

Structural Explanation to the Establishment of the Truth and Reconciliation Commissions: A Comparative Study of Five Countries

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ABSTRACT

Why has Indonesia, a former military dictatorial regime, only commissioned the official Truth and Reconciliation Commissions (TRC) later than South Africa, Brazil, Uruguay, Chile, and South Korea? This article compares how the six democratic governments in Africa, Latin America, and East Asia deal with human rights violations committed by officials of previous authoritarian regimes. I posit a structural explanation for the variation in the establishment of a TRC in former authoritarian countries that underwent pacted transition or authoritarian-initiated transition. Using a qualitative approach, I argue that a combination of the level of external and internal security threats facing the country, and the military tary doctrine which is adopted by the military determines the timing of the establishment of a TRC. Understanding the timing of the establishment of the TRC is important as victims and their relatives need closure over past human rights violations and the delay in the establishment of it can increase distrust to the government.

Keywords: Indonesia, Truth and Reconciliation Commissions, Civil-Military, Transitional Justice, Democratization, Military-Civilian Relations

Introduction

For over 50 years now, the victims and their families, the human rights activists both at home and abroad, as well as the government of Indonesia continue to look backward and try to deal with the past large-scale human rights abuse in 1965. For decades, the survivors and the families of the victims have been waiting for the accountability of the government of Indonesia. Some of the key figures, including President Suharto, who was believed to be responsible for the egregious abuses are already dead. Furthermore, the struggle of the human rights activists to seek truth and justice is still ongoing, making it hard for the successors of Suharto to forget the past, shield the perpetrators, and fully focus on improving the economy, Indonesia's power and influence the world. In response to the demand from the public, the government has moved from literal denial (nothing is happening) to interpretive denial (what is happening is something else), to implicatory denial (what is happening is justified).¹

During 1965-1966, approximately 500,000 people were killed across Indonesia by military officials and groups of civilians, such as religious associations and political parties in the aftermath of the 1965 coup attempt by allegedly Communist Party and a faction within the military of the 30 September Movement in 1965. Furthermore, millions of the so-called communist supporters were abused, raped, imprisoned without proper trial, and disappeared.

¹ Fernida, I. 2014. "Calling for truth about mass killings of 1965/6 Civil Society initiatives in revealing the truth of mass killings of 1965/6 under the transitional justice framework in Indonesia". Master Thesis University of Oslo.

Students who studied overseas could not return to Indonesia as the government revoked their passports.

While the events of the coup attempt are still covered in mystery, what is important is that in the wake of the 30 September Movement (*Gerakan 30 September or G30S/PKI in Bahasa Indonesia*), the Army declared the coup was carried out by the Communist Party.² Until now, the military still denies committing the mass killing which targeted suspected members and sympathizers of Indonesian Communists.

The search for truth and justice has taken many forms. Civil society on behalf of the victims and their family have tirelessly advocated for the establishment of formal judicial mechanisms (i.e., trial), and non-judicial mechanisms (i.e., TRC), and initiated informal truth-seeking efforts.³ The attempt to fill the gap in domestic judicial and non-judicial mechanisms led to a four-day hearing at the International People's Tribunal (IPT) at The Hague from 10-13 November 2015.⁴ The tribunal concluded that the government of Indonesia in the past was guilty of inhumane, ruthless torture, unjustifiable imprisonment, and forced labor that might well have amounted to enslavement.⁵ The panel also found evidence of systematic sexual violence, political persecution, exile, and disappearances of thousands who were thought not to support the Suharto dictatorship. These observations confirm the findings of The National Commission of Human Rights's investigation that the events of 1965/66 fall into the category of crimes against humanity.

In response to the IPT, the current government stated that it will not bow to the IPT's recommendation and argued that Indonesia has its legal system to address this issue. Indeed, the government announced a non-judicial mechanism to resolve past human rights abuses, including the killing of 1965, in May 2015. It took a year for the government of Indonesia to organize a government-backed national symposium. The symposium was held in Jakarta on the 1965/66 killings. This event was supported by the National Human Rights Commission and attempted to facilitate the first meeting between members of the Indonesian military, which led to the anti-communist persecution, and survivors of the atrocity.⁶

The symposium can be categorized as the Truth and Reconciliation Commission, although it did not use this label. The symposium meets the criteria of the TRC. The executive backed it,

² McGregor, Katherine. 2017. *History in Uniform: Military Ideology and the Construction of Indonesia's Past, Internationales Asienforum* (Leiden: KITLV Press, 2007), <https://doi.org/10.11588/iaf.2009.40.73>.

³ Ibid, Fernida

⁴ Santoso, Aboeprijadi and Klinken, Gerry. 2017. "Genocide: Finally Enters Public Discourse : The International People's Tribunal 1965". *Journal of Genocide Research* 19 no 4 (2017: 594-608).

⁵ Beech, Hannah. 2017. "U.S. Stood by as Indonesia Killed a Half-Million People, Papers Show," *The New York Times*, October 18, 2017, <https://www.nytimes.com/2017/10/18/world/asia/indonesia-cables-communist-massacres.html>.

⁶ Kwok, Yenni. 2016. "Indonesia Calls a Symposium on the 1965–66 Killings, but May Not Be Ready for the Findings," *TIME* (Time, April 15, 2016), <https://time.com/4295474/indonesia-1965-1966-killings-pki-massacre-reconciliation/>.

and it fulfilled the other criteria of a TRC, which are ad hoc, focusing on investigation or discussion of what happened in the past, and producing reports and recommendations.

