

GROWING FLOWERS IN A PRISON
Timor-Leste's new hub of post-conflict best practice

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Some may feel that 'growing flowers in a prison' is counterintuitive or that the idea of growing delicate flowers in the confines of a concrete box is doomed to failure.

The title appealed to me, however, for a few reasons. First, I am on what I call 'gardening leave' from Timor-Leste and have had time to set up our front garden. My peas have not been very productive but I take heart from several cute daffodils that have appeared recently in one corner.

Second, extraordinary people like Nelson Mandela and our own Xanana Gusmao to mention only two, are striking evidence that the punishment, isolation and sterility of a prison can have the opposite effect. Intended to repress, imprisonment can fertilise the spirit leading it to bloom with extraordinary results. Indeed, during the dark old days, and thanks to Bill Armstrong and AVI, we celebrated Xanana's birthdays in this very room as the years of his confinement rolled by. We also auctioned off a few of the paintings he created in Cipinang prison in Jakarta some of which depicted pretty scenes of his homeland's natural beauty.

The third, and most compelling, reason for the title is that it picks up on the vision and commitment held for the Commission for Reception, Truth and Reconciliation (CAVR) by the people who designed it way back in 2000-2001.

At the time, some worried about the wisdom of a truth commission. Addressing the past, they feared, might deflect attention and energy from the vast number of challenges facing the new nation. Or, more likely, telling the truth about who did what to whom and why might open wounds not heal them, occasion payback internally and/or externally and undermine the peace and stability that was essential to build the new nation.

The committee responsible for planning the CAVR truth and reconciliation commission did not agree. 'We will show that flowers can grow in a prison', declared one of its members, Fr Domingos Soares. He was referring of course to the prison-like status of Timor-Leste during its occupation by the Indonesian military, his point being that the CAVR would help the flowers of freedom, human rights, non-violence and democracy flourish in what had previously been a wasteland bare of these values. It was a powerful metaphor. And later, the image came fully into its own when the Commission took over the rehabilitated former colonial prison in Dili known as the Comarca and converted this former palacio of repression into a site of conscience. Entrances to Nazi concentration camps in Auschwitz and elsewhere displayed the mocking sign *Arbeit macht frei* (work sets you free). Under CAVR, the Comarca proudly displayed a text above its steel barred entrance that reads in Tetum '*CAVR hatudu duni katak aifunan mos bele moris iha kadeia ida*'. In English: '*we have shown that flowers can grow in a prison*'.

The author of the original text, Domingos Soares, better known as Fr Maubere, was a respected leader in the Resistance and represented the CNRT resistance umbrella organisation

on the committee that designed the CAVR. He had previously represented both the internal resistance and Xanana Gusmao, imprisoned in Jakarta at the time, at the famous CNRT gathering held in Portugal in April 1998, uncannily only days before Timor's nemesis General Suharto, the Dark Lord Voldemort, stepped down after 3 decades as President of Indonesia and tormentor of the Timorese, clearing the way for Timor's liberation.

CAVR and the new Chega! National Centre (CNC) are not at odds with the Resistance tradition but have grown out of it

The CNRT assembly produced East Timor's *Magna Carta concerning Freedoms, Rights, Duties and Guarantees for the People of East Timor*, an inspired and inspiring document. It is the positive opposite of everything Timor had experienced under colonialism and Suharto. Timor's Magna Carta situates the Resistance's dream for Timor-Leste in the classic tradition of universal human rights. Its opening sentences reference the Holocaust and the violence of World War II, the seedbeds of modern human rights law; its closing sentence references the youth and future generations of East Timorese. Both perspectives – looking back for the sake of the future – are central to CAVR and to the new institute of memory which is the subject of this talk. The reference also makes it clear that CAVR and the new Chega! National Centre (CNC) are not at odds with the CNRT tradition but have grown out of it and fulfil it, albeit in a new iteration. Timor-Leste has Prime Minister Rui de Araujo to thank for appreciating that link and for taking the initiative to institutionalise it in the new Centro Nacional Chega!

The origins and designing of the Chega! National Centre (CNC)

The immediate origins of the CNC lie in 2015. At a conference held in November that year to mark 10 years since the hand-over of the CAVR report entitled *Chega!*, Prime Minister Araujo declared it was time to consider a fuller response to the recommendations in the Chega! report. He called for a review of all the CAVR recommendations to establish which ones had or had not been implemented and to advise on the establishment of a mechanism to finish the job. Last year I was appointed to a small Timorese working group set up in the Prime Minister's office for that purpose.

