



The Essential Role of the Informal Mechanism in Restorative Justice Related to the 1965-1966 Incident in Palu-Indonesia

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Abstract

The mechanism of transitional justice is categorized into formal and informal mechanisms. Formal mechanisms are generally understood as mechanisms implemented by state institutions or international bodies, usually using procedural justice and accountability standards. In contrast, informal mechanisms are not required to meet these standards and are carried out by a non-government or non-international body. In many transition countries, the informal mechanism is often only used as a complementary (not a primary) mechanism to the formal one. This study discusses the role of the informal mechanism initiated by the solidarity of victims of human rights violations (non-government organization) of Central Sulawesi, which succeeded in realizing restorative justice related to the 1965-1966 events in Palu. This research uses a qualitative case study method. This study found that informal mechanisms can play a primary role (not just complementary to formal mechanisms) in realizing restorative justice through truth-seeking, grassroots reconciliation, apology, forgiveness, and victim reparations.

Keywords: *Transitional Justice; Restorative Justice; The 1965-1966 incident; SKP HAM Central Sulawesi; Palu Regional Government*

Historical Background

On September 30, 1965, several military officers sympathizing with PKI carried out a failed coup attempt called G30S/1965. They kidnapped and killed six army generals in Lubang Buaya, East Jakarta. Nevertheless, there are several versions of the mastermind behind the G30S/1965. There are at least five versions of the "scenario" that triggered the G30S/1965 incident: (1) PKI (the Indonesian Communist Party) was the mastermind; (2) it was due to internal army affairs; (3) President Soekarno was in charge; (4) Soeharto was behind the plot; and (5) it was the intelligence community and the CIA (Sumarkidjo 2000; Adam 2001).

After the G30S/1965 failed coup, the Army, led by Soeharto, spread anti-communist propaganda. A purge of the PKI lasted from October 1965 to March 1966. The Army conducted a military operation in Central Java, and they succeeded in destroying one of PKI's most established garrisons (Sulistyo 1997). However, the Army engaged several Islamic groups and others to kill some 500,000 people accused of being communists (Hindley 1967: 245). These arrests and killings quickly spread throughout Indonesia through military action and civil conflict. Hundreds of thousands of PKI were killed, others exiled to Buru Island as political prisoners, while the female political prisoners were exiled to Plantungan.

Melvin (2018) emphasized the existence of a chain of command in eradicating the PKI. The Indonesian military leadership led and coordinated to destroy the PKI as a political force, facilitating the military's rise to power. In line with Melvin's viewpoint, Anderson (2013:1) argued that such an extensive operation, which killed an estimated one million unarmed civilians and occurred nationwide, would not have been possible without extensive coordination and planning.

The Urgency of Transitional Justice in Indonesia

After the collapse of the New Order Military Regime in 1998, various demands emerged to resolve various massive human rights violations of the New Order regime, including in the context of the 1965-1966 incident. These demands were voiced by human rights groups and the victim associations of the 1965-1966 incident. Some of these non-government organizations include Komnas HAM (the National Human Rights Commission), KontraS (the National Commission for Missing Persons and Victims of Violence), and Elsam (the Institution for Community Studies and Advocacy). KontraS, which has a network of civil society organizations that care for victims of human rights violations in the 1965 incident, fights for the state to fulfill the rights of victims, which include the right to truth, the right to justice, the right to reparation, and the right to guarantee that human rights violations will not be repeated (Kontras 2012).

Transitional justice is one way to solve the dilemma between resolving past gross human rights violations and avoiding provocations from the remnants of past regime forces. This is a set of judicial or non-judicial actions by various countries to deal with the legacy of massive human rights violations (Farid et al., 2004). Transitional justice is an appropriate mechanism so that the settlement of past gross human rights violations does not lead to new violence. Unfortunately, national initiatives for transitional justice in Indonesia have consistently failed. Amid the state's formal mechanism's failure, the informal mechanism initiated by SKP-HAM Central Sulawesi succeeded in realizing restorative justice related to the 1965-1966 incident in Palu.

