

**OHCHR SEMINAR ON EXPERIENCES OF ARCHIVES AS A MEANS
TO GUARANTEE THE RIGHT TO THE TRUTH
GENEVA, 24-25 FEBRUARY 2011**

Using archives for truth-seeking: the Timor-Leste experience

Pat Walsh, Consultant, Post-CAVR Technical Secretariat, Timor-Leste

Any discussion of archival experiences in Timor-Leste following its vote for independence in 1999 must begin by acknowledging the formidable set of challenges that faced institutions tasked with information gathering at that time. Due primarily to the repressive policies of successive colonial regimes, Timor-Leste lacked a universal education system and had been systematically denied the right to know and freedom of expression for generations, and so depended heavily on its rich oral tradition for communication. It also seriously lacked resources and specialist capacity. In addition, many of the records that did exist (such as baptismal and other documents held by the Church) were destroyed during the violence of 1999 or, in the case of government records were destroyed or taken to Indonesia by its military and bureaucracy when they withdrew. Not a single sheet of paper, for example, was left at the former Indonesian political prison in Dili where CAVR (*Comissao de Acolhimento, Verdade e Reconciliacao, Commission for Reception, Truth and Reconciliation*) established its headquarters; only graffiti and scratchings on the cell walls remained. In a word, Timor-Leste had virtually no conventional archives available locally. Important collections and conventional archives did exist but were located outside East Timor and, although often in the possession of interests well-disposed to Timor-Leste, were not easily obtainable due to language, classification, cost, schedule, copyright and tracing difficulties or because of the technical challenges associated with accessing pre-computer hard copy or out-of-date media. Other material, more incriminating but vital to human rights truth-seeking, was held by interests less friendly to Timor-Leste such as the Indonesian military and intelligence agencies.

The purpose of this short presentation is fourfold (1) to explain how Timor-Leste addressed the challenges presented by the situation referred to above, (2) its experience, post truth-seeking, in archiving the information in question to ensure its preservation and future use, (3) use made of the archive, and (4) some recommendations. For this purpose I will rely primarily on the experience of CAVR, the Timor-Leste truth and reconciliation commission, but this is not to ignore or undervalue the contribution to human rights archiving made by other bodies in Timor-Leste including local NGOs, the UN Serious Crimes Unit and its successor the Serious Crimes Investigation Team, and the bi-lateral Commission for Truth and Friendship.

1. Issues involved in the creation of the CAVR archive

How, given the severe limitations referred to above, can a human rights archive be created in these circumstances?

One method successfully employed in Timor-Leste was to establish a truth commission and to empower it in law to collect evidence from all sides, internally and externally, for a specific period (1974-1999). Several factors contributed to the success of this exercise and the principles in question might usefully inform the creation and functions of all human rights archives:

- the Commission was given the powers it needed to gather data from a wide spectrum of sources,
- it was required in law to be a-political and to gather and report on information impartially and objectively,
- its independence was legally guaranteed and respected in practice, even though a proportion of the evidence collected (and publicised through public hearings) was deeply embarrassing to some local and international stakeholders,
- it enjoyed the broad support of those in possession of information, particularly victims, and
- it was given the financial and technical resources needed for the task.

These factors ensured not only that the Commission was relatively effective but also that the material it assembled was authoritative and could serve as the credible basis for future prosecutions, research and education in human rights and other disciplines. The Commission prosecuted its truth-seeking mandate through the taking of some 8000 victims statements, over 1000 interviews including some with key actors, 8 national public hearings, 52 local victims hearings, 297 community profile workshops, research (including into

the death toll), and submissions. In addition, in the course of its reconciliation work, it took statements from some 1400 Timor-Leste perpetrators responsible for low-level violence in 1999.

The end result of this pioneering effort, created from scratch and required by the CAVR legislation, is Timor-Leste's first ever national human rights archive: a unique, multi-media and multi-purpose treasury of information now housed in three spaces in the former CAVR head office in Dili. However, not forgetting that everything in the new Timor-Leste is uncharted territory, the organisation and development of the CAVR archive is still in its early stages and needs substantial on-going support if it is to contribute more to the healing of victims, including reparations, and the building of a culture of human rights and rule of law. The UN Working Group on Enforced or Involuntary Disappearances reached a similar conclusion during its recent visit to Timor-Leste.

Although the East Timor question was an international issue that engaged many countries, the acquisition of human rights and related information held in other countries or foreign institutions posed a particular challenge to CAVR that has not been successfully addressed. As a result, the CAVR archive has significant gaps and is not a complete record of the period 1974-1999. Few foreign governments responded positively to CAVR's request for information, partly because the request related to events that had occurred some 30 years previously, and partly because governments who were party principals to the conflict were still in denial (Indonesia) or defensive of their role (Portugal). The CAVR report addresses several recommendations to this issue. Another weakness affecting human rights and related archives generally in Timor-Leste is that there is no working relationship between them even though they are complementary or hold material on similar issues.

