## 2. Don't waste time and resources on establishing a TRC unless you intend to appoint Commissioners who are independent and of high integrity.

The various parties involved in a conflict or transition often wish to promote a version of the truth that is self-serving and inaccurate. If the Commissioners of a TRC represent various factions, they will be unwilling to examine cases in which those groups and individuals were involved. It is unlikely that a group of Commissioners all defending their own interests will be able to agree on findings that relate to difficult truths. The general population will also not trust their independence or the integrity and accuracy of the final TRC report, rendering it relatively worthless.

The first steps — drafting the law to establish a TRC and the appointment of Commissioners—are probably the most important steps of the multi-year process. If they are not done carefully, all that follows will fail. To be successful, the population must feel that the TRC is 'our commission,' not 'their commission,' i.e., controlled by the status quo and linked to perpetrators. Some TRCs, such as Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR), have followed the South Africa example of opening up nominations for Commissioners to the public. In Timor-Leste, the result was early and substantial participation. Engagement even extended to the markets of Dili where vegetable sellers provided one list of their preferred Commissioners and the meat sellers provided a different list. Many of the problems of the Thailand TRC were linked to the 'top down' appointment of Commissioners by the government which did not foster a feeling of ownership by the general population. In Nepal the TRC continues to face significant challenges linked to a lack of trust in the current Commissioners.

## 3. A TRC will have a much greater chance of success if supported by civil society.

Civil society leaders should consider being nominated as Commissioners and taking on roles as staff. Monitoring is important, but if all of the experienced individuals remain outside the TRC, it will be much less likely to succeed. The Nepal TRC has failed to gain the confidence of victims and civil society following a group decision by many CSOs to remain outside of the TRC, which has deprived it of the potential contribution of many of the country's most dedicated advocates for victims and justice.

Interesting examples of CSO involvement include the partnership of Timor-Leste's CAVR with the women's rights CSO, Fokupers that used its specialist expertise to interview hundreds of women victims of sexual violations for the CAVR Report.<sup>5</sup> In Aceh's current TRC, much of the statement-taking role is being implemented by trusted human rights CSOs thereby creating a closer relationship with the TRC and allowing the new institution to benefit from decades of civil society experience.<sup>6</sup>

Many TRCs finish their mandate by providing extremely valuable recommendations that are often not implemented. Planning for a post-TRC body to implement the recommendations should commence long before a TRC is closed and, if possible, the new body should be provided with a legal base prior to the TRC finishing its work. One example of the long struggle to achieve this goal is the Chega! National Centre: From Memory to Hope in Timor-Leste (CNC)<sup>7</sup> that was established by Decree of the Prime Minister in 2016. The CNC has a mandate to implement the recommendations of the national TRC (the CAVR) and of a subsequent, bilateral TRC between Indonesia and Timor-Leste. It took more than ten years of continuous advocacy by civil society to achieve the establishment of the TRC 'follow-up institution.' The Aceh TRC is the first such body established as a permanent institution that plans to implement the truth-seeking part of its mandate in the first three years, followed by the ongoing work of reconciliation and implementation of recommendations.

<sup>5</sup> CAVR Final Report, Chapter VII Sexual Violence, <http://www.chegareport.net/download-chega-products-2/>

<sup>6</sup> Press release on the completion of the first year of the Aceh Truth and Reconciliation Commission, <https://asia-ajar.org/2017/11/press-release-first-year-anniversary-aceh-trc/>

<sup>7</sup> Decree No 48/2016, Government of Timor-Leste.

**It would seem that in the context of responsibility for mass crimes, 'Asian values' may mean that members of the elite classes should not need to be accountable, but others, including the poor, are strictly subject to the criminal laws.**

#### **4. The terms 'Asian values' and 'reconciliation' are often used to conceal intentions to protect those responsible for serious human rights violations from being held accountable.**

Sometimes leaders and policymakers in Asia claim that universal human rights do not apply in their contexts and that 'Asian values' are more appropriate. Often these claims are made to counter calls for prosecution of those responsible for mass crimes.

No official body has defined or agreed to this concept of 'Asian values'. It is interesting to ask whether it is true that pursuing criminal justice solutions for mass crimes is less a part of Asian cultures than others. In fact, accountability and criminal justice are core elements of all Asian legal systems, with equality before the law recognized in the Constitution of many countries and law enforcement agencies mandated to strictly enforce the criminal law. For example, if a person caught stealing a motorcycle can expect arrest and imprisonment. The concept of 'Asian values' is not raised in such instances and does not seem to have any application relating to leniency toward those perpetrators of relatively minor property crimes.

However, when the amounts stolen through corruption are massive or the number of people killed and raped is in the thousands, with members of the elite implicated, then the term 'Asian values' is more commonly raised as an argument that the perpetrators should not be arrested and brought to trial. It would seem that in the context of responsibility for mass crimes, 'Asian values' may mean that members of the elite classes should not need to be accountable, but others, including the poor, are strictly subject to the criminal laws.

'Reconciliation' is another term often used to undermine accountability. Assisting groups and individuals to reconcile their past differences is an essential goal in post-conflict settings. However, groups implicated as perpetrators of mass crimes in a number of Asian contexts such as Indonesia, Sri Lanka, and Myanmar have claimed that 'reconciliation' is a more appropriate solution than criminal justice, particularly when 'Asian values' are taken into account. The meaning behind those statements is that perpetrators from the elites and security forces should not have to be held to account for their actions and that amnesties should be provided to them

in the name of 'reconciliation.' These calls for reconciliation are based on the benefits for one side—the perpetrators of mass crimes—and not on the views of the victims of those crimes. In fact the victims are rarely asked if they agree with this 'reconciliation.'

