

# Including and excluding civil society in the truth-seeking efforts in Timor Leste\*

## *Inclusión y exclusión de la sociedad civil en la comisión de la verdad de Timor Oriental*

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JOHANNES LANGER\*\*

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\*\* Johannes Langer es Profesor Asociado de la Facultad de Ciencias Jurídicas, Políticas y Económicas de la Universidad de San Buenaventura, sede Bogotá, Colombia. Tiene Maestría de la Universidad de Viena (Austria) en Ciencia política y en Historia. También tiene una Maestría en Resolución de conflictos y construcción de paz de American University en Washington D.C., gracias a una beca de Fullbright. E-mail: jlanger@usbog.edu.co.

## Abstract

Truth commissions are a key part of transitional justice measures that allow clarifying the past related to oppression during dictatorship or the horrors of armed conflict. It is civil society that often plays an important role in promoting and pushing the mandate of a truth commission, ensuring transparent work and a widespread distribution of the final report and the implementation of its recommendations. In Timor Leste, the Commission for Reception, Truth and Reconciliation (CAVR) was a United Nations–led initiative, implemented after the 1999 violence around the independence referendum from Indonesia. Civil society had a limited role to play in the work of the CAVR, not least because the truth commission was not perceived to be an instrument that brings about justice, the main demand of the community. The CAVR shows that without pressure of local civil society, truth commissions will hardly leave an impact.

**Keywords:** CAVR, civil society, transitional justice, Timor Leste, truth commission.

## Resumen

Las comisiones de la verdad son parte clave de las medidas de justicia transicional que permiten esclarecer el pasado durante dictaduras o conflictos armados. La sociedad civil a menudo desempeña un importante papel en la promoción e implementación del mandato de una comisión de la verdad, garantizando así la transparencia en el trabajo, una amplia distribución del informe final y la aplicación de sus recomendaciones. En Timor Leste, la Comisión de Acogida, Verdad y Reconciliación (CAVR) fue una iniciativa de las Naciones Unidas implementada después de la violencia de 1999, relacionada con el referéndum de independencia de Indonesia. La sociedad civil tuvo un papel limitado en el trabajo de la CAVR puesto que ésta no fue percibida como una herramienta de justicia, lo cual era la principal demanda de la comunidad. La CAVR pone en evidencia que las comisiones de la verdad, sin la presencia de la sociedad civil, difícilmente tienen algún impacto.

**Palabras clave:** CAVR, comisión de la verdad, justicia transicional, sociedad civil, Timor Leste.



## Introduction

Countries around the world that transition from authoritarian regimes or civil wars to democracy have set up truth commissions to investigate systematic violations of human rights and overcome the perceived dilemma of truth versus justice (Langer, 2015). Truth commissions can contribute to achieving many important goals in a society that tries to deal with its past evils, including the clarification of the past, getting the voices heard that were silenced and ensuring the no-repetition of violence. Truth commissions are defined by 1) a focus on the past; 2) an analysis of a systematic pattern of abuse; 3) a temporary existence, usually one to three years; 4) an official creation by the state; and 5) the publication of a final report usually with recommendations to the state.<sup>1</sup>

The right to truth has been established as a “fundamental, emerging principle of international human rights law” (Bisset, 2012: 18). This right is both individual and collective; rights-bearers are victims and their families as well as the wider society. It is, as Henderson argues, an insurance against collective amnesia: after the final report of a truth commission, no one can claim not to know what had really happened (Henderson, 2000). Truth commissions can be an exercise to establish a complex truth that is victim-centered and goes in hand with public acknowledgment toward specific occurrences. The assumption is that when truth is revealed about human rights violations, legal actions will follow, reparations for victims be established as well as institutional reform implemented.

One important factor for the success of a transition is the pressure of civil society because it can work as a watchdog of government institutions, bring about attention to the media and allow for ownership of the process by citizens. However, in the international community there is still an implicit normative thought that transitional justice is universal, thereby ignoring local civil society organizations (CSOs). Although it is widely acknowledged that every situation is different, the “one-size-fits-all” approach continues to be dominant. It is increasingly recognized that the “voices from below” need to be heard as well because otherwise

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<sup>1</sup> Freeman, 2006; Hayner, 2010; Wiebelhaus-Brahm, 2010.

key notions of transitional justice are undermined, particularly justice, truth, reconciliation, and healing (Lundy & McGovern, 2008). The power of domestic CSOs can play a key role for an approach that favors restorative over retributive justice. Moreover, involvement of CSOs can allow a needs-driven approach for the local context and not one that is initiated by donors. Ideally, a top-down and a bottom-up approach could exist at the same time, as developed by Lederach (2005: 78–81). And yet, participatory approaches are often paid lip service to, but it is not yet the norm by the international community to work with and back up grassroots initiatives.

