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KEDUTAAN JERMAN, AFRIKA SELATAN DAN ARGENTINA
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KETUA PANSUS

(Sidharta) : public hearing with many political, social and religious leaders; and also from university president already held almost the last two months. We sure that your expert, your excellency, role in giving us information in relation with this law especially experiences that already done in your country will be usefull for our special committee. In this opportunity, I would like to invite first excellency from Germany to give presentation.

German Ambassador

Gerhard Fulda : Mr President, thank you very much for inviting us on the occassional your hearing on the draft bill. I am very grateful that you are looking for an exchange of views with the representatives of countries which have had perhaps not exactly the same but similar problems and which might have founds different solutions. I realize that among my colleagues this afternoon, I am probably the only one representing a country been which we have not establish a committee.. a commission on truth and reconciliation. But of course we have tried to solve the problems which are behind this draft in a different way. In fact Germany has had in the reason history twice the situation in which we felt it was necessary to deal with the past in other than normal terms. After the end of the second worl war, Germany was confronted with situation in which incredible extrocities had been committed in the name pf Germany, had been committed by German perpetrators, German officials, politician, as well as administrators, and military personals. And we have to restart after 1945 with a view to rebuilding our country and to ask our self: what are we doing with this problem?. And the second experienced we have had was after the reunification 1989-1990 when the communist regime in eastern Germany, the German Democratic Republic (GDR) had collapsed, and the GDR and the parliament of GDR their first free parliement of the GDR decided that the GDR would become a member, would be dissolved as a state and that the individual federal state with in the GDR become members of the Federal Republic of Germany. In both historical instances, we have found different solution but both base on the similiar principle. If I look into the political goals pursued by establishing the commission, than I find the questions is to find the truths, to give justice to the victims and perhaps find ways and means of reahabilitations, event of compensation and there are of course question of to be deal with the necessasity toward if we want justice to prosecute a great number of people. This is not just not only special burden for the judicial system but also a special social and political burden for the whole society. Germany has in the first case, after the second world war, seeing the existent of occupying powers the allied forces has occupied Germany and that the perpetrators, particulars strong crimes in time of war has been prosecuted by you all know the Nurenberg Trials..The Nurenberg Court..institutions which eventually was the beginning of international tribunals dealing international crimes in one single country. This Nurenberg trial have been the only one that really prosecuted perpetrators in Germany after the Second World War Two. We had no special German political inisiatif to prosecute those who have commited crimes, but of course we had means to compensate victims of that time and this involve mainly financial compensations. But after the Second Worl War, when Germany was in ruins everbody had the feeling that we must not dealt too long with the past but we must combines social forces in order to reconstruct our country. Even if that meant

that some people some very high ranking people some members of the political elite reappeared in the first decade of the Federal Republic of Germany who has been involved in system of injustice during the Nazi time. And it took us one full generation, until 1968, when the youth generation starting to ask their fathers what have you done to deal with your past. This led to youth revolution, a revolt of the student which not only in Germany but also in France, had enormous social reparation, which eventually led to historically working with the past, which is I think in Germany which is unparalleled in the world because we have been digging so strongly into our debt of regime of injustice that now days we can claim to have established all the necessary transparencies. After the end of the communist regime in eastern Germany we pursued similar but slightly different method. We first decided not to offer amnesty to perpetrators. Since the population of the GDR has revolted against their own regime and joined the Federal Republic, we have decided that those who have committed crime must be prosecuted and mainly according to laws already prevailing during GDR (German Democratic Republic) but if necessary also according to the laws prevailing in the Federal Republic of Germany. Now, this prosecution took place according to the normal penal code, there was no special law introduced, but we had one serious specific problem. Aside of not giving amnesty but we want to establish truth, we want to know what really happened; and to give ideas what that means I must tell you something about the background of the activities of our secret police in the GDR the so called *Staatssicherheit* dienst which meant state security agency and they were mainly the criminal behind the criminal regime. Because they established the system of spying into the private sphere of almost all of their population. And this agency had a lot of files where almost everybody became transparent; parents spied after their children, children after their parents, and in fact out of the population of at the end 16 million 1 million had left to go to West Germany before they had been 17. When we became those who now own all these files in the Federal Republic, we realized that about one third population of eastern Germany had been spied out and had been documented in files. Now this led to the establishment of a special agency in Western Germany, which we charge with the task to administer these files. And it was found out not only these were files about more than five in the half (5,5) million people, but several of these files contain thousands of pages. So imagine this was a huge building to store this amount of files and we had to establish our parliament to issue a law which regulated access to this information. And the main principle of this access was that was entirely left to the victim's interest what shall be done. If a potential victim, he doesn't know perhaps whether he has been in the files or not. If he sent request an application to this agency, they will try to find what is hidden in their file and if he has been mentioned..if his name is there then he gets access to all his files. This means that when never there are third names mentioned in these files this has been blackened because of we want respect the personal integrity of every body and since we left it to the individual's interest whether he would use and how he would use this information, whether he want to the truth or whether he didn't want to know it therefore we blackened all references to all third parties so that it was not possible that information came to the public which was not wanted. We of course another access to these files give the possibility to researcher, historian, political scientists to check what has happened, to write story about.. a history about the injustice been done in our history but this of course is not individual's access but a scientific access. We have this law passed by our parliament stipulated that we had to be concerted or that we have to equal treatment for everybody, even for politician. So if a journalist or historian want to see what our former chancellor Helmut Kohl, he was entitled to check that and then if necessarily he first could publish what was written there even if this was something could do harm to the political reputation of the victim of all these files activities. Therefore at the