Although it received mixed responses from human rights activists, some of them and the victim's community felt that it was a genuine attempt by the government to settle the case. The symposium was quiet on the facts of who did the abuse. It sparked criticism from human rights activists who have long demanded a full and honest approach to the massacre on the part of the state. In an interview with the media, he stated that blaming anyone for the tragic communist purge is a counterproductive move towards reconciliation. Instead, he suggested the participants of the symposium focus on the broader social forces that caused the turmoil in the 1960s and open to the idea that the communists themselves were equally guilty.⁷

Given the time gap between the 1965/1966 abuse and the establishment of the TRC in Indonesia, it is important to understand the conditions under which a TRC is established (Erdianto 2016). TRC (Truth and Reconciliation Commission) is one of the domestic mechanisms to deal with gross human rights violations in the past besides trial and reparation. Scholars such as Martha Minnow (1994), Tepperman (2002), and Roper and Barria (2009) point out that it is a middle path option between vengeance and forgiveness, as well as between trials and not doing anything.

The TRC, which is categorized as a non-judicial mechanism, has gained attention from intergovernmental and non-governmental organizations in the past 20 years. Many scholars have conducted individual small N-case studies, and large N studies to understand the cause, and the effectiveness of the TRC. Across the world, civil society in a former military-led regime has tirelessly advocated the establishment. Although the 1965/66 event claimed so many lives, it has gained less attention internationally, specifically among scholars of Transitional Justice, than the human rights violations in South Africa and Latin America. This paper attempts to fill this gap and seek an understanding of the cause of the absence of the TRC in Indonesia for so long. The delay in the establishment of TRC in Indonesia is puzzling because other former authoritarian regimes that underwent gradual, authoritarian-initiated transition or the so-called pacted transition have already established one.

The conventional wisdom suggests that a post-authoritarian country such as Indonesia where the transition to a democratic system has been gradual, controlled, and authoritarian-initiated, is primed for the establishment of the TRC. In this situation, the outgoing regime is expected to be coherent, relatively unified, and consequently have a say in the transition process. At the same time, in this so-called *pacted* transition, the public, which encompasses a wide array of individual actors, and non-governmental organizations, including human rights

⁷ Beritagar, Agus Widjojo: Rekomendasi, satu kepala tak bisa dinilai Rp1 miliar, <https://beritagar.id/artikel/bincang/agus-widjojo-rekomendasi-satu-kepala-tak-bisa-dinilai-rp1-miliar> (accessed December 1, 2017); Hermansyah, Anton .2016. 1965 Symposium Indonesia's way to face its dark past. <http://www.thejakartapost.com/news/2016/04/19/1965-symposium-indonesias-way-to-face-its-dark-past.html> (accessed December 1, 2017); Wahyuningroem, Ayu. 2016. "Justice Denied?," Inside Indonesia, 2016, <http://www.insideindonesia.org/justice-denied>

organizations, typically have a strong presence in the political process. Thus, when the civil society and the outgoing regime are both strong, we should expect the establishment of the TRC.⁸ This is a win-win situation for the public who demands a trial and the outgoing regime, including the military, who used to lead or support the dictator, who wishes to avoid it. Countries such as Chile, and South Africa, are among the first who set up a TRC, followed by South Korea, Uruguay, and Brazil. Indonesia can be considered the late adopter of TRC. By using the most similar system design and focusing only on cases involving gross human rights violations in countries that undergo a *pacted* transition, this paper attempts to explain the variation in the establishment of TRC. In other words, this paper tries to answer why a TRC is established quickly in some countries but not others.

The main thrust of the argument in this article is that the variation in the timing of the establishment of TRC depends on the structural factors at the international and domestic level, specifically the level of internal and international security threats facing the countries, and the military doctrine adopted by the military. When the country faces pressing international threats, and low internal threats following the transition, the military is easier to control by the civilian. When the country in question confronts high levels of internal threats and low levels of external threats then the civilians will have a harder time preventing the military from being involved in domestic politics, including blocking the initiative to establish a TRC. When the country faces a high level of international and internal threats or a low level of external and internal threats, the civilian control over the military depends on the military doctrine. If the military doctrine is geared towards addressing external threats, then the likelihood of civilian control or establishment of TRC is higher.

This study hopes to contribute to the study of transitional justice, civil-military relations, and Indonesian politics. The studies of TRC in Indonesia so far adopt a single case study method and fail to consider the counterfactuals such as cases in some Latin American, other Asia, and African countries.⁹ Skaar (1999) is the first scholar to raise variation in TRC establishment. However, she only offers a brief explanation as to why such variation exists, since her study focuses more on the cause of different choices of transnational justice mechanisms.

The existing literature on TRC also emphasizes the role of civil society and its initiative of informal truth-gathering mechanisms. Scholar such as Kimura Ehito (2015) discusses the origins of the lack of justice initiatives to uncover the truth surrounding various human rights violations in East Timor, Aceh, Papua, and Tanjung Priok. He leaves out the case of atrocities in 1965. His article does not focus on the causes and only very briefly talks about the weak judiciary, corruption, and lack of political will as possible causes of injustice. Instead, it highlights strategies the elites have used to confound justice initiatives.

The most recent article which addresses the absence of TRC in Indonesia, specifically in the case of the brutality against the suspected Indonesian Communist Party members and

⁸ Skaar, Elin. 1999. "Truth Commissions, Trials-or Nothing? Policy Options in Democratic Transitions," *Third World Quarterly* 20, no. 6, 1109–28, December, 1999, <https://doi.org/10.1080/01436599913316>.

⁹ Ibid, Fernida

sympathizers is written by Nathalie Sambhi.¹⁰ She attributes today's silence on this crime to the New Order's control or censors over public discourse for almost 32 years, the lack of international pressure immediately after the brutality occurred 52 years ago to address the abuse, and the strength of former ruling elite, which is the military, in the post-reform era. She argues that the military wishes to avoid or block any attempt to hold them accountable because it will undermine the legacy and honor of the military. As this article will demonstrate later, the international pressure theory, the strength of military role theory, cannot account for the absence after considering the cases in Latin America, East Asia, and Africa.