Over 6 months, the Working Group undertook the following tasks:

- reviewed what had happened to all 204 CAVR recommendations over the 10 years since they'd been referred to the Timor-Leste Parliament;
- designed a follow-up mechanism;
- presented draft legislation on that follow-up mechanism to the Council of Ministers;
- devised a 5-year plan; prepared a revenue generating concept with a view to reducing the new institution's dependence on government funding;
- negotiated a budget for the new institution for 2017; and, importantly,
- it prepared job descriptions for future senior staff.

The project was very satisfying. Working on it was one of my happiest experiences in Timor-Leste. My Timorese colleagues were great to work with, dedicated and productive. We worked on the first floor of a Kobe hut attached to the West wing of the Palacio Governo. Though a touch rickety, the hut was functional and strategically placed close to the Prime Minister's office, the Ministry of Finance and the Parliament. This gave us convenient access to many key people, a number of whom used to congregate for a smoke below our hut and

were on for a chat and advice. I was also permitted to park my 2004 Mitsubishi Chariot in the official carpark reserved for Ministers and public servants, a great convenience but also a source of amusement – both to me and the guards on the boom gate. I suspect they were much puzzled by the aging malae driving an ageing car that my Timorese mate Jimmy da Costa had Timorised by retro-fitting it with a revolutionary star on its bonnet, rosary beads and a Fretilin flag on its rear vision mirror and a Timor-Leste flag fluttering on its broken aerial. Jimmy believes in covering all bases.

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Our research into the status of the CAVR recommendations was conducted in consultation with government departments and other stakeholders. It showed that:

- the majority of the CAVR recommendations had not been adequately implemented;
- that the recommendations were widely acknowledged to have continuing validity and force; and
- that the proposal to establish a mechanism to properly implement the many excellent recommendations had universal support.

We also advised the Prime Minister that our findings were confirmed by other research which showed that:

- the recommendations of many truth commissions are not adequately implemented because the long-term nature of post-conflict processes is not fully acknowledged;
- the recommendations made by both CAVR and the bi-lateral Commission for Truth and Friendship (CVA, its Portuguese acronym) had much in common including a shared commitment to remember, learn from experience, care for victims and collaborate; and
- that the positive impact of the CAVR and CVA reports had not been realised in Timor-Leste, Indonesia or internationally.

Or to put it more colourfully, not many flowers had been harvested over the 11 and 8 years respectively since each report had been tabled in the Timor-Leste parliament.

Why the CAVR recommendations had not been adequately acted on 10 years after they were first submitted is a good question but too complex to address in detail here. In brief, the reasons are both logistical and political.

They relate to the derailment of the Parliament during the 2006 crisis that occurred within weeks of the Chega! report being handed to MPs; the absence of a significant individual or institution to champion the report, despite the best efforts of some NGOs; concern on the part of the Timorese leadership – not least President Xanana and Foreign Minister Ramos-Horta – that recommendations in the report on justice and reparations could destabilise Timor-Leste's critically important relationships with Indonesia and international donors and risk creating unrest in Timor-Leste; and uncertainty about the status of the report and its recommendations created by the establishment by Timor-Leste and Indonesia – as CAVR was winding up – of the second and joint commission already referred to – the Commission for Truth and Friendship (CVA). The CVA's terms of reference were widely criticised but it was more

clearly an initiative of the Timor-Leste government than CAVR and appeared to be given official precedence over the latter.

The Working Group had to take these concerns into account in designing the follow-up mechanism asked for by Prime Minister Araujo. In doing so, however, we had two clear factors working in our favour – tail winds, as it were, compared to the head winds that had impeded previous attempts at action. First the project enjoyed the patronage and active support of none other than the Prime Minister, and, second, the Prime Minister was prepared to progress the project by Decree Law through his Cabinet of Ministers, rather than refer it to the more complex institution of the Parliament which, after all, had made little progress in addressing the report over the previous 10 years.

The CNC's mandate and structure

The Decree Law establishing the new implementing mechanism was adopted by the Council of Ministers on 31 October 2016, exactly 11 years after the Chega! report was handed to the State in 2005. Informed of that serendipitous coincidence, Prime Minister Araujo suggested that October 31 should be celebrated each year as Chega! day.