## Civil Society and Truth Commissions

Civil society has various meanings for different people and there is no commonly agreed definition. In general, civil society is often used in a celebratory way, linked to a hope of ownership of policies and ideas by citizens. There are three basic points to consider why civil society is an important part to construct a public sphere and in fact democracy: 1) issues that are important to all citizens and to the organization of their lives; 2) it is through communication like dialog or debates that citizens can relate to the issues of public concern and it gives them voice; and 3) states and other organizations serve the collective interest of the public instead of personal interests of rulers and elites (Calhoun, 2011: 311). Civil society is like an arena where people can help themselves and their fellow citizens through direct action in organized groups to achieve collective good (Edwards, 2014).

In this article, civil society is referring to local and national CSOs in contrast to international ones. CSOs cannot be reduced to non-governmental organizations (NGOs) because also faith-based organizations, community-based organizations and others need to be included. CSOs can build up capacity with the participation of individual citizens as long as they are autonomous and independent (Duthie, 2009). While civil society has often played an important role in the support of transitional justice mechanisms, it is usually in a weak and disorganized state after conflict (Brahm, 2007). Yet, it is CSOs that are recognized since

the 1990s to help improve governance and democratization (Paffenholz & Spurke, 2006). Commonly, civil society is referred to as the “third sector,” different from and independent of government and the market. Following Lynch, civil society is understood in this article in a liberal framework where it is questioning the norms and rules of the state and checks the powers of government (Lynch, 2008).

Within the field of transitional justice, Crocker points out that civil society actors are operating within at least three ways: 1) they are a “bulwark of freedom” against the state which is reluctant to open up; 2) they influence the state by acting either constructively in building up social trust and civic capacities or destructively by fostering revenge or resistance to change; and 3) they can support in the public realm the functioning of a democratic and open government (Crocker, 2000: 109–114). In short, CSOs can play a role in improving the effectiveness of transitional justice by supporting or holding the government to account through democratic participation. While civil society can push government and come up with critical and innovative ideas to improve the effectiveness and responsiveness of state institutions as well as transitional justice processes, it can only work outside and complementary to the state.

Therefore, it shall not be argued that civil society is the answer to overcome all problems. Sometimes it can even act as a spoiler in peace processes and is described as “uncivil” due to its role in the promotion of hatred and division in society ((Paffenholz & Spurke, op. cit.). There can also be competition between CSOs for national and particularly international resources. Moreover, CSOs will not do everything cheaper, faster and better than government as it was believed in the early 1990s (Stewart, 1997). In fact, it is important that government on all levels is strong and has the ability to assume its role, which is very challenging in the reconstruction phase. Thus, not too much responsibility can be placed on civil society but it is the state that should continue to provide basic services (Paris, 2004). It would also be the role of the state to strengthen civil society that is often weak and fragmented after civil war or a dictatorship. Particularly in the work of a truth commission, Crocker suggests that civil society can play a role in public activities in the rural areas, in the evaluation of the work, provide assistance to victims and

recommendations how to deal actively with the past and the history of violations (Crocker, op. cit.).

There are multiple functions for civil society in transitional justice processes, and particularly in truth commissions, overall ten different roles can be mentioned: 1) data collection and monitoring; 2) representation, advocacy and lobbying of government officials; 3) making connections and consultations within local communities; 4) service delivery and intervention; 5) acknowledgement and compensation; 6) provision of training and background material; 7) the provision of access to records; 8) the accompaniment of victims providing statements in public hearings; 9) the provision of support services; and 10) offering public feedback on methodology and impact.<sup>2</sup>

It is furthermore a variety of organizations that can be involved in transitional justice work, including human rights organizations, humanitarian organizations, victims groups, survivor association, lawyers, religious organizations, peace building groups and mental health associations (Duthie, op. Cit.: p. 12). However, in all these links that may be created, it is key that civil society remains independent of government and criticizes actively the government in its shortcomings. Having that in mind, CSOs are said to have an enormous potential in transitional justice processes and can serve as a watchdog against corruption and for good governance (Amaya & Langer, 2015). After all, as de Greiff explains, transitional justice initiatives offer the opportunity to create trust through action (De Greiff, 2008: 132).