Furthermore, this study hopes to contribute to the study of civil-military relations. The existing study makes only a passing mention of the way former authoritarian countries, which are either supported by the military or ruled by it, deal with past human rights abuse through non-judicial mechanisms.¹¹

The remainder of this article is divided into six sections. Following the introduction, the second section defines the TRC. The third section explains the balance of power or power sharing theory, spells out the predictions that this theory makes concerning the establishment of TRC, and elaborates on the variation in the establishment of it in five countries. The fourth section discusses the possible explanations for the timing of the establishment of the TRC. The fifth section proposes a new theory, which is the structural theory. This section also offers an analysis of variations of the establishment of TRC in countries that experienced *pacted* transition, Indonesia's strategic ties, and the lack of those with the host states. The last section concludes.

Theory, Methodology and Data

a. Defining TRC

Many scholars of transitional justice adopt a definition of TRC from Pricilla Hayner (1994,600). She argued that a truth commission is an autonomous, official, or state-sanctioned ad hoc body that is established to investigate the causes and consequences of a pattern violation of human rights in the past in a country during periods of abusive rule or conflict and propose recommendations for addressing and preventing future violations of human rights. Such violations can include the ones conducted by military or armed opposition forces.

The reason TRC can be initiated by state or non-state actors, however, it requires authorization by the state is because it creates the possibility that the investigators have access to places and information that they cannot get otherwise. Brahm argued that quasi-truth commission or informal truth-seeking commission that is not sanctioned by the state cannot have the same powers and access to information as TRC that are products of government action.¹² The TRC ideally investigates broad patterns of abuse. While scholars do not stipulate a specific length of time or number of events, Hayner and other scholars suggested that TRC is supposed to focus on

¹⁰ Sambhi, Natalie. 2016. "Neither Truth nor Reconciliation," *World Policy Journal* 33, no. 4 (2016): 102–9.

¹¹ Fitch, John. 1998. *The Armed Forces and Democracy in Latin America*, JHU Press, 1998.

¹² Brahm, Eric. 2009. "What Is a Truth Commission and Why Does It Matter," *Peace and Conflict Review* 3, no. 2: 1–14, 1 May, 2009.

investigating a broad historical period versus a single event, such as the killing of a single leader.¹³ The TRC itself can be created either in the middle of conflict or after the transition towards democracy.

Another characteristic of TRC is the temporary nature of its operation. Brahm pointed out that having an ad hoc body to investigate human rights violations in the past is better than having a permanent government institution to do the job.¹⁴ Even the standing government ministries or human rights commissions might not be able to take responsibility since they have responsibility for investigating and preventing ongoing human rights violations. The permanent staff of the government institution will likely have an incentive to please the state to keep their job or prioritize other agendas. As a result, the investigation of human rights violations in the past is buried amidst the offices' other duties.

Since many scholars adopt her definition, I adopt Hayner's conceptualization of TRC, and I try to apply her criteria consistently. As Brahm noted, Hayner was not always consistent in her application of the definition, and many scholars of transitional justice follow her inconsistency.¹⁵ For example, she includes non-official TRC in her 1994 paper. Other scholars, including Skaar, followed her moves by lumping official and non-official TRC together. She, therefore, built her argument about the conditions under which TRC is likely to occur upon shaky conceptual foundation.¹⁶ By lumping the non-official and official TRCs together, these scholars implicitly suggest that establishing a TRC is relatively easy.

Regarding the goal of a TRC, the basic goal of this body after it investigates the gross violation of human rights in the past, and reports the findings to the public, is to make recommendations to address human rights abuse. Beyond this point, there is a multitude of possible goals behind creating a TRC, such as personal healing or closure, reconciliation between the victims and perpetrators or beneficiaries and exploited consolidation of democracy, or improvement of human rights culture and peace. In other words, a TRC can help to rebuild the traumatized society by facilitating a reconciliation at the individual, community, and national level.¹⁷

One important thing to note about the establishment of a TRC is that it does not seek to punish the perpetrators. As a matter of fact, it involves granting immunity from penalties for past abuse. Since full disclosure of the past imposes costs for the perpetrators, they ask the TRC to

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Skaar, Elin. "Truth Commissions."

¹⁷ Brahm, Eric. "What Is a Truth Commission and Why Does It Matter.;"

Nogales, Jaya and Ciorciari, John. 2012. "Lessons from the Cambodian Experience with Truth and Reconciliation," *Buffalo Human Rights Law Review* 19: 193–216, 8 June 2012;

Minow, Martha. 1998. *Between Vengeance and Forgiveness : Facing History after Genocide and Mass Violence* (Boston: Beacon Press, 1998).;

Tepperman, Jonathan. 2002. "Truth and Consequences," *Foreign Affairs* 81, no. 2: 128–45.

grant them immunity from all criminal penalties. The past experience shows that the TRC grants conditional clemency or pardon to promote the search for truth.¹⁸

The term truth itself can mean different things to different members of a society.¹⁹ To some, it means learning the facts surrounding their misery, including the perpetrators, their motivations to abuse the victims, and the fate of their family and friends. In this case, they want to know what happened to whom, why, and who did it. To others, it means revealing the broader structural problems that cause conflict in the first place. In reality, according to Tepperman, the who is rarely stressed.