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Let me summarise the CNC's structure and mandate before making some comments on some features of the new institution.

The law states that the new body is to be an autonomous public institute accountable to the Prime Minister, to be located in the former Comarca prison in Dili and to be known as Centro Nacional Chega! (the Chega! National Centre) – da Memoria a Esperanca (through memory to hope). The law further states that the centre's mission is to promote the implementation of CAVR's recommendations and those it holds in common with CVA.

Based on a clustering of the recommendations by theme, this mission can be summarised as memorialisation, education, solidarity and outreach.

- Memorialisation refers to archiving memory about Timor-Leste's human rights history during its decolonisation struggle 1974-1999; this involves collecting documents, images, testimony and stories, mapping and preserving sites of conscience, and using physical, conventional and digital means to make these resources and sites accessible. The value of CAVR's archives (which will be expanded with the addition of new survivor statements, the CVA archives and documentation held in other countries) is recognised by UNESCO which has recommended that the collection be added to the Memory of the World register.
- Education means putting these memories and narrative to work for the purposes of healing and the education of contemporary and future generations and youth, particularly in the values of non-violence, human rights, accountability and self-sacrifice that are fundamental to sustainable nation-building. This will be done through the education system, the creative arts (including film, tv and drama), writing and publishing, creative pedagogy and the development of the institution as a learning centre for staff, students and the general public. As the Centre is also required to conform to the UN's sustainable development goals to which Timor-Leste is a signatory, the 5-year plan proposes that the building and its functions should be made environmentally friendly (e.g. by replacing the

diesel-generated mains power with solar panels, conserving rain water, responsible recycling of waste etc) and serve as an educative demonstration model on sustainability to visitors, the local community and nation.

- Solidarity involves making common cause with the most vulnerable survivors of past human rights violations.
- Outreach comprises reaching out and working collaboratively with survivors, relevant government ministries, civil society, Indonesia and the international community.

These activities differentiate the new institution markedly from the former Post-CAVR Secretariat. The Secretariat was given a limited and short-term mandate and minimal oversight when it was established following the dissolution of CAVR in late 2005. It wound up at the end of June and has been replaced by the CNC.

The law states further that the centre will be oversighted by an honorary board of five East Timorese, funded by the State, led by an Executive Director and supported by an International Advisory Council.

The Board is now in place and is chaired by Ines Almeida, whom many of you will know from her dedicated years of activism in Australia during the Indonesian military occupation and from her current work with East Timorese war veterans on behalf of the office of the Prime Minister. The Centre's executive director is Hugo Fernandes. Until recently, Hugo held a senior position at The Asia Foundation. He has a solid hands-on background in transitional justice having had senior roles in both CAVR and CVA.

The International Advisory Council comprises 9 experts from 8 countries who have been appointed by the Prime Minister to advise the CNC and enhance its international profile, outreach and impact. Four are women. Bishop Gunnar Stalsett from Norway whom I will refer to again in a moment is one. The others are from Indonesia, Japan, Portugal, South Africa, North America, and Australia. Australia is represented by Janelle Saffin who has extensive legal and law-making experience from her years in the NSW and Federal Parliaments and has worked closely with Jose Ramos-Horta and the Timor-Leste government on a range of issues including the CVA and more recently the Timor Sea issue. I am the other.

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The Council will assist the CNC on important issues such as archiving, trauma, outreach and pedagogy, areas where AVI may also be able to assist through the placement of skilled volunteers similar to those already assisting with the professionalisation of Timor-Leste's teaching service. The Council will also help to make Timor-Leste's unique experience in transitional justice better known internationally. Of the 40 + truth commissions that have functioned to date around the world, CAVR is considered one of the top 5 but the institution and its report are not well known outside Timor-Leste and the CVA and its report are even less known. I am happy to report, however, that there is good interest in Colombia as it takes steps towards reconciliation following the end of its gross civil war. The Centre will also ramp up its profile as a tourist destination (both domestic and international) and this will expose CAVR, CVA and their work to a wider public.

Some features of the CNC

As mentioned previously, the new institution is called (in Portuguese) *Centro Nacional Chega! - da memoria a esperanca* (the Chega! National Centre – through memory to hope). Portuguese is used because the law adopted by the Council of Ministers was drafted in Portuguese but it also happens that the title and its acronym are also virtually the same in Tetum and English.