end our federal court decided that this access to the files should not be allowed for personality of public function, politician and others who have high ranking political functions. The future publication of any such knowledge depend on their consent. Now, of course it is in the discretion of any victim to make use of the information found in his file. He may ask the prosecutor..the state prosecutor to open a case against the perpetrators behind, he might try to find them in private and to find reconciliation. But in all cases we have establish a principle of rehabilitation and of compensation. So for those who have been jailed for political reason, for who have suffered damages to their health and for those who have suffered damages in a social ways that they lost their job and their children were not allowed to study all these damages entitled the victim to be compensated. I could give you more details about that but let me stop at this point in time only having outline the main features system we have elaborated on all the questions I have been touching in writing and it is at your disposal in bahasa Indonesia. Thank you very much for your attention.

Sidharta : Thank you excellency ambassador. In Germany, Germans is not establish such law but they solve it in different way, either social and political matters. We got written paper from German Embassy than you so much written paper in english also in bahasa indonesia. It is very fruitfull for all the parties. Thank you very much.

South African Ambassador

Norman Manuel Mashabane : Thank you chair person, I think this a honour for me to be ask to participate in this historic hearing. Firstly I would like to on behalf of my political leadership of the government of South Africa sending greeting to you. And they congratulation to the organizer specially the House of Representative of Indonesia. Chairperson, I think we ...have an issue discuss that is very emotionaly, an issue that tired our heart and our mind, specially if we have gone through the pain of identifying ..with this processes of the pain that we are going to talk about. I think what what we are here are for this afternoon is talk to about the gross violation of human rights, and it surely it is a an issue deal with the gross of violation of human right we have deal with two components.The key aspect of that is human right culture and issue rule of law. Because if you talk about gross violation, definitely is the human right that had been violated. And the issue of the rule of law which needed to apply to prevent violation. And the... I think that the two key... that I really want to present here is that we needed to understand from all side when we talk about the truth and reconciliation what are we referring to. Here in our own experiences South Africa we have negotiate for tradition to democracy; it was not through the military coupe it was not through political disgrace. But rather the two adversery were force to come around the table to negotiate. Neither the Apartheid Regime defeated the Liberation Movement neither the Liberation Movement defeated the Apartheid Regime. Therefore the principals for that is the need to compromise. And after the negotiation have taken place it agreed upon all political parties that we have to draft a new constitution. While reaching that understanding, the question remain what happen with those people who parish and that who is missing in the action to extend their families they do know where they beloves one. And I think was the thornign issue. And it was agreed that we have to establish enact of law of parliament that will establish the Truth and Reconciliation. And it that establishment or in enacting that law, there were two question that critical: who are the perpetrators? We needed to indentfy perpetrators and we also needed to identfy the victims. And in terms of the law, it needed to enacted that the perpetrators would be protected by the law and the victims also be protected by the law. Because in terms of South African situation,

what was become more problematic is that the securiter... security apparatus of the apartheid regime was still intact, and mainly those who are the people who in charge in terms of this violation..gross violation of human rights. And there were a lot of really they were presenting clear threat to all the process that we are in backing up for. And therefore the law have to make sure that we enact ee..I mean the parliament enact that law. One of the reason why do you have take approach is that while you are going to let the perpetrator come forward and explain what happen, you may still conducting the hearing yet their houses may be attack by the anger of the people. Therefore the law must protect such people because what all we want we want the perpetrator to tell us the truth what happen. And I think as the really the time will not allowed me to go on all details I will just deal with the aspect. I think I have the papers which I will give it you as a member of the home.. and so that you can go through. One of the thing that differ from other country... of course one is aware that in Germany.. their deal with this issue in Argentina also in Africa and Uganda they deal with the same thing. But our was different from the rest of the world in sense that during the revoulutioner struggle in South Africa, apartheid was declared crime againts humanity by the international comunities. Therefor all the revoulutionary movement, all liberation movement that was struggling againts the Apartheid one way another they were recognized by the international community as they are fighting for the just to cause. Therefore whatever happening in that regard it was base on that understanding. But I think as South African all what we fighting for through out our existence it was to fight definite principal: land resilences... min...(?) exist, because our society was devided along... along... and of course base on also in term of religion. And I think those were the most principals that was agreed upon that the establishment of the TRC gross violance of human rights it would deal with some of those aspect. Of course South Africa, three...government, which of the national, provincial and the local government. When you have to establishment this truth and reconciliation you need to taken into consideration all this geographical setup and different situation of our country. And of course creation of the constitutional framework it was agreed that we need to establish while we deal with the issue of TRC the Highest Constitutional Court, which the Highest, that you have deal in regard of the interest of the people as a whole base on the question (?) of the constituional. To say parliament or government will not have power to themselves but rather the constitutional court which the highest to safeguard the interest of the constitution was really the critical question. I think one aspect which is really important and it would need look to heed very careful when we deal with this is the question of Truth and Reconciliation is not to conduct revange or vengeance. Because if we do that we would create problems for ourselves, we will not going to achieve what we attend to achieve. The establishment of the Truth and Reconciliation is for us to understand what happened to those victims and as for the perpetrators to come forward to say "yes I have done this thing but of course I was doing this under the protecting yhe regime in power. It is not about individually, for instance, I am the Chief of Army I was responsible to defend the cause of the regime then, therefore event if I to be to participate in this hearing I must ..ful to indicate that you must not see it as my individual responsibility but rather I was defending a particular interest of a regime. But of course there are particulars cases that individually have violated the rights individual of the victim not base that they were defending the intrest of state but they personel case. In such cases in my own country those who are reffered to the court. And we also need to undertand that the Truth and Reconciliation is not there to replace the Court, the Court will still remain intact and the Court will deal cases of crime. But rather the Truth and Reconciliation is to deal with those issue of the great problems. And I think that one other thing that make us succeed in our approach due to the was the question of participators of

