

Impunity is Contagious, but so is Truth

Galuh Wandita¹

Like it or not, for better or worse, Indonesia and Timor-Leste's past, present and future are forever linked. We have a shared history, and a common border in an island divided in half by colonial rulers. The Cold War resulted in a blood bath in the two countries, albeit a decade apart. A powerful military, accountable to none, was allowed to commit massive crimes in the name of security and development for many decades. The fall of Soeharto opened the possibility for political reform, a referendum, and later on some important achievements in the pursuit of accountability for systematic crimes, including the establishment of two courts (in Jakarta and Dili) and two truth commissions (CAVR and CTF).

After more seventeen years trying to push for accountability, we have to conclude that impunity is contagious. Looking at the big picture, our efforts to push for some justice has not been very successful. The Indonesian human rights court, established in 2000 as a response to international pressure on the 1999 crimes, has resulted in a rate of 100% acquittal for everyone. It now merely exists on paper, despite 7 new cases referred by the HR commission that have remained stalled for more than a decade. In the meantime, there is an expectation on the part of the Indonesia that the CTF process has closed the door to any prosecutions in Timor-Leste, as dramatically shown in the Martenus Bere case and others.

Chega! remains to be a light in the darkness. It is still the most comprehensive report about the crimes committed by the New Order. Indonesia's own efforts to create a truth commission remain an unfulfilled promise.

There is so much to say, but I will focus my remarks on 3 issues:

- The impact of Chega in Timor-Leste and Indonesia
- What happened to the women
- The issue of the stolen children and other unfinished business.

A critical question for us today is whether truth about the past matter if it is not used to create a better future?

A small secretariat was established under the President's Office at the end of CAVR's mandate, with the task to disseminate the CAVR report and maintain its archives and office, in preparation for a newly established follow-on institution to be mandated by (a new) law. However, a decade later there still is no new institution. There has been little progress in terms of implementing the key recommendations, and igniting a debate about a vision of society based on the long struggle for human rights. After creating a comic version of the report in 2012, it is only recently that there are bubbling initiatives to include Chega! in the curriculum.

In this vacuum, two initiative stand out:

- The National Victim's Association was founded in November 2009, during a national meeting organized by civil society. After overcoming some early teething problems, the NVA is slowly growing in its capacity to organize its members and articulate their issues. Despite pressure to push aside the national debate on reparations, the NVA has maintained its focus on this issue. In 2012, the NVA wrote a petition to the then newly elected President, requesting that the reparations law be urgently discussed. The NVA has also collected information about its members, building their skills conducting interviews and documentation, not only about the violations experienced in the past, but also in relation to the situation of victim's in the present, and their aspirations for the future. The NVA took part in a participatory research project, jointly conducted with victim's groups from Aceh, to learn comparative lessons from the transitions in the two contexts.² In 2015, NVA held its third congress identifying their key priorities.

¹ The author is Director of Asia Justice and Rights (AJAR), www.asia-ajar.org

- Since 2010, civil society has been campaigning on the findings and recommendations of the CAVR using the slogan, “Chega Ba Ita.” This refers to a deep conviction that the people of Timor-Leste has had enough of conflict and injustice, and need to genuinely implement the recommendations of the truth commission to ensure that these violations are never repeated. The saying “Chega Ba Ita” also underlines the belief that the CAVR report was written based on the experiences and voices of the people, for the people. It is not a document that should be shelved and forgotten. It is a living document to be understood, debated, and re-invented for generations to come. ACBIT was established in 2012, and is a unique organization dedicated to empower survivors and push for the implementation of CAVR’s recommendations. I will speak about ACBIT’s work with women survivors later.

How about in Indonesia? At an official-level, not so good.

AJAR conducted interviews with 23 Indonesian policy makers confirming that the memory of Timor-Leste has more or less joined the silent history of other state-sponsored Indonesian atrocities that have been misrepresented or suppressed and rendered invisible. Given that the climate of impunity in Indonesia remains impenetrable, this slippage is not surprising. Amnesia about Timor-Leste further confirms the continuing denial of the state over historical justice and blocks the implementation of recommendations made by both reports on behalf of victims.

Five main findings: Limited or even no access to both the *Chega!* and *Per Memoriam Ad Spem*; Second, the state has not addressed the broad issue of accountability for the past so the need to discuss Timor-Leste is remarkably low. Third, contemporary memory is largely the memory of Indonesian returned soldiers who do not want to connect the past and the present. Fourth, Timor-Leste is a blank chapter in Indonesia’s history textbooks. And, fifth, the implementation of *Per Memoriam Ad Spem*’s recommendations, though officially agreed to by both governments, has been removed from the public domain to be addressed at high-official level and is mainly limited to the non-human rights questions of assets and joint border administration.³

On the other hand, the work of the CAVR has inspired Indonesian civil society in a recent truth-seeking project by 50 NGOs called “Year of Truth.” And a local truth commission in Aceh is in the making. Some of the key advocates for the Aceh truth commission participated in an exposure visit to Timor-Leste to learn about CAVR some years ago. The *Chega!* report is one of the key documents used to write the local law (Qanun) by Acehnese parliamentarians, and in the process of selecting commissioners (taking place this week!)