In the common framework of transitional justice by the international community, the healing of trauma and psychosocial services are not playing an important role, often due to very high costs. Neither the United Nations (UN) nor national governments usually foster processes of healing, forgiveness and reconciliation that would allow for a personal, spiritual transformation. This type of conflict transformation is much more linked with the grassroots, like faith-based or ethnic-based organizations that acknowledge and work with the individual and collective healing for peace building. This is often based on localized approaches that are embedded in the communities and are a key factor for

<sup>2</sup> Backer, 2003: 302-305; Duthie, 2009; United Nations, 2006: 33-34.

prevention of further violence and a more sustainable peace (Lederach, 1997). Yet, in many post-conflict situations, the international community is lobbying and imposing a model of key tools in the transitional justice toolbox. What is thereby ignored is the importance of local ownership and civil society participation.

Civil society has a major impact on truth commissions, as their strength influences the debate on the mandate, the work of the commission and the dissemination of the final report. Without strong public pressure, it seems likely that spoilers undermine the overall transitional justice process (Stedman, 2001). Research shows that civil society actors have strategic options available to advance democratization. The information that civil society groups have collected, the contacts and local understanding that they have can be key for the success of a truth commission and the demand to expand its operations, like accessing government archives or the full cooperation of the government with the commission. Public hearings that are accompanied with media coverage can help to bring more awareness of the violations to the wider public (Taylor & Dukalskis, 2008: 682). Sometimes, the final report is not widely distributed and it depends on NGOs to actually allow for a wider distribution. In some instances though the commissions tried to keep a distant relationship with the human rights NGOs because they feared that parts of society that are linked with the security forces would perceive a bias. In turn, the NGOs themselves were frustrated that the commission was not working with and relying on them (Hayner, 2010: 223–225).

In the following, the case of Timor Leste is analyzed to study the impact of civil society participation before, during and after the work of a truth commission. First, a background about the violent Indonesian occupation of Timor Leste is provided, to have the context what human rights violations needed to be debunked. Also, the UN involvement and the processes leading up to the truth commission are discussed. Second, the work of the commission with its different strategies will be analyzed through the angle of civil society participation. Finally, the report and its recommendations are presented and why so little civil society support took place.

## The Context of Human Rights Violations in Timor Leste

Timor Leste<sup>3</sup> is located on a small island in Southeast Asia that got its full independence in 2002 after 24 years of armed struggle against Indonesia. Having a population of only 1.2 million people, the new country is characterized by ethnic heterogeneity and multiple languages (Strating, 2014). After 400 years of Portuguese colonial rule, the 1974 Carnation revolution resulted in independence prospects for Timor Leste. New political parties were set up with different views upon the secession.<sup>4</sup> When the Portuguese authorities left the island, violent tensions led to a short civil war. The Timorese Social Democratic Association (ASDT), that later became known as the Revolutionary Front for an Independent East Timor (Fretilin), declared Timor Leste as an independent territory on 27 November 1975, although it only lasted for some days.

Indonesia invaded Timor Leste soon afterwards with the pretext of its fight against communism and the argument that the artificial separation of the island of Timor caused by colonial powers was finally over. Fretilin<sup>5</sup> resisted the 24-year-long brutal Indonesian military occupation with an armed liberation struggle. The consequence was that up to one third of East Timorese were killed, particularly in the early years of the occupation. In the early 1990s, civil society started to resist the Indonesian leadership, whereby the student protests in 1991 led to the so-called Santa Cruz massacre, with more 271 students and youth killed and several hundred injured.

Next to those student protests, other youth organizations like the Catholic scouts and the Organization of Timorese Youth were critical

<sup>3</sup> This article refers to Timor Leste although the country is officially known in Portuguese as *República Democrática de Timor Leste*. During the time of the UN transition (2000–2002), the country was called East Timor, a name that is still used a lot in the literature in English. During Indonesian occupation the territory was named *Timor Timur* (1974–1999). Many Timorese actually used the Tetum expression *Timor Lorosaê*.

