

Peace or Justice? Transformation for Women in Conflict and Post Conflict Areas in Papua and Aceh

Sri Lestari Wahyuningroem

Universitas Pembangunan Nasional Veteran Jakarta
Jl. RS. Fatmawati Raya, Pd. Labu, Kec. Cilandak, Daerah Khusus Ibu kota Jakarta 12450

swahyuningroem@upnvj.ac.id

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Abstract

In conflict or post-conflict contexts, women experience layered violence: both daily and structural. The two main approaches commonly used in studies and programs in both contexts are peace and transitional justice. Both give a focus on violence experienced by women, but are not sufficient to provide analysis and solutions to the occurrence of structural injustice experienced by women. This paper is a reflection of the long journey of the author's involvement in both approaches. The main question of this paper is: how can peace and transitional justice provide solutions to transform structural injustices experienced by women in conflict and post-conflict areas? Where to start?

Keyword: violence against women, transformative, peace, transitional justice

Introduction

This paper discusses the limitation of the peace and transitional justice approach in responding to the structural injustice experienced by women in conflict areas and suggests a transformative conception of justice.

Intervention in conflict and post-conflict conditions are generally dominated by two approaches: peace and transitional justice. The peace approach focuses on resolving conflicts and ensuring that conflicts do not recur in the future. Meanwhile, in particular, transitional justice emphasizes resolving past human rights violations and ensuring that they do not repeat in the future. In practice, both academics and practitioners of these two approaches often work separately to fulfill their respective promises.

Both of these approaches view that conflicts and gross violations of human rights have an impact on women as well. Women become victims directly and indirectly due to their gender role in society. The path of peace or justice becomes the offer of the ultimate goal of resolving conflicts and gross violations of human rights, which are assumed to have a good impact on women's experience of violence.

The author is narrating these two approaches by viewing two different contexts: conflict and post-conflict. The context of conflict is represented by

Papua, which has been in tension until this very day. As for the post-conflict, the author tackles Aceh as the representation. Although Aceh and Papua have very different characters in terms of people and conflict, there is a structural injustice experienced by women in both regions regarding conflict and the response to it, which contributes to women's experience of violence.

This paper is a reflection of the author's experience of more than two decades participating in both areas as an academic and practitioner. This paper starts from a single question: how can the approach to peace and transitional justice be able to answer and help women get out of the structural injustices they experience in both conflict and post-conflict situations? Also, this paper examines what policies in Indonesia that have the potential to become a formal basis for transformative forms of justice in Aceh and Papua. The author's initial research on conflict in Aceh began in 2000, and has been involved in several more intensive post-peace and transition justice research and programs since 2005. Meanwhile, the author's involvement in research and programs, especially transitional justice in Papua, began in 2008. The data in this paper is partially developed by the author from those various studies as well as observations during the author's involvement with the communities, especially women's groups affected by conflict in the two regions. In addition, the author also uses secondary data such

as news, investigation reports and documentation, and published research findings.

The arguments in this paper refer to three things. First, neither the peace approach nor the transitional justice approach can fully accommodate the problems of structural injustice experienced by women during conflict and post-conflict periods due to a number of limitations. Second, the limitations can be overcome by adjusting the transformative goals that can have an impact on justice for women in conflict and post-conflict areas. Third, there is a potential for transformative justice in a number of policies in Indonesia, especially those related to Aceh and Papua. From the context of Aceh and Papua, there are a lot of lessons that can be reflected in other contexts both in Indonesia and in other parts of the world.

The Experience of Violence against Women in Aceh and Papua

In June this year, the Jantho Syar'iyah Court in Aceh ruled to acquit two suspects of raping an 11-year-old girl. The two people are the victim's father and uncle. Although this verdict was later overturned in the Supreme Court and the perpetrators were sentenced to 600 months in prison, this case adds to the series of cases of violence against women in Aceh, which totaled 791 cases in 2020 according to the Data on Cases of Violence against Women and Children in Aceh, the Office of Women's Empowerment and Child Protection in Aceh Province.

Meanwhile, in Papua, as of the end of February this year, there were 37,466 refugees from Nduga and Intan Jaya, the two areas that have been in turmoil since late 2018 due to shootings between the Indonesian National Army (TNI) and the Free Papua Movement-National Liberation Army (TPN OPM). Of the 37,466 refugees, 206 mothers and children died, of which 21 were adult women. Most of this number died due to cold and deteriorating health, although there were also gunshot wounds (July 2021). Some women were also forced to give birth to their children in the forest, and there were babies who did not survive due to a bad natural environment.