What about the women?

In the last 2 years, AJAR and ACBIT have created a methodology for participatory action research with women survivors.⁴ These methods are inspired by what we developed at CAVR. Our action research involved 140 women survivors in 3 countries (Indonesia, Timor-Leste and Myanmar), 50 of whom were from Timor-Leste.

Women Accessing Justice but face Discrimination

² Supported by IDRC, the participatory research project conducted with AJAR trained members of victim’s organizations in Aceh and Timor-Leste to conduct interviews and take digital photographs, findings and analysis of the research were presented back to their communities and members. See “Remembering My Beloved, Remembering My Pain,”(2012) at www.asia-ajar.org

³ Excerpt from “Inconvenient Truths: The Fate of the CAVR and CTF reports,” AJAR, 2014.

⁴ <http://asia-ajar.org/2015/11/enduring-impunity-women-surviving-atrocities-in-the-absence-of-justice>

One key finding from a 2014 participatory action research project conducted by ACbit and AJAR was that of 50 women victims, only seven were involved in the serious crimes investigations and trials. Most of the 50 women experienced violations during the height of military operations in the 1980-1990s. From the seven who were able to access justice, six of these were trials of former militia members who were found guilty of murdering husbands or family members of women in the study. Only one case involved investigation and conviction of rape as a crime against humanity.

In 1999, Angela was a confident young woman of 24 whose eyes flickered with passion and resolve despite her trauma. She had broken the silence about her abduction and rape at the hands of a militia under the control of Indonesia's military. Months after the arrival of peacekeepers, her courage led to a UN investigation, and later a groundbreaking conviction of rape as a crime against humanity in a court established by the UN and the Timorese government.

But this victory has been bittersweet for her. In the end, scrutiny and ridicule shaped her life more than the 2002 verdict. She was not even informed of the court's decision for two years, and when the perpetrator Johni Marques was pardoned in 2008, she was resigned. Angela's story should have been celebrated as a rare success story, the only successful conviction of rape as a crime against humanity in the last decade.⁵ But even in this rare positive example, the conviction did not benefit her, while the judgment of neighbors and community members has overshadowed her life. Impunity often takes on a cultural mantle that punishes and silences those who speak out, while their social and economic needs are overlooked.

Lack of Assistance, Poverty and Discrimination

This lack of access to services and on-going support is problematic as many women victims are still living with the consequences of the violations they suffered. These consequences are interrelated and compounding. For example, chronic health problems affect women's ability to support themselves and their families. Discrimination from family and community leaves them socially isolated and economically vulnerable. Unresolved trauma from the violations and losses they experienced affects their health and ability to work. Unresolved and unsupported, these consequences impact negatively on the lives of the children of women victims affecting their education, health and emotional well-being.

Ana-Maria from Ainaro, a torture survivor—whose fingers were permanently damaged. Abandoned by her husband. She lives alone in a small house made out of palm leaves, in a compound owned by her niece. Her house has no furniture, save for a simple wooden day bed. When she returned home from West Timor after the violence of 1999, all her possessions had been burned and looted.

Life is not fair. I live like an animal that crawls on the ground. My life is difficult, I don't have a decent house... But I get strength from working, making tais to sell, fetching water for cooking, raising chickens and pigs to sell.

For women who chose to speak out about their experiences of sexual abuse to the CAVR, feel bitter about how their stories were documented but then they were left to survive on their own. One woman victim of sexual slavery and torture asked why she had never heard back from the commission, and whether her testimony was gathering dust in some government agency. She stated rhetorically, "*Did my suffering entertain you?*" Another woman who spoke at a CAVR public hearing about her experience of sexual slavery expressed her deep disappointment. Although she gave birth to two children out of these rapes, one who is disabled, she received almost no assistance since she spoke on national media about the discrimination she faced. She has struggled on her own to raise her two daughters. Tragically, her disabled daughter became a victim of sexual assault that took place in their community. "*During that time they came to interview me, there was not any help for me at all. When my (disabled) child wanted*

⁵ Special Panels for Serious Crimes (District Court of Dili), Timor-Leste, *The Prosecutor v Joao Franca da Silva alias Johni Franca*, Judgement, Case No. 04a/2001, 5 December 2002.

to enter school, they said she was too young. Nobody wants to pay attention to this child. Once they gave her this wheelchair... Now her life is like mine.”⁶

Our research continues to show how women with children born out of rape face discrimination and challenges in getting identity papers. Community-based initiatives for rehabilitation can lay the foundation for breaking the cycle of impunity for VAW. And yet, there are no resources into establishing and sustaining these initiatives. Women victims become invisible, indistinguishable from the poor and other vulnerable groups.