Tepperman pointed out that history is murky and subjective.²⁰ Unfortunately, TRC staff, politicians, and society rarely acknowledge the fact that truth or historical narratives are partly constructed rather than entirely discovered. The investigators, for example, could be unconsciously influenced by their prejudice. Hence, finding a single authoritative narrative has proven challenging, even though the investigators try to be as objective as they possibly can. Still, despite the uncertainty regarding the truth, a TRC is a preferable alternative to trial in some cases. Minow argued that if the objective is to emphasize the experiences of victims, the development of a detailed historical narrative, healing of the victims and societies after the devastation to their lives, then fact-finding commissions is a good vehicle to address past human rights abuse.²¹ Tepperman echoes Minnow's point and argues that trials tend to focus not on general social or economic forces, and their victims, but on the individual perpetrators.²²

Based on this definition, Indonesia the role of The National Commission of Human Rights in gathering truth back in 2012 cannot be categorized as a TRC, since this institution is not ad hoc. There was an attempt to establish a TRC under President Abdurrachman Wahid (1999-2001). During his presidency, the law on TRC was drafted. It was proposed by a national coalition of Non-Governmental Organizations, The Institute for Policy Research and Advocacy, and was discussed at the government and parliament level. Finally, the government enacted Law No. 27/2004 on the TRC on October 6, 2004.²³

Article 29 of the Law stipulated that the TRC can recommend amnesty for the perpetrators. Unhappy with this article, the coalition of the NGOs and representatives of victims challenged this provision and asked for a judicial review by the Constitutional Court. They argued that Article 29 violated the victims' right to remedy. The Constitutional Court finally decided to annul the entire Law since Article 29 constituted the essential elements of the entire law. Since then Indonesia only has had informal truth-seeking mechanisms, which are mostly carried out by civil society.²⁴

¹⁸ Minow, Martha, *"Between Vengeance and Forgiveness"*.; Tepperman, Jonathan, "Truth and Consequences."

¹⁹ Nogales, Jaya and Ciorciari, John. "Lessons from the Cambodian Experience."

²⁰ Tepperman, Jonathan "Truth and Consequences."

²¹ Minow, Martha *Between Vengeance and Forgiveness*.

²² Tepperman, Jonathan "Truth and Consequences."

²³ Ibid.

²⁴ Ibid.

The National Symposium on the 1965-1966 Killings which took a historical approach to the past abuse in 2016 can be categorized as a TRC although it did not use the term TRC. This symposium was a small step towards justice. It was an ad hoc body, which was established by the government and authorized by President Joko Widodo. The symposium discussed with the stakeholders to find out what happened and aimed at producing a recommendation for the government. During the symposium, the government asked the civil society to locate the mass grave of the alleged communist sympathizers to allow the government to confirm the numbers killed during the communist purge. After a few weeks, they met with the Coordinating Minister for Political, Legal, and Security Affairs Luhut Panjaitan to hand over data.²⁵

The debates touched on many aspects including historical background, socio-cultural and psychological dimensions of the violence, the experience of victims and families of those involved, and ways for settling the past abuses. There was very little discussion that touched on the political dimension of the mass violence nor the role state institutions played in it. The event ended with an acknowledgment of the state's involvement in the violence and strongly recommended rehabilitation for victims.²⁶

a. Conventional Wisdom: The Balance of Power Theory

The literature on TRC has covered several broad themes: the factors that influence states to opt for TRC as opposed to other transitional justice mechanisms such as trial or amnesty, different types of TRC structures and mandates, the effectiveness, role of, and strategies employed by civil society in advocating TRC and initiating informal truth-seeking commission. Very few studies address the first theme, and much more discussion covers the rest of the themes.²⁷

One of the early propositions about the origins of TRC concerns the balance of power during regime transition. The general idea is that TRC is more likely when both civil society and the outgoing regime are equally strong. This usually happens in a post-authoritarian country where the transition to a democratic system has been gradual, controlled, and authoritarian-initiated, and is primed for the establishment of the TRC. In this situation, the outgoing regime is expected to be coherent, relatively unified, and consequently have a say in the transition process. At the same time, in this so-called *pacted* transition, the public, which encompasses a wide array of individual actors, and non-governmental organizations, including human rights organizations, typically have a strong presence in the political process. Thus, when the civil society and the outgoing regime are both strong, we should expect the establishment of the TRC.²⁸ This is a win-win situation for the public who demands a trial and the outgoing regime,

²⁵ Wahyuningroem, Ayu. 2016. "Justice Denied?," Inside Indonesia, 2016, <http://www.insideindonesia.org/justice-denied>.

²⁶ Ibid.

²⁷ Minow, *Between Vengeance and Forgiveness*.; Roper, Steven and Barria, Lilian. 2019. "Why Do States Commission the Truth? Political Considerations in the Establishment of African Truth and Reconciliation Commissions," *Human Rights Review* 10, no. 3: 373–91, 7 March, 2009; Skaar, Elin. "Truth Commissions.," Tepperman, "Truth and Consequences."

²⁸ Skaar, Elin. "Truth Commissions."

including the military, who used to lead or support the dictator, who wishes to avoid it. Therefore, TRC is a product of compromise between these two actors in a situation involving power sharing.²⁹

Skaar categorized all of the six countries as *pacted* transition. Based on the empirical research, Skaar argued that Uruguay, Brazil, Chile, and South Africa, fit the model, while South Korea, and Indonesia defy the expectation about the likelihood of the establishment of TRC under *pacted* transition. Since she built her research on Hayner's article in 1994, she includes both the non-formal TRC and formal TRC in her study. As a result, she coded Brazil and Uruguay as success stories when in fact these countries only established the TRC in 2011 and 2000 respectively, whereas South Korea and Indonesia are categorized as deviant cases.³⁰

At the time her article was published in 1999, Brazil, Indonesia, and Uruguay should have been considered a deviant case, while South Korea should have been categorized as a success story.³¹ The following table sums up the recategorization of Skaar's model.