democracy. You cannot establish the Truth and Reconciliation deal with the perpetrators and the victims without involving the entire nation. You need to get a mechanism, how are you going to get the people get involved in this process. In ... as a government or as a parliament you can establish the Truth and Reconciliation conduct everything, finally you have to bring the end product, people will say "no, we are not part of this will reject everything". You have to spend a lot of resources for something that when at the end of the day people say no we are not part of this. And I think what happened in South Africa we involved everybody. It was the effort, democracy is very expensive, I must say that. Democracy is very expensive, is not just you stand up and say we want democracy, but you have to pay for it so dearly. And I think in terms of that we spend a lot of money because there were a lot of public meetings, public hearings, where people express their views. And when this committee was established, I think there is a key thing that is critical to all the process, the first committee it was to deal with the question of individual cases.. deal with individual cases and our approach was that it was not just deal with individual case but also the global truth that we seek. Because in South Africa there were a lot of forces outside of South Africa that were responsible in terms of the upheaval of the struggle in South Africa, they have involved mercenaries, they have involved other forces outside of the country that were hired by the Apartheid regime to come to assist people. So that scope it was established in that level, because in our account we did understand that it is not only South African and Apartheid that were involved in terms of conducting this. So our scope was more broad we were ever there will be needed to get some of those people outside South Africa that we can be able to give evidence to that. There were several commissions, it was to deal with Conduct Trials. So that the most important committee. We established three committees, the first to establish the Truth; the second one to deal with the trials. When the hearing was sitting (?) conducted itself that was the committee who called all those perpetrators; they will come and confess: "yes on such-such day I give order to the soldiers or to the police, yes on such-such day I sent somebody to go abduct this person then kill him then throw him. You know the South African situation was very terrible, that many people were killed and they fed the crocodile with their bodies. That many people up today their parents never seen their remains or their bones. Therefore, all those people able to come forward and confess this truth. And the third committee was to deal with question of amnesty. Our understanding was that they were people that protecting the interest of the apartheid regime. Therefore they were not doing all this thing as individual. They were doing based on the particular law even if that law was not recognized by all of us as South African. But there was institution they were representing and therefore there was need for the question of the amnesty. But it was in condition in terms of amnesty if only you reveal the truth, if you don't reveal the truth. If you don't reveal there is no need for you to get to be given amnesty because that in a way there was not help to solve the problems that we want to get in terms dealing with this. And of course there was different scenario in terms of political cases, as I have said earlier that the South African struggle was justified by the International Committee because of the Apartheid was declared as disaster, it was declared a crime against humanity by the international. So therefore when you deal with question of amnesty you have to look whether this was political motivated, whether this was individual motivated. Based on that, we would be able to deal with what was really required in terms of dealing with that. And the most important thing surely it was the committee idea.. it was to establish whether there was really gross violation of human rights. And in this regard, it is become very clear that in South Africa it was not only the security forces that violate the gross violation of human rights, business centers, a number of different institutions that we had.. in terms violating the rights of individuals. For that we have dealt with it effectively. Chairperson as I have indicated

that I have the papers which I can give to you, so the details can be there. But there is one more important aspect that I want to indicate which I think it would be helpful. When you have established the Truth and Reconciliation Commission, the one most important thing is the principal. What is it you want to do, you are not establishing in this commission in order to do revenge or vengeance. You established it to measure that we have check and balance, that in the future, you don't want history repeat itself. You establish it as a check and balance that those who come in power, you don't want in form nation most of the time is your own history that will led you to have better future. And in terms of the establishment of the Truth and Reconciliation, the Commissioner must be credible people, must be people that are being respected by the entire population. In South Africa we are fortunate we have esmond Tutu who he is respected by all political parties, even a Apartheid regime recognize that person. So we need to have some one who have credibilty that what ever decision, what ever he work is doing it will be recognized. You don't need to get somebody who is with political biasness, the need to have person who is not political biasness. A person who is central (neutral?) that will be able to drive this process and would be acceptable when he represent his report. Everybody would be agreed his report is acceptable. And in the position to involve the entire population and just want to emphazise, I know different country have different situation. But in our country what help us today that people talk today about miracle, is pricesely because participatory democracy play very important role, That the entire population become part and parcel (?) of that. They knew that their made contribution, view thing as they as and they all need. Well there are critical question, surely is wether did the people of South Africa except to reconcile their enemies. Many of them excepted was they know that they will not bing their loves one back alive. But as long as their know who are those have kill their children, who have those kill their parents. And in all appear (?) of that it would remain in the history book of our country and we will make that as check and balance to make sure history will not repeat itself. And I think with that understanding we believe that in every account we able to move forward because if we loose that understanding we will bring apartheid in the same way the white bring apartheid to us. But it was more in term of the interest of country then the interest of individuals. For example, my mother have been killed by the bomb that the police throw in the house. All I have to say I must hold in the whole account ...my mother was killed. It was a painfull thing, I would remember that my mother was killed clearly innocent..the wrongly (?) But then the account out the one we have a future to live. As long as I know who are those who have done this and why the have done this, the truth and reconciliation recommend with those. If they have to be sentenced, further case with the court and the court would sentenced those people. As result are many of those who have sentenced 15 years in prison today because it was discovered that the way they that killed many people the way they have conduct themselves. It was not the interest of the government rather, it was their own selfish interest. Even if they were doing in the interest of the government where there was clear serious violance of human right, the Truth and Reconciliation Commission recommend them to the court and the court would sentenced them. And of course all of those files are kept and those are the files of the country that where our history are written but we have check and balance in terms dealing with this. And I hope, I have seen some of your articles here, all what I just want to indicate that you may want to make adjustment is to mentioned that rest to sure you needed to have a law that will protect the perpetrators. Because if you don't do that you are also encouraging a flame and bringing a war in the country unnecessary. You need also to have a law that protected the victims, because for instance the police or who ever do this gross human right violation they know that I coming testified to you they may go and bom my house while I am still testifying