2. Issues involved in managing and developing the CAVR archive

On completing an assignment, as any university student or lawyer can attest, it is very easy to move on to the next project or case and leave research material and notes in a corner to be sorted and filed later. CAVR faced the same temptation after the completion of its monumental and exhausting mission but wisely took three steps to ensure that the evidence it had collected was not neglected after its dissolution. These steps, taken out of sensitivity to victims and the historical importance of its truth-seeking work, were

- a legal requirement to archive CAVR documents
- a provision in contracts of employment requiring Commissioners and staff to surrender official material to this archive at the end of their contract
- the establishment of a mechanism to care for the archives, known as the Post-CAVR Technical Secretariat, auspiced by the President of Timor-Leste.

The storing and organising of the CAVR archives began towards the end of CAVR's mandate and has been continued over the intervening 5 years by the Post-CAVR Secretariat.

In the process, CAVR and the Secretariat have encountered the following issues:

(a) *Capacity building of local staff* – a key issue in a country with a minimal experience of archives and related matters. This has been addressed principally through the placement in the Secretariat Documentation Centre of international advisers tasked with assisting and training in sorting, boxing, filing, cataloguing, copying and the acquisition of multi-media materials, appropriate equipment, funding and programs. This has resulted in the organization of the archive to a basic level in three parts (hard-copy, audio-visual and books/library) and the skilling of local staff in the basic technical steps. However, notwithstanding the dedication of advisers and due to a number of long-term factors, the process has generally failed to instil the attitudinal changes/love and attention to detail required in the profession. Additional capacity building measures have included two short-term internships in Indonesian archival institutions and attempts at building institutional links with international professionals and archival associations. Lack of English has handicapped the latter.

(b) *Technical issues* – Dili experiences frequent electricity failures which, although Post-CAVR has a back-up generator, have damaged equipment in the documentation centre, including air-conditioners, computers, and scanners which are expensive to repair/replace. The breakdown of this equipment impacts negatively on the operation of the centre and is a serious threat to the materials in the archive. In 2009-10, three data bases

were lost due to these factors. None had been backed-up.

Another technical challenge is maintenance of the CAVR website (www.cavr-timorleste.org). This site is, and will increasingly become, a major gateway in and outside Timor-Leste to the CAVR report and records and the advancement of the mission of the Secretariat and the proposed Institute of Memory. It requires training and on-going support in the relevant technical skills, including in the four languages of Portuguese, Tetun, English, and Indonesian.

(c) *Security issues* – Post-CAVR is very conscientious about the security of the building and archives and, inter alia, engages guards 24/7 and has deposited some records in a local bank. However, the collection is vulnerable to a number of external threats including dust, white-ant infestations (endemic in Timor-Leste and expensive to control) and pests, humidity, variations in temperature, and political instability. Potential political threats relate to the sensitive nature of the contents of much of the archive. Though the precincts were stormed in 2006 and motorbikes stolen, no direct threat has been made to the archives. However, the political and security situation in Dili remains fragile. It is instructive, however, that many – including UNAMET, UNESCO, UNDP and the Australian military - rushed to the defence of the heritage building and archive following the 2006 incursion.

(d) *Copying and off-shore storage* – in view of the above factors, two offers have been made on separate occasions to assist with the preservation and security of the CAVR archives. One that offered to take the collection offshore for processing and training, prior to eventual repatriation to Timor-Leste, was rejected by Post-CAVR. The other, initiated by UCLA and taken up by Post-CAVR, involved a grant from the Endangered Archives Program of the British Library. This has enabled the digitisation of a portion of the collection, including fragile Indonesian court documents discovered after the 1999 violence, and transfer of this material on disc for safe-keeping to the British Library and eventual public access to all the contents except where subject to CAVR caveats. The core of the collection – survivors' statements to CAVR and interviews with key actors – has not been digitised and therefore remains vulnerable.

(e) *Access issues* – although required in law, CAVR did not complete a workable archival access policy and procedure before its dissolution. This has left Post-CAVR with a dilemma. On the one hand, most statement-givers and interviewees cooperated with CAVR on the understanding that their accounts were for public consumption. On the other hand, some information in some material (such as names of accused persons) should be kept confidential and access restricted to appropriate authorities. Faced with this dilemma, and lacking clear guidelines and archival legislation, Post-CAVR has opted to take a cautious case-by-case approach to requests for access which has had the effect of generally making the archives off-limits. The absence of a catalogue or data base on the contents of the archives also inhibits access.