Method

The type of research used is the qualitative method. There are five types of qualitative research: narrative, phenomenological, grounded theory, ethnographic, and case studies (Creswell (2019)). This research uses a qualitative case study. Research data is divided into two types of data, namely primary data and secondary data. Primary data results from interviews with key informants; secondary data consists of the results of previous studies and various documents related to research studies. Qualitative research data collection procedures involve four strategies: observation, interviews, documentation, audio and visual materials, and Focus Group Discussion (FGD).

Results and Discussion

Transitional Justice

The discourse of transitional justice as a field of academic research emerged in the late 1980s and early 1990s as part of the third wave of democratization, explicitly referring to the transition from authoritarian regimes to liberal democracies. Human rights activists demand that the previous regime's

human rights abuses be dealt with without jeopardizing the "transition to democracy." People are beginning to refer to this new multidisciplinary field as transitional justice (Huntington 1991; ICTJ 2009). Transitional justice is a process of confessing, prosecuting, compensating, and pardoning past crimes, either post-conflict or post-authoritarian; a justice concept adapted to the context of a society that is transforming itself after severe human rights violation; a concept of interventional justice in a period of political change characterized by juridical actions against the human rights violations of past regimes. These measures include criminal prosecutions, truth commissions, reparation programs, and institutional reform (ICTJ 2009; Teitel 2000)

Theidon (2006) states that transitional justice has developed rapidly and has become an essential component of liberal peacebuilding processes and instruments of democratization. While Eisikovits (2017: 3) described the vital goals of transitional justice as follows: (1) to establish an accurate record of past human rights violations; (2) to prepare a utilitarian bureaucracy and civil service capable of serving the wishes of the population productively; (3) to help victims to restructure and improve their lives, restore their property, and provide them with compensation; and (4) to stop violence and strengthen solidarity to create safe civilian life and strengthen trust in the new government. There are various mechanisms for realizing transitional justice in different countries. Nevertheless, the transitional justice mechanism referred to in various literature is a formal mechanism implemented by a state institution or international body. They are supported by, funded, and operate under these agencies (Quinn 2005). Two transitional justice mechanisms often used by countries in transition from authoritarian regimes are retributive justice and restorative justice. Retributive justice emphasizes the importance of prosecuting perpetrators, re-establishing the rule of law, and reforming security and the justice system. Meanwhile, restorative justice emphasizes revealing the truth about the past, healing victims, and rebuilding society through reconciliation and collective memory (Kora 2010).

Retributive Justice

Retributive justice emphasizes the importance of justice as a response to collective crimes, which is politically significant. Dwyer (1999) asserts that reconciliation without punishing criminals is considered to promote reconciliation at the expense of justice. The function of punishment is to fight impunity and prevent future violence recurrence; punishment commensurate with the offense is the best response to crime (Cragg 1992:15). According to Meyer (2014), retributive justice focuses on punishing lawbreakers and compensating victims; in general, the severity of the sentence is proportional to the severity of the crime and the right way to deal with the problems caused by criminals (Murphy 2017). Hershenov (2010) adds that the court mechanisms for perpetrators of human rights violations provide complete insight into paying past debts, doing penance, alleviating guilt, not granting impunity, and being a means of channeling the deep feelings of revenge from the victim positively. Trials and punishments are carried out on three crucial grounds as described by Markel (1999): (1) affirming the dignity of the perpetrator by treating him as a responsible moral agent; (2) placing equality before the law; (3) as a defense of the state over its decision-making authority. According to Kasapas (2008: 63), the functions of retributive justice are: (1) as a deterrent to personal revenge; (2) breaking the cycle of impunity and preventing future offenses; (3). fulfill moral obligations to victims, (4) restore functional relations between victims and perpetrators, and (5) assure that the perpetrators of violence/war crimes will not maintain their position of power in the new democracy.