Transitional contexts attempting to demonstrate that the future will be based on the rule of law, transparency, and human rights may be seriously compromised if the first steps to create those accountability structures allow perpetrators of horrific crimes to escape accountability for their actions. Proponents of impunity during transitions are often unaware of the emerging norm under international law that prohibits the provision of amnesty for international crimes, such as crimes against humanity.<sup>8</sup>

#### **5. Deep discrimination is a root cause of many conflicts. Avoiding recurrence requires social transformation, including an understanding that the duty to protect fundamental human rights applies equally to all human beings regardless of race, religion, ethnicity, political opinion, or other factors.**

Decades of discrimination and unfair development opportunities have been identified as root causes of conflicts in a range of Asian settings including Myanmar, Sri Lanka, Southern Thailand, Mindanao, eastern and western areas of Indonesia, and Nepal. In many of these contexts the drawing of post-colonial boundaries found ethno-religious minorities inside territories labeled as states where the majority pursued policies of deep discrimination against the minorities. Examination of these contexts reveals a refusal to recognize often justifiable demands of minorities, significantly lower levels of development assistance and budget from the centre, and patterns of mass violations committed by members of security forces against minorities, leading to sub-groups resorting to armed resistance, met with grossly disproportional collective punishment.

The mass violations are often justified on the basis of political factors such as the need for a unitary state, ignoring the universal principles that all human beings hold inalienable fundamental rights. No historical or political factors concerning ethno-religious minorities such as the Moro in Mindanao, the Pattani in Southern Thailand, the Rohingya in Rakhine state, the Tamils in northern Sri Lanka, or the Papuans in eastern Indonesia can justify killing and raping them. The political and historical claims are separate and should be dealt with seriously, but they can in no way justify gross human rights violations.

<sup>8</sup> See UN Rule of Law Tools for Post Conflict States: Amnesties. United Nations New York and Geneva, [https://www.ohchr.org/Documents/Publications/Amnesties\\_en.pdf](https://www.ohchr.org/Documents/Publications/Amnesties_en.pdf)[https://www.ohchr.org/Documents/Publications/Amnesties\\_en.pdf](https://www.ohchr.org/Documents/Publications/Amnesties_en.pdf)

An approach of “equal human rights for all” that includes freedom from unlawful killing, torture, rape, and displacement, and accountability when those fundamental rights are violated needs to be understood as separate from the merits of historical and political claims such as language, citizenship, autonomy, etc. Mass human rights violations cannot be justified by such political and historical issues, and if allowed to be committed with impunity, will destroy the future potential for sustainable peace and the rule of law.

### 6. The meaning of the term reparations and the duty of the state to provide them are often poorly understood, blocking progress towards practical solutions.

The term ‘reparations’ is not commonly used in the English language and has no adequate translation in many Asian languages. TJ ‘insiders’ often use the term on the mistaken assumption that the general public and key stakeholders understand its meaning. It is important to remember that this concept is new to most people in transitional contexts, and gradually building knowledge and understanding of it is crucial to the success of TJ strategies.

Many policy makers in transitional contexts do not understand the state’s duty to repair the damage to victims’ lives caused by its failure to fulfill its most fundamental duty—to protect its citizens. Discussions of reparations are often dominated by international legal principles and theory when those directly involved need assistance with the urgent practical challenges and key questions: Where will the funding come from? Who from the thousands of victims should be provided with reparations? What categories of violations should be included and how to deal with serious damage and loss of property, and mass displacement that is common in conflict? What should those who are entitled receive? How can the programmes be implemented? Who will be brave enough to explain rejection to those who will not be included in the reparations programs but may be very poor and suffered greatly as a result of the conflict?

The most appropriate form of reparations programs will vary greatly depending on the context. A reparations policy should include consideration of a combination of (a) *individual forms of assistance* such as payments, life-long pensions, free school fees, skills training and medical services for victims; (b) *community and collective* programs such as construction of school buildings, health clinics, school curricula that teach the truth about past violations; and (c) *symbolic reparations* such as days of remembrance, monuments, official apologies by leaders. A key element of reparations that is often ignored is the need to recognize and honour the suffering of the victims, which can be achieved through

providing opportunities to share and record their stories. In Asian transitions, government-funded reparations for victims are rare but have taken place in limited forms in a range of contexts including Nepal, Thailand, the Philippines, Indonesia (Aceh) and Timor-Leste. In the absence of government support, civil society actors have developed innovative ways to assist victims. Some of those approaches are briefly mentioned elsewhere in this paper.

### 7. Social media can have a major impact on human rights violations, both positive and negative, but the negative effect may be stronger.

Participants in workshops conducted by the Transitional Justice Asia Network (TJAN) in 2017-18 reported that in an increasing number of contexts, social media has been identified as a major contributing factor to the commission of mass crimes including genocide and crimes against humanity. Recently in Myanmar, the Philippines, Bangladesh, and Sri Lanka, Facebook and other forms of social media have been identified as facilitating mass killings, extremist violence, and other serious violations.