<sup>4</sup> The Timorese Democratic Union (UDT) and the Timorese Social Democratic Association (ASDT) were the biggest players: while the former longed for the relationship with Portugal to remain intact, the latter yearned for total independence.

<sup>5</sup> The military wing of Fretelin is known as the Timorese National Liberation Army (Falintil).



in the resistance (Wigglesworth, 2013: 54–56). During the 1990s, the international community became progressively aware of what occurred at the time in Timor. In 1996, the *Hukum, Hak Asasi, dan Keadilan* (HAK, in English: The Foundation for Law, Human Rights and Justice) was created, the first Timorese effort to establish a NGO working on human rights issues (Hunt, J. E. (2008)). A significant event for the international recognition of the resistance was the joint Nobel Peace Prize for the Catholic bishop Carlos Belo and a representative of Fretilin, José Ramos Horta, in 1996.

The economic recession that devastated Indonesia in 1998 led to the end of Suharto's 31 years of presidency over Indonesia. His successor B. J. Habibie drastically changed Indonesia's attitude towards Timor Leste and declared that the territory would have a referendum about its future, whether to receive autonomy or independence. Despite this announcement, the security situation deteriorated as newly created paramilitary groups joined existing ones and increased activities against pro-independence leaders, human rights activists, priests, students, and journalists. With the help of the UN, an independence referendum was held on 30 August 1999, with a 98.6 percent of turnout. Despite Indonesian intimidation, 78.5 percent voted for the independence of Timor Leste. As soon as the results were announced, a new wave of violence aroused that resulted in more than 1,000 people killed, 400,000 displaced out of a total population of 890,000, and some 250,000 refugees in Indonesian-controlled West Timor. On top of this, havoc was wrecked on the infrastructure of Timor Leste, destroying between 70–80 percent of businesses and 50 percent of homes in the capital Dili (Pushkina & Maier 2012: 329).

The situation became so blatant, that the international community saw the necessity to intervene and after long diplomatic resistance, the Indonesian government accepted that the UN deployed a long-awaited peacekeeping operation that had the mandate to restore peace and security in Timor Leste while providing humanitarian assistance. The UN Security Council also established the United Nations Transitional Authority in East Timor (UNTAET), the largest multifunctional operation in UN history back then, which took over the administration of a country with no pre-existing institutions (Chawla, 2001). The principal objectives

were achieved as a secure environment was created, elections were held in August 2001 to convene a constitutional assembly, a constitution was developed, and the country came to full independence under its first president, Xanana Gusmão, in May 2002 (Harland, 2005).

However, critics point out that UNTAET preached about transparency, accountability and democracy as important values. However, in reality the UN mission gave at times the impression to be a somewhat authoritarian body, which treated the local population as victims rather than partners (Steele, 2002). Concerning the development of civil society, some 250 international NGOs arrived in the country between September 1999 until 2001 to work on emergency support and rehabilitation. Also many local CSOs were set up, yet normally lacking experience, human resources and skills. Most Timorese CSOs focused at the beginning on human rights and literally “exploded” from 14 members in 1998 to 231 in early 2002 in the umbrella organization called NGO Forum (Wigglesworth, 2013: 60–61). Yet, the link of the UN and the international NGOs with local CSOs was often weak because of structural weaknesses of civil society in Timor Leste; therefore the official commitment to capacity building was often overridden with short-term policy goals, lacking the interest to actually invest in building up a strong civil society (Richmond & Franks, 2008: 194).

UNTAET, which essentially operated as the government then, had to establish a state “from scratch” because no political community existed (Brown, 2009: 149). Besides, the UN body was also responsible to administer a transitional justice order and as calls for an international tribunal were not realized, established the Special Panels of the Serious Crime Unit (SCU)<sup>6</sup> that was part of the newly set-up Office of the General Prosecutor (OGP) with the aim to prosecute the major crimes, including torture and murder. The main weakness of the body was that no person outside East Timorese boundaries could be indicted, thus no Indonesian security forces or East Timorese who fled to Indonesia were sentenced. Consequently, the SCU could not deal with the “big fish” of gross human

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<sup>6</sup> The SCU was an internationally mandated hybrid court that only convicted “serious crimes” committed in 1999. As Jakarta refused to extradite any perpetrator from its territory to East Timor, the SCU largely became irrelevant.

rights violations; the most responsible were not brought to justice as a consequence, undermining the right to justice for East Timorese (Burgess, 2004: 139–141). Moreover, only 84 individuals were held responsible for crimes of the 1999 violence, and almost all of the convicted received a pardon from the president in the following years (Robins, 2012).