Restorative Justice

Restorative justice is a normative theory of social improvement that does not focus on the perpetrator in the victim's interests and shifts justice back to the affected community (Braithwaite 2000). Unlike retributive justice, restorative justice defines crime as the harm done to people and relationships and emphasizes rebuilding social relations between victims, perpetrators, and affected communities. The

main goal of restorative justice is healing or social restoration (Zehr 2002:187). Howse (1998: 1) adds that restorative justice is related to restoring social relations by rebuilding social equality in relationships. Restoring a relationship does not mean restoring a personal or intimate relationship but rather a social relationship of equality. That is a relationship in which everyone's rights to equal dignity, care, and respect are fulfilled. The prevailing view reflected in restorative justice is that justice cannot be done without considering the need for redress that has arisen from past wrongful acts/crimes. The restorative approach "defines transitional justice as an attempt to address the damage suffered by individuals and society due to past crimes." It emphasizes not individual punishment but the restoration of the collective experience of relationships (Leebaw 2003: 27–28).

Regarding social equality, restorative justice inherently demands that one pays attention to the nature of the relationship between individuals, groups, and communities. Thus, to achieve rapprochement, restorative justice must consider the form of wrongdoing and the relevant context and causes. The basic assumption of restorative justice is as follows: crime does not primarily violate the law but conflicts between individuals; it is harmful to individuals and affects society and perpetrators (Kora, 2010). Restorative justice aims to democratize social control over punishment by making its methods more participatory; community members must actively participate in repairing wounds and strengthening social fabrics (Ness 2014: 30)

These characteristics reveal the primary goal of restorative justice: to give decision-making power to those most affected by crime, make justice more about healing, and reduce the likelihood of future abuses. As a means to this end, restorative justice focuses on the direct and indirect effects and consequent needs of all parties affected by crime. All parties have the opportunity (voluntarily) to participate in crime prevention. Victims who have experienced a loss of power due to crime receive the opportunity to restore control in their lives. Offenders must take responsibility for helping victims and reinforcing community values of respect for others (Zehr, 2002)

Implementing restorative justice on mass atrocities in post-conflict situations is generally carried out through the Truth and Reconciliation Commission. The main goal of restorative justice is healing or social restoration. This study found that the informal mechanism initiated by civil society (SKP-HAM) can play an essential role in uncovering and recording the collective past events of society and resolving them peacefully by adopting strategies such as truth-seeking, apology, forgiveness, and victims reparation.

The Failure of Formal Mechanism for Transitional Justice Initiated by the Central Government

In 1998 the Suharto regime fell, and Indonesia transitioned from an authoritarian regime to a democracy. It was a good momentum to resolve the human rights violations, specifically related to the 1965-1966 incident, which claimed the lives of 500,000 to 1,000,000 people. Responding to public demands, the Indonesian government has adopted various transitional justice mechanisms to resolve the past regime's gross human rights violations. President B. J. Habibie adopted a retributive justice mechanism by enacting Law No. 26/2000, considering the Human Rights Court. With the enactment of this law, Indonesia has a basis for prosecuting gross human rights violations perpetrators. President Abdul Rahman Wahid attempted to adopt a restorative justice mechanism by drafting the Truth and Reconciliation Commission Law (from now on, TRC). The TRC Law was later ratified during the Presidency Megawati in 2004. However, the Constitutional Court (MK) annulled the TRC Law through Decree No. 006/PUU/2006.

Furthermore, The Indonesian National Human Rights Commission (Komnas HAM) investigated the 1965-1966 Incident, from June 1, 2008, to April 30, 2012. The results showed sufficient preliminary evidence to suspect that crimes against humanity had occurred, a violation of gross human rights. Based

on this conclusion, Komnas HAM recommended that the Attorney General follow up the research results with an investigation. However, even though Indonesia has experienced presidential succession five times, the formal mechanism initiated by the central government consistently failed. Amid the state's formal stagnation, the informal mechanism initiated by SKP-HAM Central Sulawesi succeeded in realizing restorative justice in Palu through truth-seeking, grassroots reconciliation, apology, forgiveness, and victim reparation.