The two cases above are a small part of women's experience in two regions: Aceh and Papua. These two provinces in the eastern and western parts of Indonesia are experiencing a long conflict of separatism and gross violations of human rights. In Aceh, conflict with the central government began shortly after the independence of the Republic of Indonesia and went through several stages. Two periods of resistance were during the Darul Islam (DI/TII) led by Daud Beureuh

(1953-1962) and the resistance period for the Free Aceh Movement (GAM) led by Hasan Tiro (1976-2005). Aceh was designated a Military Operations Area from 1989 to 1998, in line with political changes in Jakarta. In 2003, Aceh declared a Military Region and the conflict escalated in the following years. Peace was achieved after the great tsunami hit Aceh in late 2004. The Indonesian government and GAM, mediated by a third party from Sweden, agreed to a peace agreement in Helsinki and marked a new period in the land of Nanggroe. This agreement was strengthened by Law no. 11 of 2006 concerning the Government of Aceh (UUPA). In Papua, conflict with the Indonesian central government had started since Dutch colonialism ended in 1963, and the United Nations handed over Papua under Indonesian control until the Act of Free Choice (Pepera) in 1969.

A total of approximately one thousand people who were representatives of the Papuan, some of them were under threat, and the result of the Pepera decided that Papua is part of the unitary territory of Indonesia. When the political change took place in Jakarta, Papua was also in turmoil and participated in voicing its aspirations to get out of the repression of the central government. In 1999, one hundred Papuans went to President BJ Habibie to discuss the situation in Papua and their demands. In 2001, Jakarta established the status of a special autonomous region through Law no. 21 of 2001 concerning Special Autonomy for Papua (UU Otsus Papua) whose period will end this year. As of this writing, Papua is still in a conflict which impacts various forms of gross violations of human rights.

Despite the different contexts and histories, women in both Aceh and Papua have the same vulnerability to violence. In this paper, violence is not seen as a single case or event. Violence, especially against women, is seen in a broader context, as something that arises because of the power relations that exist in society. In most societies, women are positioned in unequal power relations, even powerless.

According to Gredy et al. (2010), violence in this regard is divided into two: everyday violence and structural violence. Everyday violence is direct and personal. Perpetrators and victims of violence can be identified immediately, so are the form of violence and its impact on the individual. Meanwhile, structural violence is perpetrated by social institutions against vulnerable groups because of the omission of injustice and discrimination. Farmer called this structural violence "the social machinery of oppression" (Farmer 2004, p. 307), or the social machine of oppression, which signifies

that this violence is indirect and invisible. Injustice and discrimination, in some contexts, are normalized and considered as given because women carry out domestic roles and are marginalized in public access. Indirectly, structural violence and everyday violence are two interrelated things because everyday violence is actually a product of structural violence in the form of oppression, marginalization, and impoverishment.

Women in particular become objects of everyday and structural violence due to unequal gender relations in society. The implication of the injustice and inequality of gender relations is that women are not only vulnerable to poverty, but they are also vulnerable to violent and discriminatory practices in the conflict in society. Even in the post-conflict period, violence still occurs and women are often victims of repeated everyday violence. This violence can occur in domestic areas such as in the family environment, as well as in public areas.

We need to understand the experience of women in Papua and Aceh in such situations. Conflict exacerbates pre-existing structural injustices by increasing the intensity of everyday violence. Report on Documenting Violence Against Women in Papua, *Stop Sudah!* (2010) shows the complexity of the types of violence experienced by women in Papua. Of the 261 cases, there are three forms of violence, namely violence supported and perpetrated by the State, family violence, and layered violence (certain forms of violence that have an impact on other forms of violence). Violence by the State takes the form of sexual and non-sexual violence. Sexual violence such as: rape, sexual slavery, sexual torture, forced abortion, sexual exploitation and issues related to the use of contraceptives (KB) and attempted rape. Meanwhile, non-sexual activities include murder, attempted murder/shooting, torture, arbitrary detention, displacement, destruction and confiscation of property. Meanwhile, domestic violence includes physical, psychological and sexual violence in the form of: polygamy/cheating, abuse, economic neglect, marital rape, psychological violence, restriction of movement and forced marriage, and women suffering HIV/AIDS transmitted by their husbands or partners.