The idea of a truth commission as well as an international inquiry into the violence surrounding the 1999 independence referendum was discussed by UNTAET, although Indonesia and its Asian allies in the UN blocked that proposal. The new local East Timorese political elite was also cautious as Xanana Gusmão stated in an interview already in March 1999 while being under house arrest in Jakarta that he was against a possible truth and reconciliation commission in Timor Leste because it would be “too divisive” (Gorjão, 2001: 149).

The East Timorese civil society organizations, like the Judicial System Monitoring Programme (JSMP), were during the time of UNTAET mostly focusing on justice issues. When the idea of a truth commission was coming up, it was viewed with suspicion because it was perceived as an amnesty tool for perpetrators. Yet, the Catholic Church and community leaders participated in workshops to consider transitional justice mechanisms, including a truth commission (CAVR, 2006b: 3). Also the most renowned international NGO in the field, the New York-based International Center for Transitional Justice (ICJT) was involved, as in so many other transitional countries (Roosa, 2007/2008a: 570). The renowned researcher on truth commissions, Priscilla B. Hayner, as well as the former executive secretary of the South African Truth and Reconciliation Commission, Paul van Zyl, participated in a workshop on 9-10 October 2000 in the East Timorese capital Dili. They assisted Father Domingos Soares, chair of the Steering Committee on Reconciliation, to set up a truth and reconciliation commission in Timor Leste.

This Steering Committee comprised local and UN officials and hold consultations with grassroots organizations across all 13 districts of Timor Leste at all levels, receiving a lot of community support for a truth and reconciliation commission that eventually led to the creation of the Commission for Reception, Truth and Reconciliation —CAVR— (CAVR, 2006b: 5–6). These consultations allowed the basis for successful work for

the CAVR,<sup>7</sup> because there was a general sense that reconciliation and truth-seeking was appropriate and even necessary. With these consultations, the CAVR was created and stood for one of the few exceptions where customary life and the local community was actually valued in the otherwise highly centralized country (Gorjão, 2001: 151). And yet, the CAVR was mostly promoted from the international community and not a demand from CSOs in Timor Leste. Local NGOs like HAK followed the process closely, but their main aim was an international tribunal and not a truth commission (Hunt, 2008: 166–167).

## The Creation and Work of the CAVR

The relative impotence of both civil society and the UN influenced the form and timing of transitional justice in Timor Leste. That may not come as a surprise considering the circumstances as the country was basically lacking everything at the time. The priorities of civil society were sidelined who mostly focused on justice issues, particularly related with the crimes committed by Indonesian forces or the paramilitaries backed by them. The new East Timorese political elite preferred a policy of “forgive and forget,” in order to avoid damaging the relationship with the giant neighbor next door, Indonesia. It was clear for them that a survival of the new country would depend on good relations with the former occupier.

While many international advisors made sure that the truth commission would try to include lessons learned from other bodies around the world, civil society had relatively little to say. There were workshops organized for them, and Catholic father Domingos Soares was particularly active to lead it. The process of setting up the commission was therefore based on outside advice, and while there was no resistance to a truth commission, it was not a demand of local CSOs either. That is not to say that local CSOs were against a truth commission, but at the time large parts of the country were still in shambles of the scorched

<sup>7</sup> CAVR is the Portuguese acronym of Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste.

earth policy of Indonesia when they retreated after the independence referendum. A truth commission was thus just another exercise among many, which were going on at the same time and was not perceived to have the highest priority among many local CSOs. While the UN tried to build-up on existing NGOs, it was mostly international staff that was hired for key positions because of a generally low level of education. Thus, the UN followed the liberal peace building project, trying to implement democracy, human rights and market economy while local considerations were hardly considered (Richmond & Franks, 2008: 194).