	Military demand strong
Public demand strong	Truth commissions: Chile (1990) South Africa (1995) South Korea (1998) Indonesia (2016) Brazil (2011) Uruguay (2000)

Table 1 Recategorization of the six cases based on Skaar's model

While Skaar's theory can explain the choice of justice mechanism (i.e., TRC versus Trial), she cannot explain the timing of the establishment of TRC. The next two sections attempt to account for the variation of the timing or why some countries established a TRC soon after the political transition from authoritarian to democratic, while others long after the transition period. Understanding the timing of the establishment of the TRC is important as victims and their

²⁹ Ibid.

³⁰ Ibid.

³¹ Weschler, Lawrence. 1980. *"A Miracle, a Universe Setting Accounts with Tortures"* (Chicago: The University of Chicago Press, 1990.; Baik, Tae-Ung., 2012, "Fairness in Transitional Justice Initiatives: The Case of South Korea," *Buffalo Human Rights Law Review* 19: 169–92, 1 January, 2012.

relatives need closure over past human rights violations and the delay in the establishment of it can decrease trust in the government.

b. Possible determinants of the establishment of the Truth and Reconciliation Commission

Since the publication of Skaar's article, some scholars have tested and refined the argument using case studies, and the large-N method.³² To explain the deviant case at the time of her writing in 1999 such as Indonesia, Skaar suggested that the strong interest of the executive in preserving military links, and the continued threat of military opposition to the democratic government following the transition are responsible for the absence of TRC. These arguments, however, seem similar to the idea that the military is strong. Hence it does not explain the variation in the establishment of TRC. While it explains the resistance to the establishment of TRC, it does not explain why Indonesia finally agreed to adopt it.

Another argument concerns the quality of the judicial system in post-authoritarian countries. As Ropper and Barria pointed out the poorer the judicial system, the less likely that a trial is established, and the more likely TRC, as a non-judicial mechanism, is created. Based on the Freedom House, the rule of law (which measures not only the independence and effectiveness of the police and courts but also the quality of contract enforcement and property rights), Indonesia's score has improved since the reform in 1998, but still lags behind South Africa, a country with legacies of crime and state violence.³³ If this theory is true, South Africa is the one that should experience delay in the establishment of TRC, instead of Indonesia.

Ropper and Baria (2009) suggested that the level of democracy matters. So, the freer the country, the more likely the TRC to exist. Democracy can be measured either as a function of respect for political and civil rights (substantive democracy) as well as in terms of process (procedural democracy). To measure, they use Freedom House ratings which measure states from free (1) to not free (7) based on political rights and civil liberties. Indonesia's score improved over the years from 1997-2009, and it scored higher than South Africa in 2008.³⁴ Thus, it is puzzling why Indonesia experienced a delay in the establishment of a TRC.

c. The role of internal and international structural conditions

Another possible explanation for the timing of the establishment of TRC concerns the threat environments. Michael C. Desch argued that the ability of civilian leaders to get the military to do what they want to do is linked to structural incentives.³⁵ If the military faces primarily international or external threats, it is easier for the civilian leaders to control them. In

³² Roper, Steven and Barria, Lilian "Why Do States Commission the Truth?."

³³ Diamond, Larry and Plattner, March (Eds). 2010. *Democratization in Africa Progress and Retreat* 2nd edition. Baltimore: The John Hopkins University Press.

³⁴ Ibid.

³⁵ Desch, Michael. 1999. *"Civilian Control of the Military : The Changing Security Environment"*, Baltimore: Johns Hopkins University Press, 1999.

contrast, if domestic or internal threats are dominant, it is harder for the civilian to control the military. When both external and internal threats (or neither) are less decisive, Desch suggested we look at other variables, which as a military doctrine. In other words, military doctrine plays a greater role in less structurally determinate situations.

How do threats influence the state? According to Desch, external threats threaten the entire state, including the military.³⁶ For this article, I slightly modify Desch's theory by focusing on the threat to the military institution. Therefore, the increased external threats or the presence of opportunities to improve the wealth, welfare, and survival of the military institution produce increased unity within the military, and compel everyone to focus on the international environment. As far as internal threats are concerned, it has more complex effects on the various actors domestically. If the internal threats only affect the state and society, the military is less likely to interfere in domestic affairs. However, if the threats are perceived by the military to affect their institution, this situation will produce a military-supported civilian dictatorship or military control of domestic politics.

What matters with threats is how the actors perceive them. If they perceive something as real, although there may be little to other people, the threat is real in its consequences. The interests of the military institution that can be threatened are (in ascending order of importance) protection of budget share, preservation of organizational autonomy, maintenance of cohesion, and survival of the institution.³⁷

When a state is at war it is hard to deny that the threat is real. In structurally determinate situations (when either the external or internal is more threatening) threats are more objective. However, under an indeterminate situation (when both internal and external are equally threatening or not threatening) subjectivity plays more role, and military doctrine contributes to determining the civil-military relations.³⁸

Military doctrine determines which military resources will be employed, how they will be used, and where. Under the indeterminate situation, it can act as a proxy for structural threats, provide road maps for the military, or focal point for both civilian and military leaders. If the military is geared towards internal missions, it is hard for the military to turn outward. Consequently, an inward-looking military is harder to control by civilian leaders.³⁹

Since the establishment of a TRC concerned with civil-military relations in a country that was led by either a military dictatorship or civilian dictatorship with strong military support, we should expect that if external threats or opportunities to advance the military interest are high following the political reform, the TRC should be established immediately or soon after the reform. Under the indeterminate situation, the early establishment of TRC should be correlated with the outward-looking nature of the military doctrine.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid; Nordlinger, Eric, 1977. *"Soldiers in Politics Military Coups and Government"*, New Jersey: Prentice Hall, 1977.