Meanwhile in Aceh, the National Commission on Violence against Women (Komnas Perempuan) found 103 cases of violence against women in thirteen cities/districts in Aceh. These cases occurred during the military operations 1989-1998, the peace dialogue period (2000-May 2003), the Military Emergency and Civil Emergency (May 2003 – August 2005, 65 cases), and after the Peace MoU (after August, 2005). Most of these cases involved

state officials and the Free Aceh Movement (GAM) as perpetrators, but some also involved ordinary civilians. Interestingly, this report also found five cases of violence related to the implementation of the *Qanun*, for example, as a result of the implementation of regional regulations regarding dress, *khalwat* (being alone with the opposite sex who is not their family), and *maisir* (gambling). In the post-conflict, there were several reports of violence against women carried out by the Provincial/District/City Governments in Aceh and non-governmental organizations that assisted the victims of violence.

Not only the victims of conflict, former female combatants or known as *Inong Balee* also did not find justice even though peace was achieved in the Helsinki MoU in 2005. (Wahyuningroem 2018; Wahyuningroem 2008; Uning 2009; Rahmawati et al. 2018). Many of them continue to experience discrimination, especially in terms of economic and political access. In addition, the other biggest problem is health, which also affects their ability to earn a living, especially for widows and female heads of household. In contrast to male ex-combatants, women's roles and leadership during the conflict did not receive sufficient recognition from both GAM and society (Uning 2009; Rahmawati et al. 2018)

Peace and Transitional Justice: Two Approaches to Conflict and Post-conflict

In Papua and Aceh, a number of institutions at the local, national, and international levels, have paid attention to the conflict and its impact on communities in the two regions. The two main approaches that these parties take in Aceh and Papua are peace and transitional justice. Before discussing how these two approaches work in Aceh, the author will discuss the scope of each approach.

The peace approach began to develop four decades ago. Johan Galtung, whose work is often referred to by academics and practitioners in this field, mentions three aspects of peace, namely peacekeeping, peacemaking, and peacebuilding. Peacekeeping is an intervention that is carried out when a conflict is protracted and involves violence. The two main functions of peacekeeping are a means of separation or an effort to break up the two warring parties so that they can stop confrontation, and build peace through communication and economic and political regeneration (Fetherston 2000). Some of the advantages of peacekeeping include legitimacy, burden sharing, the ability to deploy soldiers and police in various parts of the world, and integrate with civilian peacekeepers. The United Nations (UN) has peacekeeping

to ensure security with three basic principles: Consent of the parties; Impartiality; Non-use of force except in self-defence and defence of the mandate. Peacekeeping operations aim to facilitate the political process, assist in the disarmament, demobilization, and reintegration of former combatants; support the organization of elections, protect and promote human rights and assist in restoring the rule of law.

Peacemaking is a series of efforts to produce a peace agreement for the conflicting parties. It aims to bring conflict and violence into dialogue by seeking a middle ground and agreement on existing differences through the representation of particular institutions such as the United Nations (UN) or other peace mediation platforms. In addition to the United Nations and these mediators, other actors include governments, regional organizations, groups of countries, individuals or non-governmental organizations. According to Article 33 of the United Nations Charter, negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, belong to peaceful settlement of disputes. Also, mediation can be processed through the International Court of Justice or ICJ (Ouellet 2003).

Peacebuilding is an effort to identify and promote sustainable peace and prevent the recurrence of conflict. Some of the efforts include restoration of order, training for security personnel, promotion of human rights, reform and strengthening of government institutions (Fetherston 2000). This intervention is carried out by addressing various key issues that affect the functioning of society and the state as well as strengthening national capacities effectively. Peacebuilding also strives for a country to make a smooth transition from conflict to peace and to make peace an absolute condition for sustainable development.

Compared with studies and interventions of peace approach, studies on transitional justice in various places in the world have developed in the last twenty years or so. Paige Arthur (2009) argues that for most activists and practitioners, the emergence of the field of study on transitional justice is a consequence of the development of the wider human rights movement, especially in the context of democratization in Latin America and Southern European countries in the 1970s and 1980s. Democracy activists in government tried to find new and creative ways to deal with past injustices. They began to develop a transitional justice framework to strengthen the new democracy and to fulfill the moral and legal obligations articulated by both domestic and international human

rights movements. Although conflicts and human rights violations do not specifically arise from the context of conflict, this approach recognizes that they arise from authoritarian regimes.