In Myanmar, Facebook has been widely used to spread hatred and promote violence against the Muslim population, particularly the Rohingya, to such an extent that top UN Myanmar investigator, Yanghee Lee, stated, “I’m afraid that Facebook has now turned into a beast, and not what it originally intended.”<sup>9</sup>

Human rights experts from the Philippines reported that Facebook has been used as a tool by those involved in placing thousands of individuals on “lists” for kill squads to pursue. They estimate that over 13,000 individuals, mostly poor young boys and men have been executed without arrest or trial in the last two years and many of the executions are based on the lists. Some human rights leaders stated that they tried to address the problem by approaching Facebook and requested the company to please delete the “like” button from the site, as it is widely used to spread false reports and incite violence. Their requests were refused.<sup>10</sup>

<sup>9</sup> Tom Miles, “U.N. investigators cite Facebook role in Myanmar crisis,” Reuters, 13 March 2018; <https://www.reuters.com/article/us-myanmar-rohingya-facebook/u-n-investigators-cite-facebook-role-in-myanmar-crisis-idUSKCN1G02PN>

<sup>10</sup> Confidential interview by the author with Philippines activists who approached Facebook representatives, March 2018.

**I’m afraid that Facebook has now turned into a beast, and not what it originally intended.**

— Yanghee Lee,  
top UN investigator



The capacity for lies, negativity and discriminatory hatred to be rapidly shared to millions of people with little or no control is at the core of this problem. The contexts where the serious mass violations occur are usually not highly developed and wealthy democracies with strong legal systems, where defamation laws at least provide some protection. In contexts where there is weak rule of law there is little hope of redress for lies and defamation spread through the internet. This new playing field and greatly expanded potential to quickly influence millions is not level. Individuals and organizations with a strong moral and professional basis are not interested in sharing negativity and lies. However, others whose motives are violent and discriminatory are not deterred by such moral issues and with no legal hindrance are creating millions of electronic "bots" each of which automatically spreads the hate-filled and false information to others. The lies are believed, leading to outrage and mass violence.

Not only are the laws in these contexts inadequate to deal with the spread of discrimination and hatred but where they do exist they are used not to target those publishing lies but rather those sharing the truth about violations committed by agents of the state. In Thailand, the laws on electronic media have been used to intimidate human rights defenders with investigations and threats of long prison sentences in response to their electronically-published reports of torture by military actors in the Deep South. In Indonesia, social media is driving hate speech against non-Muslims involved in campaigns for political office. In Sri Lanka, human rights defenders reported that the 2018 killings and burning of houses of Muslims in central Sri Lanka was solely due to a social media campaign that blamed Muslims for trying to take over the country. Analysts reported Facebook posts claiming that Muslims were trying to poison Sinhalese Buddhists and that clear evidence was found at a café where Buddhists said they had seized a white poisonous powder being added to their food. As that story passed to thousands through Facebook, the burnings and killings expanded. Eventually, the white powder seized was analysed and found to be flour. However, this could not counter the swell of public opinion built up by the false reports.

**8. Often leaders in transitional contexts say that they favor a 'South Africa style' transition, meaning they favor a TRC to provide amnesty instead of prosecuting those responsible. However, this is often based on a misunderstanding of the basic elements of the South African transition.**

In transitional contexts, groups linked to perpetrators often call for a 'South African approach' that is based on a belief that TRCs like the one established in South Africa usually provide amnesties and that this can be a way to avoid accountability for elites.

In fact TRCs are generally not about amnesty. Out of more than 40 TRCs with various mandates in a range of countries only the South African TRC was provided with the strong powers concerning amnesty. More than 60% of those who applied for amnesty in South Africa were already in prison and most who applied to the amnesty committee of the TRC were not successful. Only 849 of a total of 7,112 applications lodged with the TRC Amnesty Committee were approved.<sup>11</sup>

The South African amnesty and prosecutions policy was often described as based on "the carrot and the stick" model, with the carrot being amnesty and the stick prosecutions. To be successful, "applicants were legally required to give a full and truthful account of the incidents in respect of which they were seeking amnesty."<sup>12</sup> This included their own actions and those of all others involved in the planning and execution of the acts. The amnesty did not cover common criminal acts but only those committed for political purposes that were proportional to the political goal (for example, blowing up a bus with school children inside could not be included).

Although some believe the inclusion of the conditional amnesty was of fundamental importance in facilitating the transition in South Africa, others think it was a significant failure because the amnesties removed the right of victims to justice and compromised the rule of law for the future. It is clear that many Asian leaders who advocate a 'South African approach' to their own transitions do not understand that most of those who applied for amnesty had already been arrested. They have no intention of this happening or of providing full and accurate information relating to the crimes.

**9. Mass violations, impunity, and a failure to address injustices create a fertile environment for recruitment of youth to violent extremist organizations such as ISIS.**

Although each context of mass violations is different, some share similar root causes. In a range of Asian conflict settings, historical factors and lines drawn by colonial maps left ethno-religious minorities surrounded by and vulnerable to persecution and unfair treatment by the majority. This applies to the Islamic minority Rohingya in majority Buddhist Myanmar, the Islamic minority Pattani in majority Buddhist Thailand, the Islamic minority Moro in majority Catholic Philippines, and the Hindu minority Tamils in Buddhist majority Sri Lanka.

<sup>11</sup> The Report of the South Africa Truth and Reconciliation Commission, Volume VI The Report of the Amnesty Committee. [http://www.justice.gov.za/trc/report/finalreport/vol6\\_s1.pdf](http://www.justice.gov.za/trc/report/finalreport/vol6_s1.pdf)

<sup>12</sup> Ibid, Section 1, Chapter 1, par 24, "Full Disclosure".