here. So, there are two things the perpetrators and the victims, the law need to protect both. Because why they have to protect the perpetrators, because you want to know the truth if the perpetrators is not..is aware he is not protected he would not reveal the truth. He would not tell you anything. So it is important and also the message must be clear that we want to unify the country we want to build unity of the nation. Therefore what happened in the past will not be forgotten, will always be remembered but we just can't do anything about it, because those who are dead cannot be brought back to life. But we want to ... against that this thing must not repeat itself in terms of the violation of the rights of the people. I think well that the South African experience, as I indicate the very real thing it can elaborate more than that, but I just write to summarize and here I have tried to put a clear area because the first step if you have to go to the route of establishing the Truth and Reconciliation it required broad political understanding of all political parties in the countries. All political parties in the country, I think I want to emphasize that. Because if not you are going to divide people and the victim become victim again, victimized by yourself while you intend to help them. So it is very important that don't victimize the victim to know the truth and rather help the perpetrators because they live with the stigma for too long. And as only you as the committee in the parliament that you could help them to talk the truth. ..., I know that the security forces will always not be ready to accept the truth and reconciliation. But that does not help them, let them accept so they can tell us the truth and they can live with us. Those are our brothers and our sisters, we are one family. But let them tell us the truth what happened that are missing up to today. So I just want to rest my case to that point. Terima Kasih.

Sidharta: Thank You your Excellency Ambassador from South Africa. In case of truth and reconciliation solution in South Africa is I think one of the success history in the world I think. Because you have the commission that credible and respected by the people and you fortunately that in South Africa that you have President Mandela and also Desmond Tutu. They have not only formal leader but also have moral leader that back up the commission. Thank you excellency. And now the last part but not the least, Excellency from Argentina

Argentinian Ambassador

Jose Lusi Magnini : I will try to be very short because in the first place I have not eloquent of my colleagues from South Africa and German and in the second place I have some problem with my throat. So, but as you can hear from my colleagues, each country has different history each of them have look for different solution but I think the goals are the same: which to achieve reconciliation through the finding of the truth. And it was what the Argentinian the first government, 20 years ago, the first government after the return of democracy in Argentinian. One of the first steps that government took was to create a commission on the investigation of disappeared people. That commission was created with the aim to investigate the fact of thousand disappeared during the military regime. For that task they choose group of very qualified and very well known people from my country. After one year that commission present its report and that report was the main base to the prosecutor who pursue the military junta in the court in Argentina. I have prepared a very thorough paper for you with the Doctor Detaz of the that commission. But in any way if you have any question about that please feel very free to put them. After the fulfillment of the task of this commission. The following government try to look for compensate the victims of human rights abuses. And in those late 20 years many laws and decrees have been dictated in this purposes. Please allowed me to stop here you have my paper, if you want any other information please do not hesitate to ask me. Thank you very much.

Sidharta: Thank you excellency Ambassador from Argentina. I got also I think written presentation from..ada ya...dari situ ada... Even from Germany, from South Africa and from Argentina have the different problem also from our problem in Indonesia. But one thing that we have same goals to have national reconciliation after the former regime. I gave chance member of parliament if have any question to the Ambassador from Germany, from South Africa, and from also Argentina. Pak Sabam Sirait from PDI-P, Professor Astrid from FKKI and the ...yes Pak Zubhairi form PBB. Pak Sabam please.