The Secretary-General of the United Nations (2004) defined transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.” Efforts to resolve cases of past injustice can be carried out by the state through various steps and mechanisms. The mechanisms most frequently mentioned in the literature are prosecution initiatives, truth-seeking, reparations, institutional reform. Prosecution initiatives aim to provide legal justice for victims and to establish or strengthen justice systems and the rule of law in countries in transition. Also, these efforts aim to reflect a new set of social norms based on respect for human rights and serve as a starting point for reform process and build trust in government institutions (Van Zyl 2005, p. 211). The truth-seeking mechanism is an attempt to establish the truth about past crimes. Included in these mechanisms are truth commissions—non-judicial or quasi-judicial investigative bodies which map patterns and unearth the human rights violations—or other national and international efforts such as major historical research or documentation of violence and victims of violence, and the excavation of graves or exhumations. In many contexts, truth-telling is linked to reconciliation as most experts believe reconciliation can only be achieved if the past victims get official recognition of the truth.

Reparations take into account physical requirements, or moral obligations to victims and survivors of human rights violations. Reparations can include monetary compensation and non-material measures including symbolic acknowledgments such as formal apologies, and memorials. Unlike prosecution initiatives, truth-seeking, and institutional reform, reparations mechanism focuses more on the experience and needs of the victims directly.

Meanwhile, scientists believe that reforming institutions that have a history of perpetrators of violence, including security and legal institutions, is a necessity to prevent the recurrence of patterns of violations. One form of concrete reform is to implement an evaluation mechanism or career track record, also known as vetting. The term ‘vetting’ tends to overlap the illustrative term referring to the post-communist context (Duthie 2007, pp. 17-18).

In addition to these four mechanisms, there has also been extensive study and debate on amnesty and its role in implementing transitional justice. Tricia Olsen et al. (2010) define amnesty as “an official state declaration that individuals or groups accused or convicted of committing human rights violations will not be prosecuted or will be pardoned for their crimes and released from prison”. There has been a paradigmatic shift in the last decade in international human rights and international criminal law; amnesty should only be carried out under legal requirements. That is, to be valid, an amnesty must conform to the norm of law, or comply with the “qualified amnesty”: must not preclude prosecution for war crimes, treaty crimes, and crimes against humanity (Laplante 2009, p. 4).

In both the peace and transitional justice approaches, women are also an important part of the study and its programs. Generally, studies of these two approaches focus on women as victims of conflict and victims of gross violations of human rights because of their gender role in society. Women are not only victims of violence as individuals but also as collective symbols targeted by the enemy to dominate the collective.

Starting from the experience that women are a vulnerable group in conflict situations or gross violations of human rights, it is important to ensure that women become one of the main beneficiaries as well as agents of peace and transitional justice. Both the peace and transitional justice approaches require the involvement of women at various levels. In decision-making, from peace agreements to implementation of peace and transitional justice mechanisms, women must be included to ensure programs recognize women’s specific experience and needs, including in relation to families and children. Likewise, in the implementation of policies and programs, a significant number of women must be able to access and be present. In the peace approach, women are active agents who use their own networks and strategies to ensure sustainable peace. Also, women must actively participate in the mechanism for resolving past human rights violations and ensure that sexual violence does not negate efforts to reveal the truth, justice, and reparations.

The issue of women is one of the other things that actually shows a link between the peace approach and transitional justice. Debates about which came first, peace or justice are often intertwined. Thus, in recent years, the two approaches have been considered as a complementary imperative (Simpson 2017, p. 3).

The problem is, the principles of these two approaches often exist at the normative level. Simpson (2017) sees

that the normative approach can be a challenge in practice. For example, prosecution process of those most responsible for past human rights violations is often difficult when the choice is to continue the peaceful situation which disturbed by tensions between the conflicting parties. Transitional justice practitioners who mostly have a background in human rights, vehemently demand the principles of universal justice regulated in international laws to be enforced so that victims get justice, and there are standards to ensure non-repetition in the future, although it can raise tensions on the parties who have agreed to make peace. At the same time, the peace practitioners who wish that bloodshed would not repeat, strive to ensure that peace continues even though they often abandon the principles of justice or truth-telling.

This tension is also seen in the post-conflict dynamics in Aceh and the conflict in Papua. In Aceh, the Helsinki MoU which was later strengthened in Law No. 11/2006 on The Governing of Aceh (UUPA) requires the Indonesian government to establish a number of transitional justice mechanisms such as the Court of Human Rights, Aceh Truth and Reconciliation Commission (TRC), and granting amnesty. After the MoU, the post-conflict peacebuilding program in Aceh focused on three aspects: disarmament and decommissioning, demobilization of GAM (the Free Aceh Movement), and reintegration of ex-combatants. Clarke, Wandita, and Samsidar (2008) note that these processes marginalize the narratives and experience of victims so that the transitional justice agenda is abandoned.