**How could it be expected that communities that experience mass brutality, sexual crimes, and a culture of terror would ally themselves emotionally or physically with a government whose agents have committed those crimes and injustices?**

In each of these contexts, political demands for greater autonomy, equal recognition of languages, the right to citizenship, etc. were continuously rejected over decades. Splinter groups of the minorities resorted to taking up arms to back their demands. Isolated attacks were carried out, often on police stations with innocent police officers killed. These attacks were met with massively disproportionate force by government security forces, including collective punishment of villagers suspected to be allied with armed groups, mass rape of women and girls, detention, torture, killing, and the disappearance of young men suspected of holding information or being involved with the splinter groups.

Although these actions by security forces are often motivated by the goal of overcoming resistance and enforcing national unity, the violations and impunity for perpetrators guarantee that this goal will fail and the victim communities will deepen their opposition to the government. How could it be expected that communities that experience mass brutality, sexual crimes, and a culture of terror would ally themselves emotionally or physically with a government whose agents have committed those crimes and injustices?

Peace talks and transitions offer an opportunity to begin healing these divisions. An essential element of this process of reconciliation is to address the violations that have taken place, using a TJ framework to help develop strategies and programmes. Unfortunately, this opportunity is often wasted. The impunity continues and there is no opportunity to examine the truth of what has taken place or establish mechanisms to deliver justice, reparations, and reform. In each of the contexts mentioned above members of the ethno religious minorities face levels of education, health care, infrastructure, and other development indicators are far below national averages. This inequality inevitably reinforces feelings of injustice and resentment.

Young people in those victim communities feel angry and disempowered, frustrated and ashamed that they are unable to protect their families and help address the injustices. Like youth everywhere they are highly idealistic, searching for personal identity, meaning for their life and membership of a group. Representatives of ISIS and recruiters for other violent extremist groups approach them. They offer a new identity as

a soldier for justice, membership of a powerful outlaw group, a new flag to swear allegiance to, money, travel, technical training, and even sex and the prospect of a wife. Through the internet recruits watch high-quality videos of atrocities committed by US forces in Iraq and by Israeli forces against defenseless Palestinian women and children. They are told that the suffering and persecution they have experienced is part of the larger global suffering and persecution that must be resisted. In contexts where mass violations have been committed and an absence of any official support for justice, truth, and help for victims, some of these young men turn to these offers of idealism, justice, action, heroism, and religious duty that are mixed with the horrific violent methodologies of the extremists.

Governments, donors, and partners involved in the prevention of violent extremism rarely recognize that dealing with the mass violations that have occurred in the minority communities is an essential element of any strategic approach to counter violent extremism. Without an effective TJ approach responding to the violations committed against those minority communities recruitment of frustrated youth to violent extremist groups is inevitable.

#### **10. The role of perpetrators of large-scale violations, such as torture, may pass from military and intelligence services to police following a transition.**

During dictatorships and conflict, political leaders often control the armed forces that enjoy impunity for their crimes. The practice of torture of political opponents and those suspected of being part of opposing armed groups or of those who have information about them is tolerated and even encouraged.

With the end of the conflict and disarming of the opposition, members of the security forces may have less rationale for the use of torture to combat those groups, and broader reforms may also increase levels of accountability in security forces. However, the use of torture as a legitimate and acceptable tool often continues through the transition, with responsibility for the crime of torture being 'handed over' from military to police. The general acceptance of torture as a legitimate tool and impunity for perpetrators allows the past pattern of mass crimes to continue into the post transition reality.

**Peace talks and transitions offer an opportunity to begin healing these divisions.**

**The goals of the painful public truth-telling exercises ... are to create a direct relationship between the listener and the victim; to transmit the reality of what impunity, conflict, and authoritarianism bring; to recognise and dignify the experience of the victims; and to create a national commitment to 'never again.'**

### **11. Creating an opportunity for leaders, parties to the conflict, and the general public to listen directly to victims tell the story of their experiences in their own words can have a transformative effect.**

Leaders whose decisions directly affect the lives of thousands and, in some cases, millions of people are often far away and insulated from the impact of those decisions. Planning and participation in mass violations may take place in comfortable offices and palaces, far from the suffering and screams that the decisions cause. Some commanders and leaders will actually be unaware, or only partially aware, of the impact of their decisions, and the majority of the population may be totally ignorant of them, as journalists and others seeking to uncover the truth are often targeted and blocked during periods of mass crimes.

Even when the truth of what has happened has been recorded and written many it reaches only those who have access to it, and may be discounted by perpetrators through claims that it is biased or a fabrication by the writer. Even in a best-case scenario, the written words, although powerful, do not hold the same potential force to touch and affect us as a personal, oral testimony from someone speaking about what he or she has experienced.

Following a transition, official and non-official programmes provide victims with the opportunity to tell their stories publicly, often to large public audiences, during events that are also covered by national television and radio. Many victims welcome this opportunity, while others choose not to personally share their pain. For those who have the privilege to listen, the experience can be transformative. Hearing the voices of victims speaking of their personal experience of torture, rape, of the killing of their young children, or of their son being taken away in the night never to be heard of again is not easy. But it is impossible to deny the authority of victims' personal stories, and the effect is no longer intellectual or political but emotional and personal. The goals of the painful public truth-telling exercises conducted by TRCs, such as those completed in Thailand, Timor-Leste, and South Korea, and those currently operating in Taiwan, Nepal, and Indonesia (Aceh), are similar. They are to create a direct relationship between the listener and the victim; to transmit the reality of what impunity, conflict, and authoritarianism bring; to recognize and dignify the experience of the victims; and to create a national commitment to 'never again.'