³⁹ Desch, Michael. *"Civilian Control of the Military"*.

If international threats or opportunities to advance the military interest are low following the political reform, the TRC should be established long after the reform. Under the indeterminate situation, the delayed establishment of TRC should be correlated with the inward-looking nature of the military doctrine.

The following table lays out the prediction of the structural or threat theory:

	External threats or opportunities to advance the military interest are high following the transition.	External threats or opportunities to advance the military interest are low following the transition.
Internal threats to the military are high following the transition.	Indeterminate situation – TRC is established early if military doctrine is outward-looking, and late if the doctrine is inward-looking	TRC is established late
Internal threat to the military is low following the transition.	TRC is established early	Indeterminate situation - TRC is established early, if military doctrine is outward-looking, and late if the doctrine is inward-looking

Table 2: Predictions of the structural or threat theory

I rely on qualitative data such as government officials' statements and interviews in the media as well as scholarly literatures to substantiate my argument.

Analysis

a. Chile

Chile established the TRC in 1990 not long after Pinochet experienced a 1988 plebiscite, and handed over power to the civilian leader in the 1990s.⁴⁰ According to Cristiana and Robledo, the Chilean military contributed to international peace operations through United Nations peace

⁴⁰ Fitch, John. *The Armed Forces and Democracy in Latin America*; Skaar, Elin. "Truth Commissions."

operations starting in 1991.⁴¹ It participated in Bosnia (with the United Kingdom), Cyprus, East Timor, Central America, Cambodia, and Iraq. Before that, this Chile had participated modestly in international peacekeeping missions in Honduras, and El Salvador in 1975. Under the Frei Administration, in 1995, the civilian leaders formalized this international role by designing a defense and security policy that included the internationalization of the Chilean military through participation in peace, stability, and reconstruction operations, as well as strengthening neighborly and regional cooperation. This role was later stipulated in the 2005 Constitution.⁴²

Internally, the military did not perceive any threats to the military institutions. Unlike Uruguay which experienced the advance of leftish elements following the transition to democracy, which the military perceived to be threatening (Weschler 1990). The military also did not perceive the civilian government as a threat to their establishment. Before the transition, the Copper Law was passed. This law guarantees that the Armed Forces are entitled to 10 percent of all exports of the state-owned copper company, with a minimum of US\$ 180 million.⁴³

b. South Africa

South Africa established its TRC in 1995, a year after it successfully held all-race elections in 1994.⁴⁴ The immediate establishment of TRC coincides with the internationalization of the South African National Defence Force (SANDF). Following the transition in the early 1990s, the SANDF was deployed in support of new missions and roles as a peacekeeping force. Some of its external operations were based on bilateral agreements rather than part of UN-led peacekeeping operations.⁴⁵

The focus on the peacekeeping mission can be explained by the absence of traditional military threats and the participation of South Africa in the Southern African Development Community. The participation of South Africa in this organization compelled the government and army to adopt a peaceful attitude externally.⁴⁶

Although there was a lack of pressing traditional military threat, the government decided that the SANDF's primary function was to defend South Africa against external military aggression. The SANDF was therefore designed as a conventional force equipped and trained for this primary role, while its secondary functions are peacekeeping, border safeguarding, or police

⁴¹ Matei, Florina and Robledo, Maros. "Democratic Civilian Control and Military Effectiveness Chile," in *The Routledge Handbook of Civil-Military Relations*, ed. Bruneau, Thomas and Matei, Florina, Oxon: Routledge, n.d, 285–95.

⁴² Matei, Florina and Robledo, Maros. "Democratic Civilian Control"

⁴³ Ibid.

⁴⁴ Griffiths, Robert. 1995. "South African Civil-Military Relations in Transition: Issues and Influences," *Armed Forces & Society* 21, no. 3: 395–410, April, 1995.

⁴⁵ Parth, Anne-Marie and Schneider, Susanne. "Civilian Control and Military Effectiveness in South Africa and Ghana," in *Reforming Civil-Military Relations in New Democracies*, ed. Croissant, A and Kuehn, D. Springer International Publishing, 103–28, 2017; Piombo, Jessica. "Civil-Military Relations in an Emerging Democracy," in *The Routledge Handbook of Civil-Military Relations*, ed. Bruneau, Thomas and Matei, Florina. Oxon: Routledge, 255–74, 2013.

⁴⁶ Ibid.

support. The SANDF is still considered to be one of the best-equipped defense forces.⁴⁷ Internally, the military did not perceive that the domestic transition threatened their survival. The civilian government agreed to facilitate the modernization of most equipment of the SANDF.⁴⁸

d. South Korea

South Korea established its TRC in 1998. There was a 10-year gap between the transition to democracy in 1988 and the establishment of TRC. What explains this? Internally, under President Roh Tae-Woo, the first president under a democratic regime, the civilian leader continued to recruit former high-ranking military officers into the government. They also continue to control defense policy and its autonomy in internal affairs. Their domination in public life was made possible by the weakness of the legislative during the early years of a democratic regime. The military was worried about the continuity of their survival under the new regime.⁴⁹

Over time, the military also experienced a reduction of funding for the military because the public was no longer interested in the total security concept, which consisted of military self-help, anticommunism, modernization, economic growth, and national survival. The public lost interest in this ideology because they perceived that there had been no major military conflicts with North Korea for a quite long period. The leaders of Korea under a democratic regime seemed reluctant to play the security card to legitimize their leadership.⁵⁰

It was not until 1998 that the military began to feel secure again. Kim Dae-jung government was inaugurated in 1998. He initiated an institutional change by establishing the National Security Council, where 3 out of its 5 members were retired army generals. The National Security Council assists the president in making security decisions, ensuring interagency coordination, and deliberating on a broad range of national security issues.⁵¹ The timing of the establishment of the TRC coincides with the improved civil-military relations under Kim Dae-Jung.

e. Uruguay

The victims of human rights abuse had to wait for 15 years to have their own TRC. President Sanguinetti was not able to establish it immediately after he was sworn in as the first civilian president after years of dictatorship.

