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ALLEGRA - TRANSITIONAL JUSTICE

Reimagining Transitional Justice in Bali

LESLIE DWYER — 23 March, 2015



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Transitional Justice is an important emerging theme in legal anthropology. Völkerrechtsblog will explore this theme through a collaboration with the blog [‘Allegra Lab: Anthropology, Law, Art & World’](#) and re-post their series [‘Transitional Justice under the anthropological microscope’](#).

“It’s already the era of demokrasi, you know,” Pak Ketut says, nodding his head in firm approval, stretching out each syllable of the Indonesianized English as if savoring a potent taste. As he speaks, he glances over his shoulder at the framed photograph that hangs on his living room wall, showing a much younger version of himself taking up a term as representative to Bali’s provincial legislature. The grainy black-and-white image is stained and faded behind its polished glass, but as we follow Pak Ketut’s gaze, we can see how a young man’s bones, sharp and angular, still reflect their shadows in an old man’s face. “You are both educated people,” he continues, his eyes now focused on us with rigid intensity. “You know what that means. That means we have to forgive each other, to move on from the past to build the future. Maybe we cannot forget, but for our children’s sake, we must have reconciliation. It’s people like us, people who are educated, who must lead others toward reconciliation. Without reconciliation, our nation cannot survive.”

But education – at least the scholarly literature on violence, memory and post-conflict social life in which we have been immersed – has not been enough to prepare us for this conversation. For we are here in this living room, a mere 100-meter walk from Degung’s ancestral home in Bali’s capital city of Denpasar, talking to one of the last people to have seen Degung’s father alive. Pak Ketut has spent the past hour reminiscing about Degung’s father, describing him as an intense young man who brought his vocation as a teacher to the village, sharing his knowledge of Sanskrit philosophy, his modern views on labor and Hindu ritual, and his fascination with Marhaenism, the mystically-tinged populism Indonesia’s first president, the charismatic Sukarno, devised as a syncretic blend of anti-colonial nationalism, religion and communism. And Pak Ketut has just told us how in December 1965, as the Indonesian military’s drive to eliminate the Indonesian Communist Party (Partai Komunis Indonesia or PKI) and Sukarno’s leftist supporters intensified, he was called, as a local leader of the anti-communist Indonesian Nationalist Party (Partai Nasionalis Indonesia or PNI), to deliver those named on a list of alleged communists to the district military command. He tells us he had no choice; not obeying orders would have endangered his own survival and that of his family. He tells us he was gentle in his unwanted duty, cradling Degung’s father’s head in his lap, and speaking to him softly in

the respectful high Balinese owed to one of high caste, as he lay bleeding in the back of an army pickup truck. Pak Ketut tells us he did not yell as loudly as the others, nor feel the same brutal joy singing through his veins, when Degung's father was paraded through the streets of Denpasar, made a public spectacle of communist threat to the nation. He tells us he regrets all that happened, but that he, too, was a victim of the state, which used the PNI to carry out its dirty work, later banning the party to consolidate its control.

As Pak Ketut tells us these things, his gnarled hands shake, knocking his coffee cup to the floor in a thick slosh of liquid. But as he glances again at his uniformed self on the wall – proof that he had once been someone important, in the days before “democracy” and “reconciliation” shook the certainty of long-honed hierarchies – he seems to regain his composure. “Besides,” he tells us, his voice now confident, “If I had wanted to kill people, do you think I would have left any of your family alive?”

As we leave Pak Ketut's house, we are quiet, lost in our own thoughts. Leslie is turning the term “reconciliation” over in her mind, wondering how this word, so fraught with possibilities and pitfalls, might be made to resonate with what has just occurred. What could reconciliation be said to mean in such a context, between two people who have lived side by side for almost four decades, praying at the same village temple, shopping at the same market, passing each other on the streets without speaking but without enacting overt violence against each other? Is reconciliation this establishment of civil social intercourse between those who lived through terror and now call themselves, across divides of experience and power, “victims,” this sharing of sweetened coffee over an all-too-bitterly-familiar story of violence and its rationalization? Or is it precisely this civility, this sharing of terms grown global in their reach, that smooths down the sharp edges of memory, emptying reconciliation of its potential to focus political will and ignite social change?