Sabam Sirait: Excuse me Mr Chairman if my english language is not good, if you don't understand what I am saying just make your hand like this.. so.. raise your hand. This three ambassador is very good ambassador to us, we are very thankful to enrich our knowledge what happened in the world, especially from Germany, how you fight against facisme but as the same time to unite those control by the communuist in one country and back to Germany to one German. So maybe we want to know to learn from you how to unite after the difficult the situation facing by those in the DDR in eastern part of Germany, I mean before the the war maybe in the DDR many what was it called according if I not mistaken dillegent and clever form Germany was there in eastern part of Germany. But After the communist control them they became poor and they became more diffucult situation... (ganti side kaset) .. and also there are..how you can make.. to make justice against injustices that facing people .. event in West Germany of course there is injusticess also those between the rich the capitalist and those not capitalist in West Germany. So we want learn more. But I want maybe it already written in your paper I must have to read first before actually befor I put question to you. To South Africa you very emotional maybe you are an activist of your party before you come here to this. I understand you very much because many of us are activist of the political party also like you. You are... an activist it okay very good for us, but you are ..you don't ..you are very successful in one ..maybe I want to hear how you regulate ..you make regulation the very ..how did you Apartheid after the Apartheid already finished politically but economically you are still facing the problem I think ..reaso .. after the Apartheid finish politically. Now, but you are also success in the how you make regulation differently those in Zimbabwe, you can make tell us more about that I think, how you make that .. those you don't make another apartheid after you are facing apartheid for so long so many years. You don't make the apartheid to the white, you try do comprise with the after the day after. And to friend from Argentina your country is well known with the song Don't Cry For Me Argentina, so Mr Ambassador we are learning from you I think you can't give maybe more information how you fights against militerisme in your country and how you make it now so that militerisme is not come back in Argentina? What kind of political education you are doing now in Argentina to fight against any kind of militerime in Argentina for the future of Argentina ..Democratic Argentina in the future and also human rights and so on for Argentina. Thank you Mr Chairman.

Sidharta : Thank You Pak Sabam is senior member of parliament and also senior member of my party PDI-P, he also one of the founder PDI-P. So he is activist still very young age of PDI-P. And then from Pak Zubair Bakri from PBB. PBB is party Pak Yusril Minister of Justice.

Zubair Bakri: Well, thank you Mr Chairman, Your Excellency the Ambassasdor of German, South Africa,and Argentina. First of all that I have outlined your emphasizes for the Commission for Truth and Reconciliation which is now proceed in the parliament. You

enriches us with the experiences of your country, while outline I didn't read your paper all, but I have the conclusion that about Germany you took opinion of the Truth and Reconciliation Commission that you emphasizes only to be history and let it go. ...(/) I want to understand, I am talking too many files to find the truth and say that we want to find the truth but how? If it is already happened for a long time. But as we know that Germany has history very-very crucial World War Second it is because that of Germany. And there is also the violence of human rights about the Jews before. It the experience before. To ... a case Germany and now established it as a very developing country seemingly German it is ... well how to you say ...that forget in the past ...pa..(?) in the future only. What that to establish the German and now became united with eastern Germany where is there is the different ideology from the communism and then by the Western Germany before a liberal ideology. It is, a you don't hesitate to the coming back in place (?) the communist from the eastern Germany and maybe will be rising up the human rights cases. It is, well, in your opinion to the point how we can't find the truth and to make the ... law process and just to declared this wrong and this right. But a test(?) of Germany approach as it is say similar I... it is .. . And then my question how to measure Indonesian cases for long last years many-many violence to the human rights happened and then we want to make this is low and that to become rule of law, but it is very difficult to find the truth, maybe we have not a file and so on investigation but Philipina er Argentina just directly to investigation, so seeming that Philipina (Argentina-maksudnya) just making a result from reporting to declared. it is my question for your three Ambassador: How do you measure Indonesia situation now days of course not maybe not for along time but you hear the information, but you can measure it about Indonesian for three regime: regime of Sukarno, regime of Suharto, regime of reformation now, and now we are going to exercise democracy in our nation and we are very ...(?) what has happened before never again be done again. As the South Africa to forgive but not to forget. You very from South Africa you stated and they individual case and then you take an example that your excellency mother's it is to said ...bombic and killit(?) and then how you feel? You feeling still resentment of this what happened of you. It is the human feeling ... And then what happened in South Africa it is very-very...(?) but it is happened in revolution the freedom of your country and we now your leader he is very-very ..victim..²⁷ in the prison and then now he become a champion to proposed the commission of truth and reconciliation. Are you see that the individual and conducting can you say that the rule of law it is the solution, the check and balances and you say that democracy is expensive then how many did you spent from South Africa to give compensation to the victims? That is mean you ... (diganggu ama suara Zaenal?) the plural (?) case ... who is become responsibility of ... nation of state(?) .. is responsible... (ngak jelas ngilendurnya..). This I to mean that democracy is very expensive or reconciliation also very expensive just same. And then in case of Indonesia I wan to kept your opinion about the situation we want to make the solution in Indonesia. Thank you very much for the three Ambassador.

Sidharta : Thank you Mr Zubair from PBB. And Ibu Astrid from FKKI please.

Astrid Susanto : Thank you Mr Chairman, your excellencies. I start with one question to his excellency the Ambassador of Germany. Because I am a little bit ...(?) in history of Germany. As I was student so I was not yet interested in this thing although I knew Germany was struggling with it. So I supposed, correctly if I am wrong. That you after the second world war then, or shall we say before the reunion with the eastern part if Germany you were trying not to repeat