(f) *Archival legislation* – Timor-Leste has a National Archive but there is no clear legal or policy framework for archiving in Timor-Leste. Draft legislation was prepared some years ago but is not generally available for discussion and has not been addressed in Parliament. A national archive law would mandate what materials are required in law to be preserved and archived and penalties that would apply for non-compliance or unauthorised removal, would lay out a standard national system for collection, classification, preservation and access policy for state and historical documents, films, and photos, and would uphold the principle of access as a right, not a discretionary privilege, and include provisions that allow for maximum public and Freedom of Information access.

(g) *Future* – the future of the CAVR archives will be decided by the Parliament of Timor-Leste in the course of its deliberations on the establishment of a CAVR follow-up institution that has been proposed by Post-CAVR and NGOs in keeping with recommendations in the CAVR report. It is proposed that the functions of this body, entitled the *Institute of Memory*, will include further information gathering on the period 1974-1999, a program on the disappeared, memorialisation and cooperation with institutions, both national and foreign, on these activities. The legislation also includes a draft law on reparations for the most vulnerable victims of human rights violations based on CAVR and CTF recommendations. The proposal for a reparations program has proved controversial and is the principal reason why debate on the draft legislation has been postponed twice

by the Parliament, most recently on 14 February 2011. Public pressure, including from victims, is necessary if the legislative package is to be finalised and the new institution established before Parliamentary elections in 2012. The package is endorsed by UNMIT.

The development of archives in the new nation of Timor-Leste faces many challenges and will take time and systematic effort. However, there are grounds for great optimism. These include the number of archival initiatives currently underway in Timor-Leste (see attached Fact Sheet), the formation in 2010 of a National Victims Association, strong hopes for the proposed Institute of Memory, the rise in public expectation following exhumations of human rights victims in Timor-Leste by the International Forensic Team, the goodwill of the international archival community towards colleagues in Timor-Leste, and exciting archival developments on Timor material in Australia (the CHART Project, Clearing House for Archival Records on Timor, and the Timor Project of the National Film and Sound Archive – NFSA - which includes an unparalleled entire audiovisual history of the new Timor-Leste) and Indonesia (where historians and activists are taking advantage of new freedoms to research and expose the Soeharto years, including Timor-Leste).

3. Use made of the archive in truth-seeking

The material gathered by CAVR has been used in the following ways:

- by CAVR to make findings about particular violations and individual and institutional accountability
- by CAVR as the basis of its final report *Chega* and in other publications, videos, weekly radio program and the *Walk Through Chega!* exhibition.
- by the Serious Crimes Unit for investigations
- by the joint Indonesian-East Timor Commission for Truth and Friendship
- by media
- by national and international advocates for justice.

The evidence in the CAVR report has not yet been addressed by the Office of the General Prosecutor or debated in the National Parliament or international fora. Steps are being taken to incorporate the material in the national school curriculum (assisted by the production of a comic book version of the Report) but the archives and Report are not yet used systematically in human rights training for the police or military.

4. Recommendations

The following recommendations are based on the Timor-Leste experience referred to above and are offered for consideration in strengthening the contribution of human rights archives to the enjoyment of the right to know in Timor-Leste and beyond:

- Public advocacy and championing of the importance of archives, including by figures such as the President and Prime Minister of Timor-Leste.
- The fostering of coordination, mutual support and shared learning between existing archival organisations in Timor-Leste (see attached Fact Sheet) including through the formation of a national association of archivists, data bases on the contents of the respective archives and cross-links.
- The development and teaching in Timor-Leste of accredited courses in archiving and incentives for East Timorese with archival experience and enthusiasm to take these courses.
- Long term mentoring and capacity building of local staff by experts from places such as Indonesia, Australia, Portugal and the US including in English so that staff can benefit from interaction with the wider archival community and value archiving as both a unique contribution to nation-building and a career.
- Coordination with media and formal/informal systems of education to ensure that knowledge and lessons learned from the past (including vis-à-vis non-violence, human rights and accountability) are incorporated in curricula and teacher training for transfer to Timor-Leste's young people who constitute some 50% of the population.
- Openness to regular independent, expert evaluation of archival activities and follow-up.
- Increased support by established archival bodies and professional associations for colleagues starting out on archival initiatives, particularly in vulnerable contexts.

- An early warning system that can be quickly activated when archives are endangered.
- Archival legislation that includes directions on what materials have to be preserved and archived, penalties that will apply for non-compliance or unauthorised removal, and that endorse the principle of access as a right, not a discretionary privilege.
- Freedom of Information legislation.
- Access policy and procedures that protect confidentiality and the safety of individuals but allow for maximum public access to and use of archives.
- Archive catalogue and links via website to facilitate access to materials.
- Risk management strategies that include agreed security measures to ensure that archives are backed-up, comprehensively secure and copied to separate storage.
- Continuation of the OHCHR, UNICEF and UNESCO in Timor-Leste following the expected close of the current UN mission in 2012 and the addition of human rights archival development to their agendas.
- Promotion in UN member states of the importance of archives to the right to know and the related obligations of states to make information on human rights violations available on request, including information on the disappeared.
- Provisions enabling access to human rights archives by immigration/border control authorities to control the movement of human rights perpetrators.
- Provisions enabling access to human rights archives by authorities responsible for issuing building permits on land where victims of human rights violations lie.