The Informal Mechanism for Restorative Justice Related to The 1965-1966 Incident in Palu

Human Rights Violations in the 1965-1966 Incidents in Palu

Followed the G30S/1965, a failed coup in which PKI was accused of being the mastermind, a wave of protests demanding the disbandment and purge of PKI occurred in almost all parts of Indonesia. Protests also took place in Palu from October 1965 – to February 1966, followed by a wave of arrests, detentions, and imprisonments of PKI members. Mass violence related to the 1965 incident in Palu occurred in four waves 1965; 1965-67; 1969-70; 1975 (Surya, 2016). From the data compiled by SKP-HAM, 1,210 people became victims of human rights violations, starting from Palu, Sigi, Donggala, and Parigi Moutong. Human rights violations continued with the stigmatization of victims and their families. Based on the research and verification team report, 16 forms of human rights violations occurred related to the 1965/1966 incident in Palu City (Firdaus et al., 2015). The types of human rights violations and the number of victims of the 1965-1966 incident in Palu can be seen in Table 1.

Table 1. Types of Human Rights Violations and the Number of Victims

No.	Types of Violations	Number of Victims	
		Male	Female
1.	Forced labor	650	143
2.	Compulsory reporting	577	204
3.	Torture	247	23
4.	Arbitrary arrests	219	28
5.	Arbitrary detentions	117	19
6.	Taking and ending sources of livelihood	43	6
7.	Cruel treatment	20	15
8.	Extortion	20	2
9.	Theft/ looting/ robbing of goods	10	2
10.	Unfair trials	11	0
11.	Lack of income	10	0
12.	Forced disappearance	4	0
13.	Sexual violence	0	4
14.	Burning and damage of homes and personal belongings	3	0
15.	Attempted executions	1	0
16.	Rape	0	1

Truth-Seeking and Grassroots Reconciliation

Truth-seeking is one of the crucial mechanisms to apply in actualizing transitional justice. Zalaquett (1995) stated that revealing the truth is vital for dealing with a dark past. Telling the truth could end the suffering of victims and survivors without information about who is responsible for the crimes. SKP-HAM started truth-seeking by fighting for women who survived the 1965-1966 incident who were arrested, detained, or whose husbands were arrested, detained, or killed. To reveal the bitter experiences of the women who survived the 1965-1966 incident, Ela (Secretary-General of SKP-HAM) met them in Palu, Sigi Regency, and Donggala Regency (Interview with Nurlaela Lamasitudju 2021).

Furthermore, since 2006 the survivors' meetings have been held at the SKP-HAM secretariat. In the meetings held on the 13th of every month, telling stories is a method of revealing the truth from survivors. SKP-HAM obtained much information from this meeting about the number of victims, places of detention, shooting locations, and even victims who committed suicide. From these stories, an idea emerged for reconciliation at the family level (Interview with Nurlaela Lamasitudju 2021).

SKP-HAM then identified a need to engage other members of society, especially the local authorities, in discussing truth and reconciliation on the 1965-1966 incident. They started with village-level meetings with local villagers, door-to-door visits, and later meetings with village leaders (*lurah* and *camat*) and religious leaders to discuss issues related to human rights. The topics included national laws related to human rights, the Truth and Reconciliation Commission, and the 1965 mass violence. They called this program *Diskusi Kampung* (village discussions). The truth-seeking was also carried out by launching the book 'Breaking Silence,' edited by Putu Oka Sukanta, author and a former political prisoner. A book containing testimonies from victims of the 1965-1966 Incident (Wahyuningroem 2018: 33). Efforts to reveal the truth regarding the 1965-1966 violence victims reached their peak when SKP-HAM held a public event/ open dialogue with the title "Stop Human Rights Violations" in Gelora, Palu, on March 24, 2012.