What could be the reason for the long wait? Following the transition to a democratic regime, the military's budget was large. Uruguay had a military budget of countries that were at

⁴⁷ Ibid.

⁴⁸ Parth, Anne-Marie and Schneider, Susanne "Civilian Control and Military Effectiveness."

⁴⁹ Croissant, Aurel and Kuehn, David. 2017. *Reforming Civil-Military Relations in New Democracies*. Switzerland: Springer.

⁵⁰ Jun, Jinsok. 2001. "South Korea: Consolidating Democratic Civilian Control," in *Coercion and Governance the Declining Political Role of the Military in Asia*, ed. Muthiah Alagappa, Stanford University Press: Stanford, 2001, 121–42.

⁵¹ Ibid

war, such as Iran, Cuba, and Nicaragua. The top military leader, General Medina, perceived both Argentina and Brazil as two main military threats to the country. Although the three countries were at peace, the top leaders in the military were fearful that an invasion by a strong neighbor could take place.⁵²

Internally, the military perceived that the threat of communism was still much alive and that the threat of subversion was real. Although the top General Medina could not prove the threat of subversion with support from the Soviet Union, he maintained that he had suspicion towards the Soviet Union.⁵³ Thus, both the internal and the external threats were high.

The delay in the establishment of TRC, therefore, stems from the military doctrine. Uruguay is a small country with a small army, Uruguay was not accustomed to deploying military forces overseas.⁵⁴ The internally oriented military tends to have more inclination to participate in domestic politics, especially if the government and public allow them to do so.

f. Brazil

The Brazilian government passed a law creating a TRC in 2011.⁵⁵ Cavallaro and Delgado noted that Brazil has lagged behind other Latin American states in terms of advancing accountability for the gross violation of human rights.⁵⁶

Cavallaro and Delgado attributed the absence of a justice mechanism in Brazil in general to the instability within the country for over sixteen years from 1980 to 1996. As in other transitional states facing surging crime, civilian authorities faced a security vacuum after the new governments removed the old security apparatus. The increased homicide rate and criminal activities created a backlash against domestic authorities who championed human rights discourse. From the point of view of the citizen, stability is more important than human rights discourse.

While this development works in the military favor, international development created anxiety for the military. On December 24, 2007, Italian judge Luisanna Figliolia issued an extradition request for 140 former agents of dictatorships from throughout Latin America for the killing of 25 Italian citizens in the course of Operation Condor in the 1970s and 1980s. Among those on the list were Brazilians.⁵⁷

The establishment of the TRC was also made possible with the rise of the center-left government, which distanced itself from past human rights violations. Given these two

⁵² Weschler, Lawrence. *A Miracle, a Universe Setting Accounts with Tortures*.

⁵³ Ibid.

⁵⁴ Ulery, Eduardo. 2005. "The Uruguayan Armed Forces and the Challenge of 21st Century Peacekeeping Operations," *Master Thesis Naval Postgraduate School*, 2005.

⁵⁵ Schallenmueller, Christian. 2014. "Transitional Justice in Brazil and Uruguay: Different Solutions to the Tension between Human Rights and Democracy," January 1, 2014.

⁵⁶ Cavallaro, James and Delgado, Fernando. 2011. "Contextualizing Transitional Justice in Brazil: Understanding the Lack of Accountability in Brazil and Its Consequences for Contemporary Protection of Human Rights," Sanela Diana Jenkins, 2011.

⁵⁷ Ibid.

developments, the military might choose to agree to the establishment of a TRC to make sure that the domestic and international actors do not alienate them.

g. Indonesia

Since the country's independence in August 1945, Indonesia has been preoccupied primarily with the problems of secession, communal and religious violence, ideological tension, and political conflict among the elite that threatened territorial integrity, national unity, internal order, and political stability. Consequently, Indonesia's national security concerns, defense policies, and posture remain primarily internal.

According to Laksmana the military's internal security mindset is apparent in the State Defence Doctrine (issued in 2008).⁵⁸ The Doctrine focuses on non-military threats such as ideology, politics, and socio-economic problems. Furthermore, the dominance of the army in the Indonesian military, as well as the expansion of the Territorial Command Structure designed to monitor and control the security down to the village nationwide demonstrate the military's internal security mindset. This is consistent with Desch's argument about the importance of perception. What matters with threats is how the actors perceive them. If the military perceives the country to be marred with a series of ideological, political, socio-and economic problems the threat is real in its consequences.

The military, however, has understood it cannot ignore the external threats, including the implication of the preponderance of the US in East Asia, as well as the China threat. As far as China is concerned, the leading decision-makers and influential strategic thinkers in Indonesia have always had mixed feelings about this country. On the one hand, Indonesia is fearful of China. Indonesia had bitter diplomatic exchanges in the 1950s and 1960s. China at that time was actively supporting the Indonesian Communist Party. And over the last two decades, China has demonstrated its ability to rise economically and militarily. In recent years, China's claim of the South China Sea has challenged Natuna's 200-mile Exclusive Economic Zone (EEZ) giving credence to fears that it might encroach on Indonesia's territory. Indonesian military leaders privately name China as Indonesia's most likely military threat and do not dismiss the prospect of a Chinese invasion.⁵⁹ On the other hand, China is increasingly interested in binding itself in norm-based regional cooperation. Last year, the Indonesian Defence Minister stated that there is very little possibility of interstate war.