Stolen Children

Timor-Leste’s CAVR estimates that thousands of children were taken from their families and sent to Indonesia during the occupation. The transfer of children was a practice sanctioned by the military and civilian authorities, involving individuals and later on institutions (military, religious and other civilian organizations) that facilitated this process. CAVR made this finding:

“The struggle for control of Timor-Leste was partly played out in the battle for its children. Children became victims, perpetrators, assistants and observers in the political conflicts that engulfed Timor-Leste from 1974. The obligation of all parties to put the best interests of children first was widely ignored.”

Many of these separated children are now adults, living in Indonesia, with a vague memory of being East Timorese. Some of those who were lucky enough to be cared for by loving families, raised and educated as Indonesians, have made their way back to Timor-Leste to visit with their relatives. However, for most of them, the road to reconciling their identities have been difficult. Many of these children were vulnerable to abuse and exploitation. Some of them were not orphans, and continue to be sought by their family members.

In April 2013, AJAR was able to facilitate a week-long visit of 4 of these “stolen children”, working with an Indonesian NGO. The objective of this visit was to highlight the plight of these children (now adults), and to engage the Timorese government officials on these issues. The visit showed us that there are complex humane issues that we must deal with. In Indonesia, we discovered a disabled (mute) young Timorese man working as a parking attendant but we were not able to get his travel documents because of his situation living on the streets. In Timor-Leste, one mother was surprisingly reluctant to meet with her daughter because the mother had remarried and feared that she may have to pay a customary fine to the family that had cared for her daughter. We also realized that there are hundreds and maybe thousands of these separated children still living in Indonesia. After this visit, we established a team in Indonesia, led by some of the stolen children themselves to find their peers.

In May 2015, working with PDHJ Timor-Leste, KomnasHAM Indonesia, and civil society groups, AJAR brought 14 stolen children back to meet with their family members in Timor-Leste. The response in Timor-Leste was immense. Not only from the families of those who returned, but from many families who are still seeking their children. These 14 “stolen children”⁷ taken between the ages of five and fifteen during the conflict in Timor-Leste were reunited with their families after two or three decades of separation. The 14 stolen children (now adults, two women and twelve men) were taken from Viqueque, Los Palos, Manatuto, and Ainaro, between 1979 and 1994.

The six-day visit was moving for all those involved. Family members who had assumed that their brother or sister were long deceased received them with open arms and tears of joy. Some already had gravestones with their names engraved, after decades of no information on their whereabouts. The visit included trips back home to their villages, a tour around Dili to

⁶ “Remembering My Beloved, Remembering My Pain,”

⁷ See *Chega! Volume III, Part 7.8: Violation of the Rights of the Child*, par. 344-391, and par. 439 for findings on this issue. The report can be downloaded from www.chegareport.net.

better understand the recent history and developments in the country, as well as meetings with civil society and government officials, including the Prime Minister, the Minister of Social Solidarity, members of Provedor for Human Rights and Justice, and the Indonesian Ambassador.

For the fourteen separated children, the reunion was unimaginable. As children, a few of them were lucky enough to be cared for by loving families, raised and educated as Indonesians. However for most of them, their expectations of finding security and opportunities for education were quickly dashed. As children, many of them had had to fend for themselves, surviving on the streets through their wits and luck. Many of them were vulnerable to abuse and exploitation. As Mr. Muhammad Legibere said, "A life without love is like a bird without wings."

So Where Do We Go from Here?

This brief overview shows Indonesia (leading the way) and Timor-Leste sliding into comfortable impunity, despite early efforts to push for accountability. The following is a incomplete list of strategies which I think need to be explored further:

- Develop a two country strategy for continued research and advocacy on transitional justice issues. An important component is to educate the Indonesian and policy makers on the CAVR and CTF reports and their recommendations. We need to better articulate the link between impunity for past violations and the remaining legacy which continues to influence Indonesia and Timor-Leste's current context. More attention has to be paid to linking civil society groups in West Timor and Timor-Leste.
- In Timor-Leste, programs and services currently working on the elimination of violence against women in Timor Leste must continue to be supported and must expand their focus to support women victims of conflict related violence. Women shelters in the districts (*uma mahon*) should be redesigned to become community-based trauma support centers for women victims of domestic violence and victims of the conflict, including livelihood support and community education efforts.
- MSS & other government agencies must broaden their outreach and support to women victims. While MSS has been supporting civil society since 2010 to reach out to women victims (and in the last three years this has assisted 120 women victims with small grants) this must be expanded to meet the need. MSS should work with women's groups and NGOs in the districts to reach out to vulnerable women victims to improve knowledge of their entitlements.
- Victim focussed units should also be established in government agencies to help channel information to women victims about available services, training, benefit opportunities, and provide assistance
- Urgently address the issue of stolen children, an ongoing violation. The survivors deserve a chance to rebuild their broken lives either in Indonesia or Timor-Leste, with special status that allows them to be visa free when they and their dependents enter Timor. The story of the stolen children is powerful, and have a transformative potential to strengthen our common humanity. The truth about what they had to endure must be an inspiration for us to do better. [And on this note, I will play a short short version of the film we will launch tomorrow with NHRF.]

Thank you