Attention to the issue of human rights violations and transitional justice got attention after civil society pushed a number of agendas in the MoU, particularly the establishment of Aceh Truth and Reconciliation Commission. For several years, civil society advocated and lobbied various parties, both the Government and the Regional Government as well as GAM elements in a number of local and national parties. The cancellation of the Law on Truth and Reconciliation Commission (the TRC Law) at the national level by the Constitutional Court also had an impact on this effort. It is because in the provisions of the UUPA, the Aceh TRC is institutionally under the National TRC, although this is not required in the MoU, it is a political product that forms the basis for the UUPA. Civil society’s efforts to establish the Aceh TRC (KKRA) were ultimately successful with the promulgation of Qanun No. 17 of 2013 concerning the Aceh Truth and Reconciliation Commission. The Aceh

TRC started working in 2016 and is currently finalizing its commissioners' first term report.

In Papua, elements of transitional justice are contained in the Special Autonomy Law, particularly in relation to the Court of Human Rights and TRC. However, as the conflict continues, these mechanisms have never been seriously realized by the Government. The lack of government commitment, especially in Jakarta, is one of the main factors (ICTJ & ELSHAM 2012). The only Court of Human Rights that has ever been conducted was for the shooting of a number of students in the Abepura incident in 2000. No one was sentenced by the Court and the National Commission on Human Rights' investigator regarding the bloody Wasior and Wamena events in 2003 and 2004, and has never been followed up by the Attorney General's Office.

Prior to the Special Autonomy Law, the Indonesian Institute of Sciences (LIPI) conducted research entitled *Papua Road Map*. This research investigates the conflict from 2004 to 2008 in Papua and points out four main issues of the ongoing conflict in Papua: 1) marginalization and discrimination; 2) the failure of development; 3) state violence and human rights violations; and (4) the history and political status of Papua (Widjojo, 2009). This study views comprehensively at various complex dimensions in the conflict in Papua, which make conflict resolution fail because they only see the conflict partially. Of the four problems, LIPI recommends two solutions, including a combination of transitional justice and peace approaches, namely reconciliation, court of human rights, and peace dialogue.

In practice, these two recommendations cannot be implemented simultaneously. The Court of Human Rights and TRC as part of the transitional justice approach cannot take place effectively if there is no peace in Papua. The leadership in Jakarta to this day has ruled out this possibility. As said by Muridan Widjojo, one of the JDP (Papua Peace Network) initiators from LIPI, to the author in 2013, "this initiative is like mowing weeds to clear the yard. When the yard is cleared, then we can sit together to discuss the transitional justice mechanism." The LIPI team becomes one of the initiators of the formation of the Papua Peace Network (JDP) who works with civil society to propose a peace dialogue between various elements in Papua and the Indonesian government. This initiative is the most developed to date in terms of peacemaking efforts in Papua. Unlike Aceh, efforts to resolve the conflict in Papua are closed to the possibility of involving parties outside Indonesia.

Beyond the Conflict: Transformation and Justice for Women

Practitioners and academics have seen the role and experience of women in Aceh and Papua in both approaches. The most dominant focus is related to the experience of violence against women. Violence against women in Aceh was studied earlier, before Aceh emerged from the conflict (Wahyuningroem 2000; Noerdin 2005). In the post-conflict, the monitoring of violence and access to information to document violence against women in Aceh has become much easier. Meanwhile in Papua, Komnas Perempuan took the initiative to document violence against women in Papua in 2009 (Komnas Perempuan, 2010). Several other studies were also uniquely conducted by Asia Justice and Rights (AJAR), which prioritized reparations and truth-telling by women victims (Wandita & Yolanda 2017)

The experience of violence against women in the approach to peace and transitional justice is analyzed in more depth in several international studies. In 2013, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) issued General Recommendation No. 30 as a reference for countries that signed the CEDAW Convention, including Indonesia, in an attempt to eliminate discrimination and violence against women in the context of conflict. Then, in 2015 the United Nations issued three studies on the UN body and programs of the issue of preventing, handling, and resolving armed conflicts globally. The three studies are: (1) *Global Study on the Implementation of United Nations Security Council Resolution 1325*, which examines the progress of implementing commitments on the WPS agenda; (2) *Report of the Advisory Group of Experts for the UN Peace Building Architecture* to investigate the approach of the United Nations in an effort to build peace; and (3) *Report of the High-level Independent Panel on Peace Operation* to investigate the needs and approach of the United Nations for peacekeeping.