### **12. The role of holding government to account in transitional settings falls on CSOs. Building an accountable society requires a movement, not sporadic interventions, and CSOs who lead those movements need consistent, long-term support and funding.**

In well-developed democracies, there are extensive 'cleansing mechanisms' designed to hold governments accountable. These mechanisms are recognized as essential elements of the government apparatus and funded from the national budget. These include offices such as Ombudspersons, the Auditor General, independent commissions and agencies dealing with corruption, and internal oversight mechanisms for the police, military and other institutions. Everyday front pages of prominent newspapers in developed democracies reflect the national priority of accountability. Those publications are dominated by articles on whether leaders and government entities have misspent funds, abused their authority etc. Despite this, international partners and donors often do not recognize that this major focus on holding governments to account is even more important in transitional contexts struggling to deal with deep cultures of impunity, corruption, and nepotism.

In transitions from mass violations, the 'cleansing mechanisms' may not yet be established. Even if they exist the mechanisms are often infected by the participation and influence of individuals seeking to obscure accountability for past and present violations. In fragile transitions the task of holding governments to account, probably the most crucial element required to build a sustainable democracy is highly unlikely to be filled by the government agencies. Effective official systems of checks and balances are absent, so this massively important role falls largely to CSOs.

Donors often approach these CSOs with limited funding assistance and a requirement that they develop a base that is economically sustainable within a certain period of time. This is an illogical and totally unrealistic expectation that, if followed, will guarantee the failure of the goal of accountability. The role of the CSOs is not short-term and they are not businesses with a commercial product to sell. The function of those organizations during transitions is akin to essential services such as those provided by police and fire departments. Those services too are vitally important but nobody could expect them to become self-supporting and economically sustainable. Holding governments to account is a critically important role. It is unlikely to be paid for or carried out by governments characterised by high levels of corruption and nepotism. The logical conclusion is that funding the CSOs that undertake the essential role needs to be substantial, consistent and long-term. The jargon of becoming sustainable is no more applicable than it is to police services, so should be discarded.

**It is the responsibility of the government to ensure that the victims too are recognized, accompanied, and empowered to take an active role in the transitional discussions and that they receive meaningful and appropriate reparations as soon as possible.**

### **13. Victims rights should not be given less priority than programmes for veterans and ex-combatants. Victims are often left at the back of the line, behind others who are more aggressive and have louder voices.**

The majority of survivors of mass violations are poor, often illiterate, relatively powerless, and often have taken no active role in the conflict. Because they are not part of a strong, organized group, not well-educated or well-connected, and lack a strong voice, they find themselves continuously pushed to the back of the line in negotiations for assistance during a transition. Members of armed groups are also highly deserving of support but often hold a very different position. They have well-developed organizational structures and a strong position from which to barter. For example their demands may be backed by threats to resume fighting, or their leaders may have become government leaders during the transition. Ex-combatants are often provided significant benefits as part of programmes focused on Disarmament, Demobilization, and Reintegration (DDR). In a number of transitional contexts, such as Timor Leste, Aceh and Nepal, resentment has arisen due to a failure to adequately deal with victim claims whilst veterans are relatively well cared for.

It is the responsibility of the government to ensure that the victims too are recognized, accompanied, and empowered to take an active role in the transitional discussions and that they receive meaningful and appropriate reparations as soon as possible. The vulnerability of the victims, the fact that they are likely not to be highly organized, are spread across geographical areas and often lack relevant knowledge and political connections, needs to be recognized and reflected in approaches that include reparations and empowerment.

### **14. The relevance of transitional justice to Asian contexts is often underestimated and not appropriately included in international events, policy, and practice.**

It is not uncommon for international events dealing with international justice and TJ to lack a focus on Asia, based on a misinformed view that 'not much is happening in terms of TJ in Asia.' This is far from the truth. Asia includes more than half of the world's population and many of the worst cases

of mass crimes of the twentieth century.<sup>13</sup> In response to those events a broad range of TJ initiatives, both official and unofficial, continue to be pursued across the region.

The countries of Asia are under-represented in terms of membership of the International Criminal Court, with only 19 of the 123 state parties from the entire Asia Pacific Region. However, the ICC has recently commenced preliminary examinations in relation to the mass killings connected to the so called "war on drugs" in the Philippines and the crimes committed against the Rohingya during the attacks that led to their mass forced deportation into Bangladesh, as well as Afghanistan, Iraq and Palestine. Hybrid tribunals have been established for crimes committed in Timor-Leste, Cambodia and Lebanon. National trials for international crimes have been held in specialist courts in Indonesia and Bangladesh, and mass crimes have been tried under the domestic criminal courts in various other countries. TRCs have been held in Timor-Leste, Thailand, and South Korea, and are currently being implemented in Taiwan, Aceh (Indonesia), and Nepal. Draft laws establishing TRCs are under consideration in Indonesia and Sri Lanka, and official reparations policies have been implemented in a broad range of Asian contexts including Nepal, Aceh, Timor-Leste, and Thailand.

Many outstanding TJ examples of reform in Asia also demand international attention and study. The following are just a few examples: In relation to reform, the Indonesian Anti-Corruption Commission (KPK) was established in 2002 as part of the transition following the Suharto dictatorship. The KPK has been responsible for conviction and imprisonment of over 400 mid to high level government officials, including scores of Members of Parliament, Governors and all the Commissioners of the Electoral Commission.<sup>14</sup> Timor Leste's Centro Nacional Chega is one of the few permanent institutions established with a mandate to implement the recommendations of a TRC. The current Aceh TRC is the world's first permanent TRC. In the Philippines, the Presidential Commission on Good Governance has recovered approximately \$USD 4 billion of

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<sup>13</sup> The estimated death toll alone in Asia includes approximately 30 million in China during and following the Cultural Revolution; 1-2 million during an anti-Communist coup in 1965 in Indonesia; 100,000-200,000 during Timor-Leste's struggle for independence; 30,000 in Aceh, and 30,000 in Papua in Indonesia; and 1.7 million in Cambodia during the reign of the Khmer Rouge.