the non beg..(?) international tribune. Because I don't know whose German, I forgot those generals there were two in Berlin and then one died and then one was taken they were worried that he would make it, now he is also dead. So, but if I looked at it what you have said your excellency. Now I want a clarification so the part the court that have to decide is the federal court not the constitutional court not the *verfassung geriecht*. So it a federal court. So if that the case, then the way the system you have chosen was the system of *pro-justicia*. So you see, I bringing forward since through so many gentlemen, important people who moreless involve or not involve in what happened in the past in Indonesia, an event the Human Commission, they really stressed for us that this commission should be a *pro justicia* commission so it should be a political extra-judicial reconciliation. So my question is, is that possible? The second solution I am seeing hereis, that is your excellency Ambassador of South Africa, you mentioned although you go for judicial approach but you mentioned you have a constitutional court so there is something to think of. Now my question to your excellency Ambassador of South Africa is, how do you get the people to be fully of one opinion that this commission have to work and bring truth. You did mentioned in the beginning that the culture has role to do with it, in your speech also right at the beginning. Culture for human rights. I am thinking of one of the Indonesian party they have wide entity, not a political party but yesterday we had here. That in written way it said that: "please don't go into the passed again, you are digging in the past and opening new wound or old wound that actually are already healing." So, that is very important part of society, they representing important part of society that prferes not to have such a commission to bring reconciliation. I don't know maybe our characters or culture or mentality are different, but how would you your excellency suggest we could really invite this part that prefers not to have this commission, some how to give in that okay then you go and see what is best. And where for his excellency of Argentiant, I see that if I go through your paper, moreles you have an attitude in the end go through the time that past better somehow you just take past as it was. And the , yes, because many document were lost and so on. But at least it was a maturing process of your population to except mistake were done in the past, gross violance of human right and so on, don't let us break it again. And I see here for instance that those who have disappeared because of the detention by the secret police and so on, wehre 30 percent of them were blue collar worker and student. This is rather intriguing because I would rather say that the Indonesia case is more the white collar workers, the professionals and the students more the intelectual. This is where I see the different. I don't know wether the situation in Argentian has to do ceratin level of industrialization and that why you have so many blue collar workers. So at it was the beginning of capitalism at this hight, so you had this, what was actually the situation. Now again, since in Indonesia we have one very important representation of group that is well represented in Indonesia which prefers not to into the past, that by gone be by gones. So I would rather say that there is another option for us that is the Argentian examples how to let by gone be by gone, thank you very much your excellencies.

Sidharta: Thank you Ibu Astrid. One thing I forgot to explained that in Indonesia we have two solution in transistional justice after the old regime. By the law 26/2000 we have human rights court, and then this truth and reconciliation law is solution extrajudicial, law solution no court. So I think a little bit different with Germany. So in Indonesia there is a solution by human rights court after 2000 cases, before 2000 cases solution is by this commission. Solution extra judicial..extra court. Any more question from the member of parliament. If not I will, who will take first from the Ambassadors feel free to answer from Germany, from Argentina, from South Africa.

Ambassador South Africa: Thank a lot. Well, I would just want to deal with view thing that was rise. Of course I am an activist. Our democracy so definitely we realize we come from that. And to say, that really I have been one of those who go through the problem of victims of gross human rights violation. But I am current to the question that really the reason. One is that regulation in parliament, I think what is really critical is that all political parties in South Africa agreed that there must be a act enacted by the parliament to deal to establish the truth and reconcilitioan. It was not ease, I think there were a lot of debate with in those political parties. And when they ...(?) the level parliament they have taken the issue as they debate the public also endorse that. So it was more easier to establish that regulation because all political parties that in every ineterst of the people, of every communal understanding that they need to establish, they need to enact that law by the parliament, then it became the law that is binding everybody. And I think what was important is that there is no descending voice, they may have problem with the mechanism in which to deal with it. But by principals, we all agreed that we need to establish this and it is the duty of that parliament to establish this debate finally to how this issue is to be done. And of course South Africa didn't just di this, since we have looked to other countries the method they use, I think in my paper you will see I mentioned Germany, Argentina, and Uganda. We also look the process that have gone under and what have let them. But as I have indicated earlier that the situation of those countries nor the same with ours. Ours it was negotiation with a represive regime that finally we agreed that there ...(?) solution of the problem of the country. And therefore the regulation that would be bind both. Well was the question is to where well ...(?)power, what about the economic power? Eventually it is a challenge to our country, we still stay with this challenge. Because within 9 years we can't say we achieved everything in terms economical. I mean there is still major problems, but I think the process, the commitment of South Afrika as whole. The is serious thing is that there are responsibilities, in terms of wether the black who want to bring apartheid. I think South African have agreed on the principle that will live longer. Let we shall, principles that the principles is not something that some ...(?) come to power tomorrow. Eventhough question of recessive, is something that we told...(?)200 years...(?) number of countries that are suffering the same problems of recessive. By the way you must not forget that South Africa was colonize twice, was colonize by the dutch, which when they leave Indonesia they came to South Africa, there is also colonize by the british ...

Stupid remark by one member of th parliament (seem to be Sabam Sirait) : which one is better?

Ambassador of South Africa

Norman Manuel Mashabane : Well there all are not better because we have suffers. So you need to understand that aspect. I think what happened then when the Dutch and the British fight among themselves the British said to the Dutch: "you handle the political aspect we handle the economy". So you see all the Englishmen were becoming clever because he know he want money. And that was the problem, so most in South Africa there a lot big company...(/), United States of Amerika, German, and Japan, all of them are economies countries. You know during that time, I mean at this point in time you definetly ...(?) because of operasional resessive. The economic power they must stil within not within the African and the indigenous people. So this a process. It is not a complete thing. And the resesi it still a problem but of important, is that we were in a better position to maintain even today that enough ... (?). As result South Africa to try with the that ptincipals. We have eleven officials languages that are