The three studies state that the fulfillment of women's rights needs to pay attention to at least three things. First, the fact that emerging conflicts in various parts of the world have become more complex and involved more parties including non-state actors such as corporations, smugglers, local and international actors. The root of the conflict becomes complex by involving the identity and conservatism of certain values which often oppress women. Second, conflict changes and their impacts must be understood in terms of the needs and conditions

faced by women in certain conflict situations. Third, these studies recognize the plurality of groups, including women, so they have different needs. However, an inclusive and equitable approach is still needed in terms of conflict prevention and resolution. Moreover, the main thing in this context is equal participation.

In particular, *Global Study on the Implementation of United Nations Security Council Resolution 1325* analyzes various changes in conflict and challenges for women in creating peace and justice. In its analysis, this study sees the need for a transformative approach to ensure the protection and fulfillment of women's rights in conflict areas. This need is considered not fully able to be accommodated by various mechanisms of the transitional peace and justice framework. The main criticism is related to women's participation, as well as limitations in recognizing and intervening in structural injustices in society.

In terms of women's roles and participation, UN Women (2015) states that in practice, transitional justice mechanisms do not provide sufficient space for women's involvement. The experience of women's violence is only presented in various transitional justice mechanisms to photograph the spectrum of violence that occurs women are almost never involved in the planning to implementation stages, especially in terms of leadership, but does not contribute to an analysis of the roots of the conflict that causes the violence. Transitional justice mechanisms fail to involve women because both war and peace efforts are male-dominated areas, so the absence of women has an impact on the design and implementation of mechanisms that are unable to recognize women's experience and needs (UN Women 2015, pp. 109-110).

The second critique of transitional justice relates to its inability to recognize and intervene in the structures of injustice and vulnerability generated by systems of war and repressive rule (UN Women 2015, p. 110). In this case, women are reduced to their experience of violence without trying to analyze gender relations that lead to violence. In other words, everyday violence is a major concern in transitional justice without being able to relate it to structural violence. In addition, transitional justice is also unable to intervene in the five challenges needed for structural transformation in society as identified by Gready & Robins (2014): (1) poverty and inequality; (2) resource exploitation and environmental degradation; (3) high levels of political, social and criminal violence; (4) weak institutions and role of the state; and (5) continued marginalization of

certain groups including women and children. If these five things are not handled properly, there will always be a potential for conflict and security threats.

Seeing the relationship between daily violence and structural conditions, feminist studies highlight the intersection between gender analysis and other identities that allow discrimination and opportunities for women to end oppression. These studies emphasize the need for a holistic approach that accommodates the universalism of human rights, recognizes the roots of individual and structural violence, and analyzes the social and economic hierarchies that exist in society. Such studies allow us to understand the intertwined identities and the power relations, and emphasizes efforts to deal with it from the bottom up, and see opportunities not only limited to formal legal, thus enabling a wider socio-political response.

The transformative approach is an option to meet those expectations and is considered relevant in the context of recent global changes and dynamics. However, the transformative approach is not intended to replace transitional justice, but rather becomes a more advanced stage that needs to be applied from various existing mechanisms. In simple terms, transformative justice is understood as a strategy and approach to conflict and post-conflict management that is directed at fundamental and sustainable changes in society. The main objective is to identify various violations of women's human rights during the conflict and post-conflict, and to increase women's access and participation in planning and implementing transitional justice. Transformative justice has the potential to strengthen communication for sustainable peace (Lambourne 2009), and to provide space to look at communities affected by systematic violence and the possibility of breaking up with structural violence (Eriksson 2009).

Not only for conflict and post-conflict contexts, transformative approach is also useful for the conflict-free society. In this conflict-free society, security issues, especially for marginalized groups, are also a concern (Pankhurst 2003). Recognizing structural violence will also help to identify the effective role of the state in dealing with and preventing violence and discrimination against subordinate groups, especially women, and also ensuring that the violence will not repeat in the future. In addition, another important thing is the role that non-state actors can play, including various elements of civil society and human rights defenders, and ensuring the participation of these elements in all processes.

Formal Legal Framework as Initial Capital for Transformative Justice for Women

Is there room for a more transformative application of justice for women? Although the transformative aspect still needs to be mainstreamed into conflict and post-conflict studies and programs in Aceh and Papua, academics, practitioners, and the government need to look at the potential and existing formal foundations as a starting point. This foundation is a number of commitments and policies that exist in Indonesia at the national and regional levels.