Degung's thoughts are more painful, shuttling wrenchingly back and forth between past and present, between the allure of imagining a democratic future and the pull of memories of what even now cannot be imagined. How, he wonders, can victims of violence in the name of the nation reconcile not only with those who carried out atrocities but with the call to take up a citizenship so long denied and so long despised? Why does it seem so much easier for so-called perpetrators, many of whom held onto power in the aftermath of violence, to “speak and be healed,” when so many others speak and still hurt, or stay silent in the labyrinths of memory? What kind of call to speech does reconciliation encode, and what kind of subject does it demand? And what does it mean when perpetrators make claims to the status of “victims,” when “victim” has a status, when suffering takes on a moral height from which “forgiveness” must be bestowed? But mostly he thinks about why this meeting, so long considered, has left him feeling so little, stilled by a drumming of ideas grown alien and inexact as they emerge from the mouth of a man who says he had spared him.

“Transitional justice is a dead issue”

Working on issues of mass violence and transitional justice in Bali, Indonesia has been, more often than not, a dislocating endeavor. Sometimes this dislocation has been intentional, as when I and my research partner, Degung Santikarma, entered spaces, like the living room of our neighbor Pak Ketut, where the ordinary routines of life and learning cracked under the weight of terror's banality, ideologies of politeness and progress tainting “peace” with a bittersweet tang. Other times, dislocation seemed inevitable when, after days of interviewing Balinese survivors of the mass violence of 1965–66 – a state-sponsored purge of alleged communists that left some one million

Indonesians dead and ushered in 32 years of authoritarian rule under former president Soeharto – we ventured out to the island’s tourist oases. There the mass graves of 1965–66 rest under hotels, villas and minimarkets, and the subjectivities of Balinese themselves – branded as “peaceful, spiritual and harmonious” – are sold to the island’s 9.5 million-plus yearly visitors. And every once in a while, dislocation took the form of an unexpected bridge compressing distance, as when 10,000 miles away from Bali at a conference in Washington, D.C., an acquaintance from a well-known think tank told me that “transitional justice is a dead issue.” Courteously, I asked her to explain. “There’s no empirical proof that it works,” she said. “There’s no real evidence as to its outcomes. I mean, transitional justice is expensive – truth commissions, tribunals, reparations, all those things are huge drains on post-conflict economies. There’s a growing consensus that it just doesn’t make sense to be looking backwards.”

After years of domination by legally-trained scholars and practitioners, the field of transitional justice has recently opened more widely to anthropological insights and critiques. Anthropologies of transitional justice have been instrumental in calling attention to the slippages, contradictions and misfits between the lived experience of survivors of mass violence and the models for social repair that circulate globally, including transitional justice’s toolkit of tribunals, truth commissions and reparations (Hinton, ed. 2010; Shaw, Waldorf and Hazan 2010).

Highlighting the complex and often contested contexts in which justice emerges as a practice and ideal, anthropologists have critiqued modular, one-size-fits-all post-conflict interventions, their analyses giving strength to new emphases within the transitional justice field itself on “local justice” and the support of grassroots mechanisms for effecting reconciliation (Baines 2010, Kent 2011). Critical ethnographic perspectives have succeeded in challenging the blunt binaries around which transitional justice debates have all-too-frequently stagnated, including those that set justice and peace, universality and locality, or memories of the past and orientations towards the future against each other (Castillejo-Cuellar 2013, Shaw 2013). Scholars committed to engaging the perspectives of survivors of conflict have also begun to challenge the “post-conflict optic” (Leve 2014) that organizes analysis and intervention in the aftermath of mass violence, bracketing complexities and taking for granted liberal peace-building models that pose democracy, free trade and securitized rule of law as panaceas for conflict (Autesserre 2010, Richmond 2011).

For whom does transitional justice work?

Yet while there has been tremendous power in these critiques, there are still questions that deserve further exploration, questions that anthropology is perhaps especially well-positioned to address. These include the relationship of transitional justice mandates to neoliberal economic and governance regimes, as well as the narrative politics through which claims to transitional justice – or to its death – circulate, questions that highlight both the structural injustices enabled by particular visions of transition and the narrative quality of transitional justice itself as a story told about suffering and temporality and a set of technologies for the production and marginalization of certain kinds of voice. And perhaps most importantly, anthropology has the potential to help answer the often-overlooked questions of whom transitional justice “works” for, and how its benefits are so often differentially distributed.