recognized by the law. And it is very costly that why I said democracy is very costly. Because what ever government print the constitution it is must printed in the eleven official language. Wether there is any regulation or government "gazete" must be do it in that language. And I think that why South Africa when I say it is very costly it is why agreed that everyone want to any language or his language to be recognised. So this a on going process, but of course crisis would still remain, but it is no visicious like before. Where today black and white they can live together, black and white they can marry each other, black and white they are neighbors. So you see there are some views elements, this a process it is not event that you wake up in the morning is fine, but this a process. As long generation after generation they will learn to except live together tolerate each other. But it is something that is still very challenging and something that the struggle definite will continue, the struggle will continue to drive with you. As long you have a framework that we don't struggle base on ... (?) base ... (?) base on religion. And that is why in South Africa all religion grouped are recognized by the law by the constitution. You have the hindu, you have the muslim, you have the budhist, you have the christian all religion in country are recognized and they must be treated equals ia by the law of the country. And the constitutional court that I refers to is to guard against the parliamentary the must not think that their above the law, government must not think their above the law, ordinar court must not their above the law there is the constitutional court. That is the custodian of the consitution of the country. They have the overuling ... (?) to deal with who ever violate the constitution, who are human being. Of course I have always asked, who checked them as they are in highest constitutional court because the also can violate. But there ... (?) that the arrangement. As too there is also question that was raised how you deal in South Africa not the same with Zimbabwe. Look I know the issue of Zimbabwe became a thorn and we are the neighbours of Zimbabwe. Those were the problem that the British haven't cleared in their country. As we are aware that Zimbabwe get their independence through the Langcasta House. It was not themselves that negotiate and it was through British that they decide how they want to give them their independence. So the problem that they sit within Zimbabwe for 20 years, Zimbawe government and the British government they are both responsible for the problem of that country. They never address the question of the land, land distribution. And for so many years .people have to grabbed th eland to themselves. So it really none of them they want to committ to themselves, neither the government of Zimbabwe there for 20 years not address the issue of the land And the Langcasta House was agreed within in the period they will address the issue. So both of them were responsible for that. And we were saying as their neighbours we believe that they must able to sort this problem with the British Government. They needed to have a common understanding because they do not help for them to point finger each other while they are not adversing the problems but ... (?) people of that country. And I think of course, as you know every country in terms land distribution it owns rights to decide how they deal with issue. Because we South Africa we move this simply (?) to deal with the question distribution of land. Because we know land is thorn to all people of any nation sepcially if they were force to moved... (?). And the last question that was raised, look when I said that democracy is expensive and when I said truth and reconciliation are expensive, that why I say that it is important that the people themselves will for pay for that. As long they agreed that this process going to help us therefore I want to participatate in it. And it will definite on the expense of population as a whole that at the end of the day the want the end result. It is not something that you know you will think one day you wake up everything will be fine because money it is mandate with the issues. The question how we deal with the question(?) of the past. I think it is always very important to understand this, the history is what must guide house. What

happened in the past it is what must guide us and I think it is the responsibility of the political party to send the message to the whole country everybody to tell the truth why we have to deal with the past. It is ... there is nothing ... look I don't believe without that approach, that why we want to deal with the past and a message that forgetting history dooms to face, history is what must inform us what it is that happened and where we are going? Because we have learned what happened in the past therefore because we can't live with a stigma. There are a lot of people that are missing today and look what happened to those people. It doesn't help the perpetrators and it doesn't help the victims. We are going to have a nation that is confused. But as long as we know the truth, we don't dig the past because we want to make revenge and avenge. We want to know what happened so that we can put law and regulation that would stop those types of atrocities. So that at the end of the day whether it is the police, whether the armies, whether individuals must know that the law of the country does not allow anyone to have the right to violate the rights of individuals. I think that is what is very important, because we can't let individuals continue to violate the rights of individuals with reason to dig the past because it costs us dearly. If we want peace we have to pay with our blood and with our money then let it be the case so that we don't want to see the repetition. I thought I have answered all questions that were raised. But I will say let us not be discouraged to deal with the past, it is very important that what will inform us where we are going if we know what happened in the past. Thank you.

Sidharta: Thank you, your excellency ambassadors. According to Ambassador, democracy is very expensive and reconciliation is very expensive and people must be ready to pay the cost, I agreed with you. I just understood also that the young Ambassador was a victim of human rights in South Africa, same like our friend young Sabam Sirait and some of us also, young Suwarno is also years in prison. Okay, and then from Germany from Argentina?

Ambassador of Germany

Gerhard Fulda : Thank you Mr Chairman and I thank the distinguished members of parliament for the interest they have shown in their question. Now, there if first gentleman accused, excuse that I will start reacting with Ibu Astrid's question. Mr Chairman, what Ibu Astrid suggested is a question where I have to say yes and no. But it is neither yes or no. Whether we want to except we want to go to the repetition of the Nuremberg Tribunal. Yes, there was no need to have an International Tribunal because after reunification the GDR became part of the system of liberal system of a constitutional system in which it was guaranteed that where ever a prosecution was necessary this would be done within national interest and national law. That means that we didn't need Nuremberg but as you have exceeded yourselves we went ahead in a pro-justice way. That we didn't reason end this ... (?) And we have said "no" those who have perpetrated the criminal act must be prosecuted. And I would like to share with you the fact that this went to the highest ranks. For example that you are aware that the communist regime in Eastern Germany was not really loved by the people, they try to escape they try to flee the country and if this leaving this immigration into the Western Germany would have continued, but easily possible in the end there was a communist regime without people any longer. So they closed their border, they constructed the Berlin Wall and they build line of territory longer border which was full of mines so nobody could leave the country, everybody was prohibited to leave the country. And if you try never the less, the soldier watching over there had been instructed to kill those people who try to leave. Now for this violation of human rights if your life is taken this is the utmost the strongest violation of human rights of course there have been