Komnas Perempuan has conducted policy studies related to the protection and fulfillment of the rights of women victims in conflict areas (Yentriyani et al. 2018). The author outlines this policy within the framework of transformative justice into several spaces: (1) recognition of the root of structural problems in society, (2) civil & political, and economic, social, & cultural approaches in handling conflicts and violence against women, (3) involvement and participation of women and the wider community, and (4) strengthening the role of the State.

In terms of acknowledging structural issues in the root causes of conflict and integrating these structural issues in conflict management, several laws recognize the fact of discrimination and violence against women, but do not specifically mention the structural problems that are the root of the conflict. Two laws, namely Law no. 26 of 2000 concerning the Court of Human Rights and Law no. 7 of 2012 concerning the Handling of Social Conflict (PKS), confirm the recognition of the vulnerability of women in society but do not explain further about the structural issues that cause these vulnerabilities. More explicitly, Article 45 of this Law states that "Women's rights in this law are human rights".

The Law on the Handling of Social Conflict (PKS) integrates several reintegration measures including the improvement of various structures and frameworks that cause inequality and injustice, including economic inequality. This means that this law recognizes the existence of structural injustice against women in economic sense. Recognition of women's specific experience as mothers and women's reproductive functions can be found in several policies such as the Law on the Handling of Social Conflict and Disaster Management, which have implications for more specific handling of and recovery for women. As for the context of Papua, the Special Autonomy Law provides special recognition regarding women's rights in Article 47: "To uphold women's rights, the provincial government is

obliged to foster greater understanding and protection of human rights, and empower women with dignity, and make all efforts to position them as equal partners to men".

The second space of transformative potential in policy is the adoption of the fulfillment of civil and political rights and economic, social, and cultural rights as part of the handling of conflicts and cases of violence against women. The fulfillment of these two rights is basically inseparable, generally in the form of retributive justice with judicial process and restorative justice such as restorations, truth-telling, and so on. In terms of retribution, the Law on the Court of Human Rights does not specifically regulate women's access to justice although it specifically includes rape, sexual slavery, forced prostitution, forced pregnancy and contraception and other sexual violence as part of crimes against humanity (Article 9 point g).

In addition to the retributive aspect, several laws also regulate the aspect of restorative justice in handling conflicts and cases of violence against women, which are more aimed at fulfilling the economic and social rights. The forms range from state recognition to comprehensive reparations. The Law on the Court of Human Rights mentions the need for state recognition and victim recovery as a form of victim satisfaction. This includes the protection of witness and victim as well as other forms of compensation, restitution, and rehabilitation for victims (Articles 34 and 35). Meanwhile, the Law on the Handling of Social Conflict integrates conflict issues in mental health and social welfare services. In Article 38, this Law mentions a number of interventions as part of rehabilitation that prioritizes a restorative approach by incorporating a number of elements to fulfill the economic and social rights, including: psychological recovery of victims of conflict and protection of vulnerable groups, restorations of social, economic, cultural, security, and orderly conditions, and economic recovery and civil rights, as well as improvement of government services. Specifically, rehabilitation also includes efforts to meet the specific basic needs of women, children, the elderly, and groups of people with special needs and to fulfill the reproductive health needs and services for women (Article 38 (2) points g and h). Law no. 24 of 2007 concerning Disaster Management also accommodates the needs of women as part of a vulnerable group, especially women who are pregnant and give birth, as a priority. Meanwhile, Law no. 31 of 2014 concerning Amendments to Law no. 13 of 2006 concerning the Protection of Witness and Victim also integrates the fulfillment of civil and social

rights and economic, social, and cultural rights in efforts to protect and recover witness and victim.

Although in terms of handling, this policy is more specific in regulating the provisions for the fulfillment of civil & political rights and economic, social, and cultural rights, there is no special attention to peace education as part of conflict prevention. Issues related to prevention are generally regulated and are mostly borne by local governments. Conflict handling and recovery are still general and urgent in the short term. For example, for emergency response, the Social Conflict Handling Law mentions evacuation and cessation of violence but does not explain in more detail. For the post-conflict handling, there is no special attention to psychosocial recovery, but this is included in the Disaster Management Law as a form of emergency response and protection.