Website: www.cavr-timorleste.org

Email: padiwalsh@gmail.com

Appendix: Fact Sheet – Timor-Leste, CAVR and archival initiatives in Timor-Leste

Appendix: Fact sheet on Timor-Leste, CAVR and archival initiatives in Timor-Leste

1. Timor-Leste is a half island nation situated in the Indonesian archipelago about one and half hours flight north west of Darwin, Australia, with a population of about 1,000,000, about 50% of whom are under 18. It is one of the poorest countries in the region but has significant deposits of oil and gas.
2. Timor-Leste was a Portuguese colony until regime change in Lisbon in 1974 opened the way for an act of self-determination and the formation of political parties for the first time in the colony's history. Indonesia under President Suharto determined to absorb the territory and intervened in the de-colonisation process leading to a brief civil war in 1975, invasion and occupation until 1999. The UN condemned the occupation and human rights violations but in practice the major powers backed Indonesia.
3. Timor-Leste resisted the Indonesian occupation militarily and diplomatically and suffered significant loss of life and widespread and systematic human rights violations amounting to crimes against humanity and war crimes.
4. A UN-administered Popular Consultation in August 1999 resulted in an over-whelming vote for independence. To allow time for some reconstruction following the violence that preceded and followed the vote, the UN acted as transitional administrator until 2002 and oversaw the adoption of a constitution, national elections and the building of national institutions, including the Comissao de Acolhimento, Verdade e Reconciliacao (CAVR, Commission for Reception, Truth and Reconciliation).
5. The CAVR was written into the national constitution, and functioned 2002-2005 as an independent statutory authority led by seven East Timorese Commissioners. Its four principal functions were (a) to establish the truth about human rights violations committed on all sides 1974-1999; (b) to facilitate community reconciliation for less-serious crimes; (c) to restore the dignity of victims and (d) to report on its work, findings and recommendations. The CAVR final report is entitled *Chega!* (Portuguese for 'enough, stop, no more') and is available in English, Portuguese and Indonesian. The Commission archives are stored in the former CAVR national office, a converted political prison in Dili.
6. Timor-Leste has two other related archives. In 2005 all materials relating to human rights violations in 1999 collected by the UN Serious Crimes Unit (documents, audio and video) were scanned/digitised and handed over to the custody of the Timor-Leste Office of the General Prosecutor (OGP). Three copies of this material were made and placed respectively with the OGP, and the UN in New York and Geneva. These records are being reviewed by the UN Serious Crimes Investigation Team, which resumed work in 2008, and added to as pending investigations are completed. All documents in this archive are confidential evidence in ongoing criminal cases and can only be accessed by investigators, prosecutors, and the courts.
7. The Commission for Truth and Friendship, a joint initiative of Timor-Leste and Indonesia, also collected evidence on violations in 1999. This evidence is stored in the Timor-Leste consulate in Bali and has been organised and catalogued by a member of the Indonesian National Archives.
8. Several other archival projects are worthy of note. The International Committee of the Red Cross (ICRC) has important data on the disappeared and advocates actively for this issue to be addressed in Timor-Leste, with cooperation from Indonesia. The Timor-Leste Ministry of State Administration and Territorial Management has renovated a building for the national archive which houses government documents, including some from the colonial period, classified into three collections (Portuguese, Indonesian and Timor-Leste). Its director is Mr Pedro Fernandes (arquivotimor@yahoo.com.au). The National Resistance Museum and Archives contains documents from 1975-1999 about the Timorese resistance to the Indonesian occupation. It has been developed with the assistance of the Portuguese Mario Soares Foundation and is currently undergoing a major expansion that includes state of the art archival facilities. The Dare Memorial: Café and Museum, under the Secretaria de Estado da Cultura, commemorates collaboration between the East Timorese people and Australian commandos, despite horrendous loss of life, during the World War II Japanese occupation. The Centro Audiovisual Max Stahl (CAMSTL), located at the Salao Memorial da Independencia in Dili, specialises in archiving video footage of Timor-Leste's struggle for independence but also records contemporary events. The Living Memory Project specialises in recording on paper and video the stories of former political prisoners. Several NGOs such as the HAK Association also have collections. The government, with the assistance of the Italian oil company Eni, has recently commenced work on a National Library and Archive.