

Pushing the envelope on truth, justice and reconciliation in Timor-Leste

Pat Walsh

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This section of the seminar is entitled 'truth, justice and reconciliation: towards a national consensus?' There is a lot in that title, not least the question mark it ends with.

Ten years after CAVR and eight years after CTF, where does Timor-Leste stand on truth, justice and reconciliation and what more could be done? My thesis is that in many respects the answer to this question depends on change in Indonesia.

1. Truth: there is a strong consensus in Timor-Leste, I believe, that Chega! is a credible account of what happened in Timor-Leste 1974-1999 and who and what was responsible for the tiny country's long dark night of the soul.

All sides, including the Resistance which CAVR found was also responsible for human rights violations and war crimes, accept CAVR's evidence-based conclusions that Timor-Leste suffered crimes against humanity and war crimes during its traumatic 24 year decolonization transition and that the Indonesian state and military, though not its people, were principally responsible for these crimes. Timor-Leste and Indonesia's bi-lateral Commission on Truth and Friendship (CTF), whose brief included a review of CAVR's inquiry, also agreed that CAVR got it right though, unlike CAVR, it stopped short of telling the whole truth by not naming names.

Successive governments in Timor-Leste have also been comfortable with the CAVR narrative. Evidence for this is that the government is drawing on Chega! to design its first ever home-grown school curriculum; that it has taken over the funding of the Post-CAVR Secretariat from international donors; and that it is paying for the dissemination of Chega! at home and abroad including the publication and international distribution of the English Chega! being launched here today. Timor-Leste wants the truth known universally.

The importance to a new nation of consensus on the truth cannot be overstated. A shared national narrative removes a source of potential division and conflict. It is a platform on which the fundamentals of a modern state can be built including the long-term formation of a culture of human rights, rule of law, accountability and non-violence. Chega! also expresses the hope that the truth of Timor-Leste's past and its lessons and values will inform the culture of the country's major institutions and their policies, including a distinctive foreign policy.

Some believe, however, that the potential contribution of Chega! to Timor's development is not being realized. The failure of Timor-Leste's parliament to debate the report or to champion even the easiest of its many recommendations or the interests of Timor's most vulnerable victims, is particularly regretted.

Prime Minister Araujo shares this concern. He has recently announced the formation of a Working Group to review progress on the implementation of CAVR's recommendations and to consult stakeholders on the formation of a CAVR follow-up institution. A decision is expected in 2016.

The mooted institution has great potential to build on CAVR and CTF's legacy, including vis-à-vis the truth. It can put the truth to work in the nation's best interests; ensure that the past is seen as a national asset, not a liability; that the national narrative remains representative and inclusive of civilian victims who have reason to feel their contribution during the war years is currently being subordinated to that of Timor's resistance veterans. Already slated for Memory of the World recognition by UNESCO, the existing CAVR archives could be significantly amplified through the addition of archival material from outside Timor-Leste (as recommended by both CAVR and CTF) and used to enrich Timor-Leste's institutional memory and educational resources. By working with Indonesian institutions, the institution could also contribute to a better shared appreciation of the truth than currently exists.

The Nobel Peace Institute where we are gathered today in the 20th year since the historic Peace Prize to Bishop Belo and Jose Ramos-Horta is a potential model for Prime Minister Araujo's project. There might also be scope for future cooperation between the two institutions.

Regrettably, Timor's progress on the truth has not been replicated in Indonesia. Generally speaking Indonesia has not made peace with its past including its long foray into Timor-Leste which it also wants to forget.

Where it exists, a different Timor-Leste narrative persists in Indonesia. In 2014-15 I was part of an AJAR project funded by Norway and the UK to introduce Chega! to university audiences across Indonesia and to conduct a study on how Chega! and the CTF report *Per Memoriam Ad Spem* have been received in Indonesia.

My Indonesian colleague and I found that few academics and students knew of either report, that nothing is taught about the Timor-Leste period in Indonesian schools, and that perceptions of Timor-Leste were still framed in terms propagated during the Soeharto years, terms that are defensive and nationalist and that tend to absolve Indonesia of serious wrong-doing.

This self-defence reflex is not unique to Indonesia. My own country Australia supported CAVR but has not debated the report or its section on Australia. Norway, which only voted once in favour of Timor-Leste at the UN during the first eight years of Indonesia's occupation, has not, as far as I know, engaged in the critical reflection called for by Bishop Stalsett in his opening remarks this morning.

We also found, however, that the truth about Timor-Leste is not a lost cause in Indonesia. Indonesia's post-Soeharto generation cannot be blamed if they have not been told anything about the past in Timor-Leste or have only been exposed to propaganda. We found that,

presented with Chega!, younger Indonesian academics and students, professionals in think-tanks and the media were open to what we had to say and prepared to engage with it further.

The many East Timorese students studying in Indonesia could contribute to this re-claiming of history. The Timor-Leste government could also assist by, at the very least, not giving the impression it wants bygones to be bygones, by not distancing itself from Chega! or reducing it to the status of a mere text book. More boldly it could assist with unfinished business such as the stolen children, archival retrieval and the Prime Minister's institutional initiative referred to earlier.