The third space in transformative justice is the involvement and participation of women and the community, including partnerships with various non-state elements. In almost all conflict-related policies at the national level, the role of women is mentioned explicitly even to the point of requiring women's involvement and participation. The 30% affirmative action for women's involvement is mentioned not only in the package of Political Laws (Political Party Law and Election System) but also in the Law on Human Rights, Social Conflict Handling, and Disaster Management as well as in Regulation of Coordinating Minister for People Welfare Affairs of the Republic of Indonesia Number 07 of 2014 on National Action Plan on Women and Children Protection and Empowerment in Social Conflict (RAN P3AKS). In the Social Conflict Handling Law and RAN P3AKS, it is explicitly recognized that women are agents of peace, so women must be involved in various conflict resolution and post-conflict processes. According to the Social Conflict Handling Law, women must be represented at least 30% in the task force of resolving social conflicts (Article 47). In Law no. 31 of 2014 concerning the revision of the Witness and Victim Protection Law, women's representation is considered in the formation of the advisory board (Article 16D). The representation of women is also regulated in the Aceh Government Law (UUPA) and the Papuan Special Autonomy Law. The Aceh Government Law mandates at least 30% of women in the People's Representative Council of Aceh (DPRA) and local political parties, as well as the representation of women in the Ulama Consultative Council (MPU) and Wali Nanggroe. Meanwhile, in the Papua Special Autonomy Law, women must be represented in the Papuan People's Assembly (MRP).

The fourth space for transformative justice views how various existing policies mention strengthening the role and institutions of the State. In general, various conflict-related policies have explained the separation of duties and authorities between the government, police, and TNI (the Indonesian National Armed Forces) in handling conflicts and disasters. In terms of fulfilling human rights, the Human Rights Law regulates the roles and mandates of Komnas HAM (National Commission on Human Rights) in detail, it does not give authority to this institution as the authority granted to other independent institutions such as the Corruption Eradication Commission (KPK) in terms of the authority to conduct *pro Justitia* investigations. In addition to Komnas HAM, the role and mandate of Komnas Perempuan is also regulated in policies as presented in the previous chapter. LPSK (Witness and Victim Protection Agency) also has a major role in fulfilling the rights of security and recovery of witnesses and victims, including in cases of conflict and human rights violations. The Social Conflict Handling Law is more progressively adopting improved structure and framework that cause inequality and injustice in the recovery phase of conflict, which can be translated into improvements in the governance sector, judicial reform, and security system reform.

Although it is not detailed, this provision is the basis for strengthening the State institutions that better guarantee the fulfillment of women's human rights, particularly in terms of security sector reform. In this regard, it includes the need for reform of the peace and resilience approach which has been based on territorial-security within the framework of conflict recovery, which is often limited by prohibiting acts that "endanger the integrity of the Unitary State of the Republic of Indonesia (NKRI)", especially in the context of the special autonomy of Papua and Aceh.

Even though Islamic Sharia is a specialty in Aceh, in a formal legal manner, the authority for its application is not strictly limited to complying with the Constitution, on the contrary, it allows criminalization that is not recognized in national law (Article 129 (2) of the UUPA). Likewise, the expansion of the authority of judicial legal institutions (the Prosecutor's Office and the Sharia Court) in relation to the implementation of Islamic Sharia is not limited within the framework of national legal integrity. In practice, it often creates new injustices and violence, especially against women.

Closing

Violence against women is always inherent in every conflict or post-conflict. The two main approaches in studies and programs in conflict/post-conflict areas are peace and transitional justice. These two approaches pay particular attention to the narratives and women's experience of violence, and try to ensure that peace and justice in the post-conflict benefit women and ensure that women are present in the process and decision-making. This paper discusses these two approaches and how they can provide a transformative solution for justice for women.

The peace approach emphasizes its focus on the efforts that need to be made by various parties to ensure that bloody violence is not recurred especially by the parties involved in the conflict. Meanwhile, transitional justice aims to break impunity and bring the state to account for human rights violations that occurred during the conflict, including ensuring their non-recurrence in the future. Both approaches recognize multi-layered violence against women in conflict situations. However, peace and justice efforts generally look more at the practices and direct impacts of violence and the best remedies for women. Transitional justice looks further at how the prosecution process with a retributive framework can provide certainty in law enforcement and formal justice for women.

In such a situation, what is not prioritized in the two approaches is the structural aspect in society that causes injustice to women, before, during, and after the conflict. In general, conflict reinforces these structural inequalities as seen in the contexts of Aceh and Papua. A number of studies recommend that the peace and transitional justice approaches pay more attention to this structural injustice, so that peace create a fundamental transformation for the fulfillment of women's human rights.

The starting point of this effort can be started by looking at the potential in Indonesia's policies related to transformative efforts in society, especially in relation to violence and injustice experienced by women. It is important as a formal basis for studies and programs in conflict and post-conflict contexts such as in Aceh and Papua.

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