In thinking about these questions, it is perhaps not really surprising that an aging Balinese perpetrator and an up-and-coming Washington expert would find common cause in a strategic disengagement with the violent past. In both contexts, similar visions

of progress are privileged, one imagining an idealized national unity unmarred by the scars of suffering or the risks of accountability, the other suspicious that post-conflict justice, when all is said and done, might offer a negative return on investment. Both visions evoke a fantasy of pastlessness, a future of weightless flow in which memory is a drag on forward motion and barriers to (someone's) development dissolve. Indeed, these justifications for transitioning quickly past justice – indicators, efficiency, capital, progress, even democracy – resonate so closely that they seem almost to dissolve old binaries of global and local: our common cause demanding we all just get back to shopping, or in the Bali case, to being commodifiably photogenic, unforgettable while forgetting.

But Bali is also an instructive case for thinking about transitional justice for other reasons. Today, 17 years after the fall of Soeharto's 32-year-long New Order regime, Indonesia has earned the dubious distinction of becoming one of the only countries in the world to first, in 2004, authorize a truth commission and later, in 2006, see it scrapped by its Constitutional Court.

In 2012, a report by Indonesia's National Human Rights Commission concluding that state-sponsored gross human rights violations, including the killing of up to 1.5 million alleged communists, had occurred in 1965-66, was dismissed by the Attorney General's office as insufficient grounds for investigation (Jakarta Globe 2012).

And most recently, in January 2015, *The Look of Silence* (entitled *Senyap* in Indonesia), a film about efforts to find justice in the aftermath of the 1965-66 massacres by award-winning documentarian Joshua Oppenheimer, was banned by Indonesia's Film Censorship Institute on a series of troubling grounds, including the claim that the film violates social norms of "politeness," "encourages viewers to be sympathetic....to the teachings of communism" and "creates social and political tensions which weaken national resilience" (Melvin 2015). Perhaps unsurprisingly, a number of commentators have concluded that transitional justice has "failed" or been "derailed" in Indonesia (see Kimura 2014, Aspinall and Zain 2013, ICTJ/KontraS 2011).

Structural barriers that hinder real transformation

Yet in Bali, creative efforts to revive – and ultimately reimagine – transitional justice have much to teach us, shedding light not simply on "the local" as a site of difference from mainstream transitional justice presumptions but on the structural barriers that block transitions from becoming real transformations, as well as the politicized narratives through which both constraints and new futures emerge.

In 2005, forty years after the anti-communist massacres and seven years after Soeharto stepped down from power, a group of Balinese youth inaugurated the first built space commemorating the civilian casualties of 1965-66, Taman 65 – the "1965 Park" – a small square of stone and grass set in the courtyard of an extended family home (see Dwyer 2010). During the first years of the park, its youth, comprised of children and grandchildren of perpetrators and victims of violence, drew heavily upon familiar transitional justice tropes of truth-telling and witness. At a time when Indonesia's public culture still remained closed against calls to account for the casualties of state-sponsored violence, the park was to be a place for people to share their stories openly, a catalyst for the bridging of differences, and a site to make public the memories of harm and betrayal constrained over decades of censorship and fear. It was to be a new Indonesia writ small, one privileging democratic freedoms of speech and spanning the divisions created by violence, aimed at the creation of a shared narrative of new social

forms. It was also to be a resolutely modern space, one that would, in the words of one of the members of the collective, challenge “the ritualization of worldly problems,” posing a liberal valorization of voice and experience against the long-standing Balinese practice of diverting the resolution of conflict into ritual entreaties to the Hindu-Balinese deities or the realm of karmapala, where justice is assured in the fullness of time without risking potentially dangerous face-to-face confrontation (Putra 2012).

Through local dialogues on reconciliation, fact-finding projects documenting the testimonies of Balinese survivors, and an exhibition of photographs of the dead – a call to public memory that echoed global testimonial representations of the disappeared of mass violence – the park collective positioned itself firmly within transitional justice discourses of truth and dialogue as essential nation-building projects.