Deciding on the name was a challenge. Calling it a centre attracted early consensus. There was wide agreement that words like commission and institute were not inclusive, collaborative and people-friendly enough. This was also a reaction to the out-going Post-CAVR Secretariat which NGOs in particular felt was too territorial and should be replaced with a more out-going ethos.

At Prime Minister Araujo's urging, it was also readily agreed that the Centre should be a national body, i.e. that it would serve the whole nation and work with local communities and municipalities throughout the country. Municipalities in Australia have active arts and education programs and services. Those that have friendships with counterparts in Timor-Leste might like to consider if these creative resources could assist CNC with its future programs in Timor-Leste's municipalities.

But what was the Centre for and how should its rationale be expressed in the title?

Benicia Magno, coordinator of the Prime Minister's Working Group, proposed *Centro Chega!*, a suggestion that eventually carried the day. The word Chega! was already a known brand, it summed up the purpose of the centre to ensure there was 'no more' of Timor-Leste's nightmare past (a commitment shared by both truth commissions), and *Chega!* was also of course the title of the CAVR report. The idea behind the sub-title *da memoria a esperanca* (through memory to hope) surfaced over fish steak at Ocean Beach restaurant near the mouth of the Comoro River in Dili. The occasion was the last visit of Bishop Gunnar Stalsett to Dili as Norway's Special Envoy to Timor-Leste. As the waves that bring waters from Indonesia lapped the beach, Bishop Gunnar Stalsett and his son Sturla, a professor of religion and society in Norway and Latin America, suggested that the idea of 'hope' should feature in the name of the new body.

The sub-title also reflects the method the Centre would use to reach its 'no more' objective, i.e. that the Centre would value memory of the past as an asset rather than a liability and work through memory of that past to secure a hopeful future particularly for Timor-Leste and Indonesia and but also for other post-conflict societies. The sub-title is also a nod to the title of the second truth commission report which used the same words but in Latin: *Per Memoriam ad Spem*, through memory to hope.

**Both commissions are respectfully and creatively
referenced in the full title of the new centre.**

Thus both commissions are respectfully and creatively referenced in the full title of the new centre. Mgr Petrus Turang, one of CVA's Indonesian commissioners and the Archbishop of Kupang, proposed *Per Memoriam Ad Spem*. Though Jakarta continues to deny much of

Indonesia's violent past and does not teach about Timor-Leste in its schools, the choice of words indicates that there are eminent Indonesians who accept the facts and believe that it is better to remember than forget. It is to be hoped that the creation of the Centro Nacional Chega! will advance that objective and in time inspire similar institutional models in Indonesia and other members of ASEAN particularly after Timor-Leste becomes a member.

Working with Indonesia

The Centre's mandate authorises it to facilitate the recommendations made not just by CAVR but also by CVA. Jacinto Alves, a former commissioner of both institutions and adviser to the Working Group, proposed that the centre should also address the CVA recommendations making the point that to exclude the CVA would risk offending Indonesia and those who'd worked in the CVA. Others in the Working Group felt that to do so might be regarded as trespassing on an official process that was already underway at high level within the Timor-Leste and Indonesian foreign ministries and would require consultation with these official bodies, a bureaucratic process that could complicate and delay the establishment of the new body.

As it turned out, however, the Council of Ministers, which included ministers who had served as commissioners on the CVA, decided in favour of incorporating the CVA recommendations. The decision is to be welcomed. It puts both reports on a level pegging and addresses earlier perceptions that one was more important or officially acceptable than the other.

The CNC can contribute to elevating this relationship to another level on issues that have been politically taboo

More importantly, the inclusion of the CVA recommendations opens the way for active collaboration between the centre and Indonesian scholars, researchers and others on the shared history of the two countries. CVA made strong recommendations that call for declassifying information at the Indonesian end, joint research to understand better the reasons for the war and its violence, including looking back to the Portuguese period, and learning from history for the sake of nation-building in both societies. This is critical to dispell the vast ignorance and misperceptions about Timor-Leste that abound in Indonesia and to put what CVA calls 'friendship' on a meaningful basis. Relations between Timor-Leste and Indonesia are positive and functional on a number of levels. Constructively and sensitively managed, the CNC can contribute to elevating this relationship to another level on issues that have been politically taboo and will dispell any concerns that Timor-Leste might have been trapped in its own version of the Stockholm syndrome.