<sup>14</sup> Against the odds: anti corruption reform in Indonesia. Sofie Arjon Schutte; Public Admin. Dev. 32, 38-48 (2012) Published online in Wiley Online Library (wileyonlinelibrary.com) DOI: 10.1002/pad.623

**Increasingly during transitions there is a call for a gender-sensitive approach and the inclusion of women at every step of the development and implementation of TJ strategies and mechanisms.**

former President Marcos' stolen wealth.<sup>15</sup> A Human Rights Claims Board has provided compensation to more than 11,000 claimants. In Bangladesh, an official government reparations programme recognized the 1971 victims of rape (estimated to be approximately 300,000) as heroes, providing them with reparations that included recognition and skills training.

### **15. Despite increasing rhetoric about gender balance, women are not equally included at every stage of TJ mechanisms.**

Conflicts almost always include situations in which women are subjected to mass crimes, including rape and other forms of sexual violations, often committed by members of government security forces who are protected by blanket impunity, and by members of other armed groups. Women victims' suffering is often multi-layered. When the men of a village join armed groups or must flee for their safety, the role of support for the family falls totally on the shoulders of the women. In the absence of the family's primary bread-winner, women struggle to feed their families, defend them against attacks and violations, find resources to send their children to school, and bear the overall responsibility of providing support in very difficult circumstances. Often members of armed groups and other males prey on women whose husbands are no longer present.

Increasingly during transitions there is a call for a gender-sensitive approach and the inclusion of women at every step of the development and implementation of TJ strategies and mechanisms. Despite this, the results in terms of gender balance and sensitivity continue to be disappointing. Women are under-represented as judges, prosecutors, and investigators in criminal processes and as Commissioners and staff in TRCs, Commissions of Inquiry, and other mechanisms. Cases involving women victims have not been appropriately prioritized in criminal trials. Only one conviction for rape as an international crime—a crime against humanity—has been achieved in Asian prosecutions, specifically the Lolotoe case in the Timor-Leste UN-supported Special Panels process.<sup>16</sup>

<sup>15</sup> Recovering Marcos' ill-gotten wealth: after 30 years what? Philip M Lustre Jr. <https://www.rappler.com/newsbreak/in-depth/123664-recovering-marcos-ill-gotten-wealth-30-years>

<sup>16</sup> Cardoso Ferreira (alias Mouzinho) was convicted by the Special Panels for Serious Crimes, Dili, Timor-Leste on 5 April 2003, <https://www.etan.org/et2003/april/04/07sculol.htm>

Many examples of other practices do not follow the obligations and rhetoric relating to gender sensitivity. In a recent instance, following the mass rape of Rohingya women by Burmese military personnel in August 2017, human rights organizations and media agencies quickly sent staff to the Bangladesh camps where many different people repeatedly interviewed the same victims of rape. This re-traumatization and objectification of victims had been identified as a serious problem in many previous situations but did not prevent the same mistakes being made again. The interests of the individuals tasked with the interviews and the organizations they represent were once again given priority over potential damage they may have done to the individual victims.

### **16. "All sides were equally responsible" is usually not true. This is a myth often promoted by the side that was most responsible.**

Following resolution of a conflict, it is common to hear a narrative that 'all sides were equally responsible so let's let the past rest and move on.' In Timor-Leste following the 1999 transition to peace, the claim was repeatedly made that the responsibility for violations lay equally with the pro-independence armed groups and the Indonesian security forces. Similar claims have been made in Sri Lanka, Myanmar, and other conflict areas. However, deeper investigations show that often such claims of equal responsibility are untrue.

One of the core functions of a TRC is to gather the testimonies of as many victims and witnesses as possible, to record the circumstances of each violation, the identity of the victim and perpetrator group, and to make official findings based on those accounts. For example, in South Africa, 20,000 statements were collected. The Timor-Leste TRC (CAVR) recorded over 8,000 statements. Analysis of the CAVR statements revealed that the claim of equal responsibility was clearly wrong, with 85% of the violations committed by the Indonesian security forces and their proxy militia and less than 15% by the pro-independence forces.

### **17. Freedom fighters and independence advocates may soon become corrupt and resemble those whom they fought so hard to replace.**

Those involved in the struggle for rights and self-determination often comply with high levels of sacrifice and integrity demanded during the period of struggle. They are also likely to support justice, truth, and the rights of victims during the early days of the transition. However, as time passes, many freedom fighters who lived for years in the forest become



**Former guerillas and the generals and cronies whom they once fought grow closer and form alliances, and the cycles of corruption, nepotism and impunity begin again.**

comfortable in their seats of power in town. They succumb to the seduction of corruption, justifying it in terms of repayment for their years of sacrifice. As they are now involved in illegal and immoral practices, they need to ensure that the truth is not known and that journalists are not able to report on them. Their commitment to accountability diminishes and they gradually come to resemble those whom they fought against for years. Former guerillas and the generals and cronies whom they once fought grow closer and form alliances, and the cycles of corruption, nepotism and impunity begin again.