2. Justice: by justice I mean two things (a) judicial due process for the perpetrators of crimes against humanity and war crimes that both CAVR and CTF agreed were committed in Timor-Leste, and (b) reparations for the victims of these abuses. CAVR's thoughtful recommendations on due process and reparations are detailed in Chega!

Through the Serious Crimes process under the UN and subsequently as a fully independent nation, Timor-Leste has prosecuted and sentenced a number of Timorese for serious crimes committed in the past. It also supported CAVR which engaged in transitional justice and facilitated reconciliation and reintegration into the community for hundreds of Timorese responsible for less serious offences. This commitment to due process within Timor-Leste's own jurisdiction is to be applauded especially when the awesome challenges confronting the nation in its early years are recalled. It is also true, however, that Timor-Leste has only prosecuted cases from 1999, has not acted on the CAVR recommendation that the key to coded names in the Chega! report be referred to the Prosecutor General, and has steadfastly rejected calls for an international tribunal. These are formidable issues of unfinished business on which Timorese society is divided. Ultimately, of course, they are the business of the Timor-Leste justice system and of victims whose right to justice is not extinguished by the passing of time or political considerations.

Indonesia, by contrast with Timor-Leste, has not found any Indonesian officers guilty of crimes in Timor-Leste. Indonesians indicted by the Serious Crimes Unit and listed in Chega! can claim innocence on the specious grounds that they were exonerated by Indonesia's (highly dubious) Ad Hoc Human Rights Tribunal and embraced by East Timorese politicians. This has allowed indicted war criminals to travel abroad, continue their careers in private life, and run for high office while their victims remain traumatised and disadvantaged. The realpolitik basis for this laughable situation is self-evident. But it should be called for what it is, namely a pragmatic compromise forced on Timor-Leste by its unequal power relationship with Indonesia. Presenting it as a model of reconciliation only risks legitimising impunity in both Indonesia and the countries where it is advocated; it also allows perpetrators the comfort of parading as heroes and peddling a narrative that serves self-interest, not the truth or justice or reconciliation.

Justice for Timor-Leste is a matter for Indonesia and its people. As in other societies, the sea change of awareness that is needed will take time. It will also require the resolution of Indonesia's current history wars but, as with Timor-Leste's long struggle for liberation, this is not

impossible and will be assisted by the winds of democratisation and globalisation blowing across post-Soeharto Indonesia.

Galuh Wandita will have more to say on reparations for victims. I would simply point out that it should not surprise anyone that CAVR made the long recommendation on reparations for victims to be found in Chega! I defy anyone to read the report then dispute the case for reparations. CAVR was commissioned to restore the dignity of victims of human rights violations. Concern for victims informed all its activities. It received shocking graphic accounts from thousands of ordinary Timorese that, as Dr Ramos Horta memorably said on one occasion, move one to tears and anger. For largely internal administrative and political reasons, CAVR's recommendation on reparations has not, however, found favour with the Timor-Leste Government to this point. Unlike judicial justice, Implementation of a reparations program does not depend on change in Indonesia. Hopefully the small support program for women victims being administered by the Ministry for Social Solidarity can serve as the basis for an expanded program of acknowledgement and rehabilitation for all vulnerable victims through service referral and in other ways.

Though it is too early to predict outcomes, Prime Minister Araujo's review of the status of CAVR recommendations will be an opportunity for the Commission's recommendations on reparations to be revisited.

3. Reconciliation: CAVR facilitated reconciliation between hundreds of Timorese perpetrators of less serious crimes committed in 1999 and their victims. Following a legal, cultural and community process, these offenders were forgiven and reintegrated into the communities they had harmed. Through this innovative intra-Timorese program, CAVR made a significant contribution to lasting peace at the grassroots in Timor-Leste.

Nothing similar, however, has been conducted or attempted between Timor-Leste and Indonesia. The Commission for Truth and Friendship, for example, focused on what it called friendship, not reconciliation, and involved victims only in a small way and for evidence purposes, not reconciliation. President Joko Widodo's mooted commission on reconciliation does not include Timor-Leste. It is, therefore, misleading to claim that reconciliation has been achieved between Indonesia and Timor-Leste. Bi-lateral reconciliation remains a challenging, possibly inter-generational, objective and for that to be achieved more work is needed to establish the essential foundation for justice to proceed, namely consensus on the truth particularly by perpetrators.

What then is the answer to the question posed by this session?

The issue that differentiates CAVR from most other commissions of its kind is that the principal perpetrator of human rights violations was a large foreign power which, though it has withdrawn, continues to influence policy development in Timor-Leste for better or for worse in many areas including truth, justice and reconciliation.

On balance, however, and allowing for unfinished business and the steps that Timor-Leste could still take in that regard including through the mooted CAVR follow-up institution, Timor-Leste has made far more progress than Indonesia on truth, justice and reconciliation. In that sense, Timor-Leste is a model for Indonesia to emulate. Were Indonesia to do so, it would make peace with its own past, deepen its relationship with Timor-Leste and contribute to the achievement of national consensus in Timor-Leste on truth, justice and reconciliation.

A version of this talk was presented in Oslo, 25 January 2016, at the European launch of the English language Chega! report.

Pat Walsh is a former senior adviser to CAVR and PCAVR and editor of the English language Chega! report. His website is <www.patwalsh.net>

Chega! is available in English from www.chegareport.net