Victims or survivors

The Working Group gave a lot of thought to the issue of how the CNC would address the sensitive issue of victims. Both commissions use the term victims in their reports. This is in keeping with international law, to which both Timor-Leste and Indonesia are now signatories, and to recognise the rights that victims are entitled to in international law. Unlike CAVR, the CVA does not name names of perpetrators or acknowledge the right of victims to justice but it does recognise the trauma and suffering that occurred in 1999 (the only period it was tasked to investigate). It also calls for reparations in the form of an official apology, psychosocial services, survivor healing and other initiatives particularly for victims of sexual violence, torture, separated families and the missing.

There is now a widely held view in Timor-Leste, however, that the term ‘survivor’ is preferable to ‘victim’. This is based on the firm belief that Timorese who survived torture, sexual violence and other atrocities should be valued as winners not losers, should see themselves and be seen as heroes, and not be demeaned as helpless victims.

Instead of referring to victims, therefore, the CNC law, as mentioned earlier, mandates the Centre to engage in ‘*solidarity with the most vulnerable survivors of past human rights violations*’. The law references survivors of the following kinds: children who were separated from their families; the families of the ‘disappeared’; persons with disabilities due to the war; survivors of sexual violence; survivors of torture and mass atrocities; displaced East Timorese still living in Indonesia. The Centre, states the law, will express its solidarity with these survivors by involving them in the Centre’s activities; recording and sharing their stories for the inspiration of coming generations; working with survivors and their communities to identify and memorialise sites of conscience; advising the government on policies of support for survivors; addressing conflict-related trauma; and collaborating with agencies and NGOs involved with victims. The law also mandates the Centre to monitor the implementation of all the CAVR and CVA recommendations, not exclusive of recommendations on justice, and to prepare an annual report on what progress is being made.

Hub of post-conflict best practice

Let me finish by noting why the new CNC can be a hub of post-conflict best practice.

In 2015, the Office of the UN High Commissioner for Human Rights in Geneva issued a set of guidelines to maximise the value add of truth commissions around the world. This document is compulsory reading for students and practitioners of transitional justice. Called *Truth Commissions: Strengthening their Impact*, the guidelines are based on a study of many of the world’s more than 40 truth commissions. The study concluded that many truth commissions were not realising their potential, not flowering like the peas in my garden if you like.

It confirmed three things that many practitioners like me know to be true: that truth commission reports are not read; that their recommendations are not acted on; and that their fate rests very much with civil society. Until now these findings have been true of Timor-Leste. Last year, for example, frustrated at the number of Chega! reports observed in offices around Dili still wrapped in plastic, I called a talk I gave at Dili’s Unpaz university *Opening the Plastic Chegas!* (membuka Chega! plastik).

Truth commissions are not short-term fixes that finish when a commission is formally dissolved

A major reason for this lack of outcomes, concluded the UN, is that governments and stakeholders think of truth commissions as short-term fixes that finish when a commission is formally dissolved rather than as the start of the long-term, often inter-generational process, that reconciliation, healing and learning require.

The UN therefore urges greater emphasis and commitment of resources to what it calls the Fourth Stage of a truth commission’s life, viz follow through. ‘*It’s what comes after a truth commission that has the greatest potential*’, states the UN. ‘*The end of a truth commission should be the beginning of a very different but equally important phase of work*’.

To its great credit and thanks to its thoughtful Prime Minister, Dr Rui de Araujo, Timor-Leste is now embarking on CAVR and CVA's ground-breaking fourth stage.

This new beginning is of great importance on many levels but particularly to two groups at opposite ends of Timor-Leste's demographic: the ageing victims and survivors of the country's traumatic past and Timor-Leste's youth of today and tomorrow.

It is a brilliant but ambitious initiative that deserves the best and most dedicated human resources that Timor-Leste can commit and the acclaim and support of all of us.

Pat Walsh has served as an adviser to CAVR, the Post-CAVR Secretariat, and the Timor-Leste Prime Minister's Working Group on a CAVR Follow-up Institution. He has recently been appointed to serve on the International Advisory Council of the Centro Nacional Chega! He is a board member of the Herb Feith Foundation and CHART, the Clearing House for Archival Records on Timor, and an adviser to Asia Justice and Rights (AJAR). His website is <www.patwalsh.net>