prosecuted. Those who were on the triggers, ordinary soldiers, they have been sentenced, but normally not very harshly, they got all sentenced undersentenced and this was brought to justice but without very string sentenced. Wherever, the other side the political side it was quite a different question. The last President of the GDR Mr Krenz, he had been one of the mastermind for the instruction to shoot on their own people and he was sentenced to six and the half years in jail and he had to serve that sentenced. So this show that infact we have not tried to waived from giving justice to the victim and we have prosecuted even the highest political ranks. On the otherside, again I must say we didn't have 100% pro-justicia system. Because of, as I have tried to explained that it was in the discretion of any individuals after realizing in his files wether they had been violation of human rights which he now found too that the perpetrators had been but he have no mean to oblige to present this knowledge to the attorney general. If you want to live in peace and if you don't want see the past coming up again and again and then you leave it as it stand and then you have kind an extra-judicial solution of the problem because you simply feel living now in a democratic country where no longer violation of human rights occurred. This is compensation enough for you. So we have a mixtures of both system. I we may return to the first question: how did we compensate all the act of injustice which have been normal during the GDR time. Well, I afraid this can never be compensated. You know, there have been a large scale of human rights violation. There was never ever in this 40 years of the regime the rights to freely to express your opinion, there was no right to associate, there was no rights to move freely sometime in your own country. So most of the human rights enlisted in the United Charter have not been respected. So this unfortunately cannot be compensated in that sense that we do justice people other then guaranteeing them now in linement in which all this rights this human rights are respected. There are one element we try to compensated and that is on the economic side. Infact the communist regime was not very effience in building up a flourishing economy, the country too. And we have in the meam time have put hundred of billion of dollars in the so called new region in the new bundeslanders to give kind of compensation. This does not yet mean that they have the same standard of leaving compared with the members partivity inhabitant of the former Federal Republic of Germany. And it does not mean they have all together the same situation for example if it came to unemployment this is far higher in the east then in the western country. So I am afraid to this will take sometime until we came to the situation in which where the equal distribution of work o both of Germany. But the main issue is we have change the system that the human rightht violation have ended and that everybody had the change to see what it mend and if he wanted then he could asked for justice, if he want to live in peace then you forget it youselfes. The question you have raised, how in your files you could really find the truth? Well of course most of the victim have been the fact that they have been victims there a lot of injustice had been done and they have suffered. And what the files provide is information about all this information have been gathered and who was behind. So it was always possible for the indivual to individualize his former torturer or what ever it was and therefore it is always put in your individual responsibility wether you act on that. You have asked how we see the situation in Indonesia, but please I must apologize for not ellobarating on that, we are guest in this country and we are observer what happed here. And as stated by esteem collogues from South Africa, every country have to find a solution for themselves. We can't give you recommendation, we can only share with you experiences how we dealt with the problem, how we tried to solved it and how tried to find reconciliation in our own case. But base on this sharing of information I think it is not wise to shake your own system. Than you

Sidharta: Thank you your excellency. Your excellency Ambassador for Argentina

Jose Luis Magnini :About "Don't Cry For Me Argentina, even that song make very famous country, it is no very respectful of the history of my country. You asked about militerisme in Argentina. The word militerisme have a negative conotation, it what was happened when they took power in the middle of 70's. Political instability in my country was really serious. So population was not against military taken the government. But after few years of mistake what happened that later was investigated in that document that I lent you. The people were tried of militerism and military people lost respected most of the population. After the restoration of democracy, the really military person could not go in uniform in the street in my country, because it was rejected by the population. Really it is maybe difficult to explain if you have not been there. But they where really rejected by the population in general. But as a consequence the reaction was very positive, through education, through the arrival of new generation in the head of the military, they really reformed. And now days we have an army who really is in the service of the civil society and the service of the constitution. And I find personally but I think that most of my country mate agree that there is no one single military person in Argentina who is thinking taking the power or anything else. It is completely finished. Fortunately it is already finished. About your question a very interesting question about the blue collars, it is true that commission of investigation have found in the first years of investigation around 9.000 people... it was more industrialized at the time then now. Syndicalisme union was very-very strong in Argentina and was very political. So that maybe the reason why you know went military came their excuse was to fights against what they called the rich of communism arrive in Argentina. So the found, the military, that people was a serious risk and the eliminate. Syndicalist activist of course, student and most provision. And about going back to the past, I think the idea is to dig into the past as it is important to know the past to the history not tp repeat the same mistake we have done. To know the past for everybody is akind insurance not repeat in the same mistake. On the other hand impunity is a very bad message to the population. In the case of my country that of the military was condemned by the court. Letter on the President, indulted them. But it is clearly establish indult did not wash the crime because the crime is still there and they committed the crime. The indult only mean they have not to serve the sentence. This is Mr Chairman.

Sidharta : Excellencies, on behalf of members of the special committees we appreciate very much with this discussion this afternoon. We understood the problems in South Africa, in Argentina, I Germany is different from us. In South Africa might be more in racial problem,in Germany communism and democratic problem east and west Germnay. In Argentina is during the military and democracy times. We have five thin more complicated. But one thing we expect that wehave same spirite with the reconciliation. You did alredy with the best solution in South Africa, in Germany, and in Argentina. We hope also we can do it in Indonesia. Thank you for your time, your goodwill, your sharing of information. I believe this very fruitfull for our party in making this law.