### **18. The control and theft of natural resources are key contributing factors to most situations of mass violations.**

A common root cause of mass violations across the Asia region is grand theft of a nation's resources through the illegal extraction and sale of natural resources. Control over industries such as logging and mining is difficult even in well-ordered societies. When laws and their enforcement have become tools for the enrichment of authoritarian regimes or areas are controlled by renegade armed groups such control becomes impossible. Massive riches are siphoned into the pockets of leaders and cronies with a devastating effect on the environment and livelihood base of local populations. Many TRC's and other truth seeking mechanisms have found that mass human rights violations are committed for purposes of hiding and removing opposition to the theft of the nation's wealth.

It may suit the interests of security forces to prolong and renew conflict as this can increase the importance of their role and their access to illegal resources. A key reform during transitional contexts is limiting the role of the military from social and political areas to defense, and returning personnel from deployment in villages across the country to their barracks. However, this reform often requires the military to move from remote conflict areas where they have been able to reap massive economic profits from illegal logging, mining, and other businesses. In a number of post-conflict settings in Indonesia, Myanmar, Thailand and the Philippines it is suspected that security forces have provoked new conflicts in resource-rich areas in order to justify their continuing presence.

### **19. Legal aid is an important post-conflict reform often not included in the TJ framework.**

As mentioned above the widespread practice of torture and the lack of fair trials are legacies of the past that often continue after a transition to democracy. One of the most effective steps to break this cycle is to provide every person arrested and detained with a free, independent lawyer. The provision of legal aid is often seen as unrelated to TJ. However, providing free access to legal advice and representation is a key element in preventing violations that link the past to the future - including torture, disappearances and illegal detention.

During a transition one of the major goals of institutional reform is to re-establish fair trial rights. The widespread use of torture to force a suspect to confess removes the obligation of police to conduct a thorough investigation and corrupts the professional integrity of judges and prosecutors. In contexts including Indonesia, Vietnam, Nepal, Sri Lanka and Myanmar the use of torture by police coerce confessions is commonplace.<sup>17</sup> When this is condoned and impunity prevails individuals who enjoy those expressions of power and violence are drawn to roles in the police service, seriously weakening the institution and diminishing the respect of the population.

An interesting approach to reducing torture during a transition was conducted by a Nepalese CSO, Advocacy Forum, who found that by the relatively simple program of organizing regular visits of legal aid lawyers to police stations a dramatic reduction in rates of torture were achieved.<sup>18</sup> In many transitional contexts governments and donors strongly condemn the practice of torture while cutting back support for independent legal aid practitioners, an illogical approach in the light of experience across the region.

### **20. It is unrealistic to expect weak national criminal justice systems to suddenly be able to comply with international fair trial standards, unless they receive substantial assistance.**

Bringing perpetrators to account in the countries where the crimes were committed has many advantages. The courts are close to victims and witnesses. They are much cheaper, allow for local ownership of the process and can help develop the capacity of national judges, prosecutors, and investigators. The broader society has an opportunity

<sup>17</sup> Research conducted by the largest implementing legal aid organization in Indonesia, LBH Jakarta found that the majority of individuals taken into police custody experienced some form of torture. Report of the Working Group on Advocacy against Torture, 2013, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IDN/INT\\_CCPR\\_NGO\\_IDN\\_14749\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IDN/INT_CCPR_NGO_IDN_14749_E.pdf)

<sup>18</sup> Program conducted by Advocacy Forum, Nepal. Interview with Mandira Sharma, former Executive Director 2017.

to witness the proceedings and participate in the discussions and issues around the trials that they do not have if the process takes place in an international court far away.

However, these advantages need to be balanced with the fact that mass crimes are usually committed in contexts in which the legal systems are corrupt and weakened through systematic manipulation by authoritarian regimes and conflict. Judges and prosecutors lack knowledge and experience relating to international crimes and may find it difficult to withstand pressure in the form of rewards, threatened harm and political interference.

One recent example of these tensions has been the experience of the Bangladesh International Crimes Tribunal established in 2009 to try those responsible for the 1971 mass crimes that took place in the context of the creation of the new state of Bangladesh. The violence in which members of the Pakistani army and local supporters were implicated caused the death of an estimated three million people and victims groups had worked tirelessly for almost 40 years, seeking the establishment of a tribunal to try those responsible. Despite the achievement of their goal international human rights organizations have reported serious flaws in the manner in which some of the trials have been conducted, contributing to serious rifts in the society.<sup>19</sup>

Following the 1998 transition from military dictatorship in Indonesia the national parliament passed a new law establishing a system of Human Rights Courts.<sup>20</sup> To date 18 of the 34 individuals tried in those courts were found guilty after trial, but all convictions have been overturned on appeal by the superior courts.<sup>21</sup>

These two examples illustrate the complexities that may arise in domestic contexts even when the major challenge of gaining sufficient political will to hold trials for past mass crimes has been overcome. Many Asian leaders, particularly those who have been implicated in the past violations, resist calls for hybrid tribunals in which international investigators, prosecutors, and judges join national counterparts. One current example is Sri Lanka where there is ongoing strong debate over this issue. Although there are a range of theoretical advantages in establishing a process that is totally nationally 'owned,' in practice weak and politicised national legal systems may benefit greatly from the international legal experience and added objectivity that a hybrid process can offer.