As part of their work to make suppressed stories of the past compelling to a younger generation, they also engaged in a creative project to recover old poems and prose written by former political prisoners, setting these lyrics to blues, rock and punk music.

Meaningful sites of reconciliation

Yet as the years passed, the 1965 Park changed. Contestations erupted within the local community around different ways of remembering and engaging the past, with an older generation less fluent in the globalized language of transitional justice rejecting the designation of their ritual approaches to the past as pre-modern. The stories these elders told of the violence, and of life in its aftermath, rendered easy categorizations of perpetrators and victims and the need to bridge a binary divide between the two a far more complex project than first envisioned. Moreover, many of these survivors were deeply ambivalent about the nation-building pretensions of mainstream transitional justice projects; for those who had suffered assault or lost family members at the hands of neighbors and kin, or who had endured a state stigma of “communist” that continued to block them from full civic participation, the most meaningful sites of reconciliation were often to be found in intimate community relationships rather than with a valorized ideal of “horizontal citizenship” (Anderson 1983). The 1965 Park slowly transitioned away from ambitions of consensus towards a deep recognition of the multiple and fragmentary legacies of violence, the shards of conflict buried deep within Balinese selves and society.

For those involved in the park, it also became increasingly clear that the outpouring of witness to the past that the project first provoked had done little to change the fundamental inequalities that had originally driven violence into the fabric of Balinese society, giving force to a vibrant Indonesian leftist movement that by the mid-1960s was seen by Indonesia’s conservative elite – as well as its Western supporters – as enough of a threat to warrant extermination.

In the aftermath of Soeharto’s repressive regime, Bali’s vast disparities of wealth were only intensifying, as Indonesia’s new “political stability” allowed global capital to move ever more confidently across Bali’s landscapes. While elites were profiting from unrestrained tourist development, a majority of Balinese were experiencing a rise in land prices faster than that in Dubai, chronic water shortages as supplies were diverted to serve the island’s foreign tourist enclaves, the poisoning of groundwater and coral reefs from unmanaged waste, and job opportunities whose room for advancement rarely extended higher than housekeeper, waiter or tour guide.

Reworking master narratives of liberal peace and political stability

Widening its lens on transitional justice, members of the park collective began explicitly addressing ongoing inequalities, sponsoring dialogues, performances and art exhibitions on issues including HIV/AIDS and lesbian, gay and transgender rights, discrimination against religious minorities, the failures of public education, and the role of cooperatives in combatting poverty. And since 2013, members of the park collective have been at the forefront of the “Resist Reclamation” (Tolak Reklamasi) movement, vigorously protesting a state-sponsored plan to allow a developer to fill in 838 hectares of the Benoa Bay in South Bali to create a series of artificial islands that will host lavish tourism facilities, including a casino, a marine park, a theme park, a Formula One racetrack, a golf course and five-star hotels. Here the challenges have been not only identifying and resisting the continuities that have marked Bali’s transition, but intervening in narrative domains that set limits on social change. Decried as “anti-development,” “backward” and – in an expression of just how much the past still haunts Indonesia’s present and future – “children of communism,” the park collective’s struggles demonstrate the centrality of narrative praxis – the shifting of what can and cannot be said about justice and the direction of transition.

For the youth of the 1965 Park, hegemonic frames of transitional justice were of immense value as a starting point for engagement with the violence of the past and its continuing effects on the present. Yet the critiques the park has evolved have been even more powerful. By reworking transitional justice’s master narratives of liberal peace, political stability and the production of nationalist, civil selves, the park collective challenges us to rethink our questions and answers about justice.

For whom should transitional justice work? For state-builders and investors? For foreign tourists, seeking to purchase Balinese narratives of peace and harmony? For those who still struggle to find ways to live side by side with violent memories and disparate ways of dealing with them, or those for whom peace is too fragile to accommodate a critical diversity of voices? And what are we transitioning to? To a democratic ideal of voice, or to an engagement with the structures of inequality that deflect critique in the name of progress? To a dream of unrestrained development, made possible by peace and stability? Or to a transformational justice, one that can accommodate divergent pasts and futures?

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More contributions of this series can be found [here](#).

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