In this dialogue forum, SKP-HAM invited the victims and perpetrators. One of the perpetrator's representatives, Sergeant Bantam, and a victim's representative, Rafin, testified on stage. The two parents embraced as they stood on the stage to testify, even shedding sad and happy tears. According to Rafin, Bantam was not only a soldier who looked after the prisoners but also became a friend to him. On the other hand, the Bantam sergeant said that hundreds of PKI people in Palu were good people, including the four killed leaders. This testimony was witnessed and heard by dozens of guests, ranging from students, journalists, artists, culturalists, NGO activists, party activists, regional representative council members, and the mayor of Palu. Next, in his greeting, the mayor of Palu, Rusdi Mastura, apologized to the victims and survivors of the 1965-1966 incident. Because at that time, as a student active in the boy scouts, he received orders to arrest PKI people and hold them in detention. Before Rusdy Mastura apologized, Shinta, one of the children of the 1965-1966 violence perpetrators, also apologized to the victims on behalf of her father, a retired police officer (Interview with Lamasitudju, Secretary-General of SKP-HAM, 2021).

The open dialogue showed two kinds of reconciliation: grassroots and structural reconciliation. The testimony of Sergeant Bantam (a perpetrator) and Rafin (a victim) embracing on the stage described grassroots reconciliation. Furthermore, the apology from the mayor of Palu and his acknowledgment of his involvement in the arrest and detention of people accused of being PKI in 1965 became a starting point for structural reconciliation.

The success of SKP-HAM in actualizing the truth-seeking and cultural reconciliation at the grassroots level, which later developed into structural reconciliation in Palu, proves that informal mechanisms can play a primary role, not just a complementary one to formal mechanisms initiated by the

state. The SKP-HAM informal mechanism is a community-based conflict resolution model to address past gross human rights violations and restore social cohesion in the community. In contrast to formal mechanisms, which are top-down and involve less community participation, informal mechanisms involve bottom-up and more community participation. However, it must be acknowledged that informal mechanisms also have limitations, especially regarding the authority to decide on political policies such as conducting reparations for victims. Therefore, SKP-HAM lobbied Rudy Mastura (Mayor of Palu) to cooperate in planning a reparation program for the victims of 1965-1966 in Palu.

Palu Mayor's Apology

When all efforts to resolve the human rights violations of the 1965-1966 incidents at the national level failed, Rusdy Mastura (the Mayor of Palu City) apologized, both personally and on behalf of the Palu City Government, to the victims of the 1965-1966 incident in Palu (Gumilang, 2016). In addition, he also admitted being involved as a perpetrator because at that time, as a scout, he was also in charge of arresting and guarding PKI people. Furthermore, he emphasized that offering an apology to the victims would be meaningless without the victim's recovery. The consequence of an apology is to fulfill the victims' human rights so that they are no longer citizens who experience discrimination and stigmatization (Mastura, 2016).

As all the processes for resolving the human rights violations of the 1965-1966 incident at the national level failed, SKP-HAM collaborated with the local government of Palu to plan the reparation program for the 1965-1966 victims. The role of SKP-HAM in repairing victims of the 1965-1966 incident included documenting, verifying victims, and implementing the victim reparations (Interview with Lamasituju, 2021).

Forgiveness

Shriver (1995) states that forgiveness can be a strategy for resolving conflicts, including political conflicts. Forgiveness encourages reconciliation and genuine social transformation by restoring relations between victims and perpetrators and breaking the cycle of revenge and violence. Desmond Tutu (1999) asserts that without forgiveness, two opposing groups will not be able to achieve lasting reconciliation. He also supports the existence of collective forgiveness; if they collectively cannot forgive each other after the atrocities of the past, then there can be no future that is free from conflict, and thus no true collective reconciliation.