<sup>19</sup> See Human Rights Watch: Bangladesh: War Crimes Verdict Based on a Flawed Trial. (New York) March 22, 2016

<sup>20</sup> Indonesian national Law No 16/2000

<sup>21</sup> See Intended to Fail: the Trials Before the Ad Hoc Human Rights Court in Jakarta. David Cohen 2003 ICTJ <https://www.ictj.org/publication/intended-fail-trials-ad-hoc-human-rights-court-jakarta>

## ANNEX: EXAMPLES OF OFFICIAL TJ MECHANISMS IN ASIA

### Prosecutions

#### *International Courts*

- ICC preliminary examination regarding Bangladesh/Myanmar: A preliminary examination into alleged crimes committed against the Rohingya population in Myanmar and their deportation into Bangladesh as well as potentially other crimes (initiated in 2018).
- ICC preliminary examination regarding the Philippines: A preliminary examination into alleged crimes since 1 July 2016, in the context of the so-called 'war on drugs' in the Philippines (initiated in 2018).
- ICC preliminary examination regarding Afghanistan: A preliminary examination into alleged crimes committed in Afghanistan since 1 May 2003 (initiated in 2017).
- ICC preliminary examination regarding Iraq/UK: A preliminary examination into alleged crimes committed by UK nationals during the Iraq conflict and occupation from 2003 to 2008 (reopened in 2014).
- ICC preliminary examination regarding Palestine: A preliminary examination into alleged crimes committed in the occupied Palestinian territory, including East Jerusalem, since 2014 (initiated in 2015).

#### *Hybrid Courts*

- The Extraordinary Chambers in the Courts of Cambodia (ECCC): A hybrid court in Cambodia created to try senior leaders of the Khmer Rouge and those most responsible for crimes perpetrated between 17 April 1975 and 6 January 1979 (established by agreement between Cambodia and United Nations in 2003).
- The Special Panels of the Dili District Court: A hybrid court in Timor-Leste created to try "serious criminal offenses" that took place in Timor-Leste between 1 January and 25 October 1999 (2000-2006).
- The Special Tribunal for Lebanon: A hybrid court tasked with trying those accused of carrying out the 14 February 2005 attack, which killed 22 people (2009-present).

#### *National Courts*

- Ad Hoc Human Rights Courts in Indonesia: Ad hoc courts were established to hear cases arising from East Timor (courts established in 2002) and from Tanjung Priok (courts established in 2003).
- Indonesia Permanent Court of Human Rights: A permanent court with jurisdiction to try cases from 2000 onward heard cases arising from Papua (2004-present).

- International Crimes Tribunal, Bangladesh: A specialized national court which has tried, among others, several members of the Pakistan Army for crimes committed during the 1971 genocide (formally established in 2010, though it was a 1973 law passed by the Bangladesh parliament that provided for its establishment).

### Truth and Reconciliation Commissions

- South Korea: Jeju 4.3 Committee (2000-2009)
- Timor-Leste: Commission for Reception, Truth and Reconciliation (CAVR, 2002-2005)
- Indonesia and Timor-Leste: The Indonesia - Timor-Leste Commission on Truth and Friendship (a bi-national commission with Commissioners from both countries, 2005-2008)
- The Solomon Islands: The Solomon Islands Truth and Reconciliation Commission (2009-present)
- Thailand: Truth for Reconciliation Commission of Thailand (TRCT, 2012)
- Nepal: Truth and Reconciliation Commission of Nepal (2014-present)
- Nepal: Commission of Investigation on Enforced Disappeared Persons (CIEDP, 2015-present)
- Indonesia: Aceh Truth and Reconciliation Commission (a permanent commission established in 2016)
- Taiwan: Transitional Justice Commission (2018-present)

### Post-TRC Implementing Institutions

- The Chega! National Centre (CNC): A permanent institution created in 2017 to focus on implementing the recommendations of the Timor-Leste TRC (CAVR) and Indonesia-Timor-Leste truth commission (CTF).
- Committee to Coordinate and Follow-up on Actions Taken to Implement the Recommendations of the Truth for Reconciliation Commission of Thailand (ITRCT).

### Official Reparations Programs:

- Timor-Leste: With funding from the World Bank, the Timor-Leste TRC (CAVR) implemented an urgent, interim reparations program that provided approximately USD200 to roughly 700 victims.
- Indonesia: In Aceh, the local government paid a post-conflict 'diyat,' an Islamic form of reparations, in the amount of USD300 to approximately 20,000 widows of persons killed during the conflict.
- Philippines: The government established a Human Rights Victims' Claim Board for victims of violations during the Marcos era to seek reparations, which are funded by the recovery of assets from former President Ferdinand E. Marcos.
- Nepal: The Ministry of Peace and Reconstruction administered cash grant payments of approximately USD1400 to almost 14,000 victims or their family members under an "interim relief program." The programme also provided scholarships, medical treatment, and skills training to some victims.
- Bangladesh: The government has recognized the Beerangonas, war heroines, as freedom fighters and given them a monthly pension, free travel on public transport, and health services in government hospitals.
- Cambodia: The Extraordinary Chambers in the Courts of Cambodia (ECCC) has provided for collective and moral reparations for victims of the Khmer Rouge.
- South Korea: In 2015, the governments of South Korea and Japan reached a deal whereby the Japanese government would issue a formal apology for forcing Korean and other Asian women to work in brothels during World War II as "comfort women" and would pay 1 billion yen (approximately USD8.8 million) to the surviving Korean victims. However, as of late 2018, the deal still was not fully implemented and was the subject of great controversy.
- Thailand: In 2012, the government agreed to pay a total of 7.75 million baht for each person killed between 2007 and 2010 in the political unrest in the south. In 2013, the government provided a total of 97 million baht (nearly USD3 million) to the families of those killed or maimed by insurgency-related violence in Narathiwat.
- Sri Lanka: In 2018, the government passed into law the "Office of Reparations Bill," which formally establishes an office to administer collective and individual reparations.