Based on Desch's criteria, Indonesia would be classified as a country under a high internal threat and low external threat in terms of traditional military threat before 2016. However, as

⁵⁸ Laksmana, Evan. 2011. "Indonesia's Rising Regional and Global Profile: Does Size Really Matter?," *Contemporary Southeast Asia* 33, no. 2 : 157–82, 2011.

⁵⁹ Rahadi, Fernan. 2017. Diundang UGM, Menhan Bicara Ancaman Terorisme. <https://republika.co.id/berita/pendidikan/dunia-kampus/17/12/19/p17nks291-diundang-ugm-menhan-bicara-ancaman-terorisme> , December 19, 2017.

Desch noted, the threat to the military establishment does not necessarily have to be a traditional military threat.

In 2015, the pressure from outside the country to address human rights violations was high. The attempt to fill the gap in domestic judicial and non-judicial mechanisms led to a four-day hearing at the International People's Tribunal (IPT) at The Hague from 10-13 November 2015.⁶⁰ According to Santoso and van Klinken, The IPT 1965 at the Hague's journey began in 2013 and throughout 2014-2015 there were series of seminars that discussed the repression from 1965 onwards, and stories of victims. On 18 March 2014 the IPT 1965 Foundation was established on behalf of Indonesian exiles in the Netherlands, Germany and international researchers. Its main task is to organize a tribunal to examine the state crimes in Indonesia in 1965.

The tribunal concluded that the government of Indonesia in the past was guilty of inhumane, ruthless torture, unjustifiable imprisonment, and forced labor that might well have amounted to enslavement.⁶¹ The panel also found evidence of systematic sexual violence, political persecution, exile, and disappearances of thousands who were thought not to support the Suharto dictatorship. These observations confirm the findings of The National Commission of Human Rights's investigation that the events of 1965/66 fall into the category of crimes against humanity.

International pressure such as the International People's Tribunal at The Hague was 'perceived' as a foreign intervention in domestic affairs by the Indonesian government. In 2015, the Coordinating Minister for Political, Legal and Security Affairs Luhut Padjaitan accused the organizers of IPT 1965, which are mainly consists of Indonesian as a bunch of people that have nothing better to do. Asked by a journalist on the IPT 1965 he further said: "Yeah, let it be. I understand. Yeah, maybe Indonesians have nothing better to do. We Indonesians know how to solve Indonesia's problems."⁶²

In response to the IPT, the current government stated that it will not bow to the IPT's recommendation and argued that Indonesia has its legal system to address this issue (Perry 2016). The former Indonesia's Security Minister Luhut Panjaitan criticized the tribunal in July 2016 saying that: "the killings were none of their business, they are not our superiors, and Indonesia has its own system".⁶³

His statement does not tell us the entire story about Indonesia's policy on 1965 killings. The government announced a non-judicial mechanism to resolve past human rights abuses, including the killing of 1965, in May 2015. It took a year for the government of Indonesia to organize a government-backed national symposium. The symposium was held in Jakarta on the

⁶⁰ *loc cit.*

⁶¹ *loc cit.*

⁶² Hanske, Rebecca. 2015. "Luhut: PKI ada dibunuh, jenderal ada dibunuh, siapa yang mau diadili?". BBC News Indonesia, November 11, 2015, https://www.bbc.com/indonesia/berita_indonesia/2015/11/151111_indonesia_lunch_with_luhut

⁶³ "Indonesia Rejects Ruling on 1960s Mass Killing," Al Jazeera, July 21, 2016, <https://www.aljazeera.com/news/2016/7/21/indonesia-rejects-ruling-on-1960s-mass-killing>.

1965/66 killings. This event was supported by the National Human Rights Commission and attempted to facilitate the first meeting between members of the Indonesian military, which led to the anti-communist persecution, and survivors of the atrocity.⁶⁴

The symposium can be categorized as the Truth and Reconciliation Commission, although it did not use this label. The symposium meets the criteria of the TRC. The executive backed it, and it fulfilled the other criteria of a TRC, which are ad hoc, focusing on investigation or discussion of what happened in the past, and producing reports and recommendations.

The internationalization of the 1965 killings put pressure on the military and the government to deal the injustice through domestic mechanisms.⁶⁵ Desch theorizes that when the internal and external threat is (perceived to be) high, another factor such as the ideology of the military shapes the output. Under the indeterminate situation (1st cell in the 2x2 table), then a country with internally oriented military doctrine tends to be a late adopter of the TRC. This explains why Indonesia, compared to other pacted transitional regimes, is the late adopter of the TRC. Thus, the timing of the establishment of the TRC coincides with the involvement of the international body in the case of the 1965 mass killings.

Conclusion

The efforts to seek justice for past crimes among the former authoritarian countries led to the creation of the Truth and Reconciliation Commissions. This paper shows that the structural factors, specifically the level of international and internal threats, influence the timing of the establishment of the TRC. The analysis in the preceding section shows that there is a correlation between various combinations of my independent variables and changes in the dependent variable.

This paper, however, does not include an assessment of the causal mechanisms linking the independent and dependent variables. Future studies therefore can complement this paper and use process tracing and rely on different types of evidence to show that the nature of the threat facing the military influences the timing of the establishment of the TRC.

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⁶⁴ Kwok, Yenni. 2016. "Indonesia Calls a Symposium on the 1965–66 Killings, but May Not Be Ready for the Findings," *TIME*, Time, April 15, 2016, <https://time.com/4295474/indonesia-1965-1966-killings-pki-massacre-reconciliation/>.

⁶⁵ Wahyunjngroem, Ayu. "Justice Denied?"

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