Based on the interviews with the victims regarding Rusdy Mastura's apology to the victims of 1965-1966. Generally, the victims of the 1965-1966 incident in Palu responded positively and expressed their gratitude for the apology and were able to forgive even though the reasons and expectations differed. Asman, one of the victims of 1965-1966 who was forced to work for 12 years in 18 forced labor locations, expressed his gratitude for the apology delivered by the mayor of Palu and the Palu Regional Government reparation program for victims. Now the victims of 1965-1966 feel that they have returned to being Indonesian citizens because there is no longer any discrimination against them, so that they can access Palu regional government programs (Interview with Asman, 2021). Furthermore, several other victims said, "I thank the Mayor of Palu who apologized to the victims of 1965; I hope that the rights of the victims will be restored (Interview with AJ, 2021); I am grateful for the apology conveyed by the mayor of Palu, I hope that in the future there will be no more violence and discrimination against citizens. Nevertheless, I want my father's body to be found (Interview with GRM, a child of a victim of enforced disappearance, 2021); "I thank the mayor of Palu for his apology; there should be no more discrimination and stigmatization of victims (Interview with JFR, 2021).

Reparation Program for the Victims of the 1965-1966 Incident in Palu

The first step in actualizing the victim recovery program was recording and verifying the number of victims of the 1965-1966 incident. Investigation and verification of the victims were carried out by the Palu Regional Government and Central Sulawesi SKP-HAM. The investigation and verification are legalized by Mayoral Regulation No. 25 of 2013 concerning RANHAMDA (Regional Human Rights Action Plan). The verification aims to ascertain the number of victims for implementing the 1965-1966 victim recovery program in Palu. The research and verification team for the victims of human rights violations of the 1965-1966 incident in Palu classified the victims into three categories. First, there are direct victims, namely those who have experienced human rights violations directly. Second, the affected victims are the victims' nuclear families (children and wife/husband). Third, some victims are affected indirectly, namely the descendants of the victims' close family members (the victims' grandchildren) and other relatives (Firdaus et al., 2015).

The data collection and verification were conducted in September-October of 201 and January-March of 2015. The final verification results noted 768 of the 1965-1966 victims in Palu. However, only 485 victims were willing to be verified and provide further information (Firdaus et al., 2015). The reparation program was implemented based on the verification data. The reparations program is realized by fulfilling the victims' fundamental rights, specifically in social and economic assistance. The program implementation was based on the Palu Regional Revenue and Expenditure Budget (APBD) capacity (Interview with Lamasitudju, general- secretary of SKP-HAM, 2021). The implementation reparation program can be seen in Table 2.

Table 2. The Reparation Program for the Victims of the 1965-1966 Incident

No	Program	Verification	Realization	In Process
1	Scholarships	101 people	25 people	-
2	BPJS (health insurance)	74 people	74 people	-
3	House renovations	82 houses	50 houses	32 people
4	Livelihoods	119 people	-	119 people
5	Toilets and bathrooms	37 families	7 families	30 families
6	Community empowerment	2 people	-	2 people
7	Family hope aid	106 families	-	106 families
8	Subsidized rice aid	22 families	22 families	-
9	Farming seeds	7 people	-	7 people
10	Free birth certificates	50 people	-	50 people
11	Clean water aid	14 houses	7 houses	7 houses
12	Free electricity aid	2 families	2 families	-
13	Skilled training	10 people	3 people	7 people

Conclusion

The formal mechanism initiated by the central government to resolve the incident of 1965-1966 has consistently failed in the middle of implementation. Amidst the failure of the formal mechanism, the informal mechanism initiated by SKP-HAM of Central Sulawesi succeeded in realizing restorative justice related to the 1965-1966 incident in Palu. Beginning with truth-seeking through stories from survivors and perpetrators of 1965-1966, then expanding to involve the village government and religious leaders, SKP-HAM then succeeded in initiating grassroots reconciliation which developed into structural reconciliation at the local level through a reparation program for victims of the 1965-1966 incident. The reparation program has been done in collaboration with the Palu Regional Government. The informal mechanisms initiated by SKP-HAM succeeded in realizing restorative justice related to the 1965-1966 incident in Palu through truth-seeking, grassroots reconciliation, apology, forgiveness, and victim reparations, proving that the informal mechanisms could play a primary role not only complementary to the formal mechanism.

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