An UNTAET regulation set-up the CAVR in July 2001 after an unanimous recommendation of the National Council of East Timorese Resistance (CNRT), an umbrella organization of basically all relevant East Timorese parties at the time. The main objective of the truth commission was to shed light on the violations of human rights committed from the Carnation Revolution in Portugal and the tensions between different political parties in Timor Leste in the mid-1970s, the long period of the Indonesian occupation and the 1999 violence around the independence referendum, in other words from April 1974 to October 1999.<sup>8</sup> Originally set up for two years, the East Timorese government extended the mandate of the CAVR to overall 39 months due to three extensions (CAVR, 2006b: 6). In February 2002, the CAVR began working as an independent institution that would have no control or influence of neither the transitional government nor UNTAET (Järvinen, 2004: 56).

The CAVR was “unusual,” as Roosa points out, in a particular point and that was the absence of the occupying power (Indonesia). Usually, truth commissions are created on the basis of some kind of consent between different actors within one country. In contrast, the CAVR focused on human rights violations that were committed by Indonesia. Consequently, the main perpetrators —Indonesian army officers— could not undermine the work of the CAVR as spoilers. However, these very same perpetrators did not testify, thus reducing the impact of the CAVR’s

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<sup>8</sup> More specifically, the CAVR covered the period from the start of Portugal’s Carnation Revolution on 25 April 1974 that started the decolonization process for East Timor as a Portuguese colony until the point where UNTAET established its peacekeeping mission and the administration of the eastern part of the island on 25 October 1999.

work (Roosa, 2007/2008a: 564–565). Another aspect that needs to be addressed is that the CAVR was not “only” a truth and reconciliation commission, but also the word “reception” was added. The purpose of this concept was related to the fact that some East Timorese had fled in the chaos of the independence referendum and were worried to return, as many of them were involved in pro-Indonesian militias. The CAVR should also be a tool and symbol that East Timor would be forgiving to those that had been involved in less serious crimes. Only those directly responsible for murder would be put to the courts that were set up for the perpetrators.

Responsible for the work of the CAVR were seven national commissioners from East Timor (therefore no international commissioners were involved) and assisted by 29 regional commissioners. They were selected after a nation-wide consultation with a lot of input of CSOs that strengthened the process of the CAVR and established a good partnership from the beginning. The commissioners had the task to fulfill four mandates: 1) to establish the truth about human rights violations committed on all sides during the period from 1974 to 1999; 2) to facilitate community reconciliation for less serious crimes; 3) to assist in restoring the human dignity of victims; and 4) to report on its work, inquiry, findings and recommendations (Walsh, 2012: 4). As a strategic decision, the former Comarca prison was chosen as the national office for the CAVR, because East Timorese political prisoners were kept there during the time of the Indonesian occupation (Järvinen, 2004: 57). Therefore, the national office served as a symbol for overcoming the repression that the East Timorese people experienced. In addition, four regional offices were installed (CAVR, op. cit.: 7).

The regulation required the CAVR to write a “comprehensive report, which sets out the Commission’s activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal” (CAVR, 2006a: 4). The mandate of the CAVR included elements of legal practices (although these were not the standard procedures of criminal justice) with a mix of indigenous conflict resolution practices and lessons learnt from the South African Truth and Reconciliation Commission (although it was not allowed to grant amnesties). With respect to the indigenous practices, the CAVR

tried actively to avoid the gender discrimination that was part of the existing patriarchal system (Järvinen, op. cit.: 56).

At the public hearings, topics were brought up that were not discussed beforehand in the public realm and gave victims voice to talk openly about human rights abuses. Overall, the CAVR conducted eight national hearings, 52 sub-district hearings (of 65 sub-districts in total) and 297 village level hearings. Among the issues were: 1) human rights violations committed by East Timorese political parties in the years 1974 to 1976, 2) sexual violence as women were speaking up although there was a wide-held view that the East Timorese culture would not allow them to do so, and 3) the personal dimensions of the enduring violence of the Indonesian military during the time of the occupation (CAVR, 2006b: 45). Many East Timorese politicians were implicated in the events in the 1970s and it was considered to be a big step forward that they described their version of what happened, including the difficult realities of the time that led to human rights abuses of all sides. The general aim was to hear and listen to the victims so that their dignity would be restored (CAVR, 2006a).

Of particular interest in the CAVR was the grass-roots assistance with the aim that community reconciliation can take place (Babo Soares, 2004; Belo Ximenes, 2004). This process happened with the community reconciliation process (CRP) that was based on local mechanisms on the bases of villages and should allow for the reintegration for perpetrators that had committed minor offences. The CRP was therefore a tool of restorative justice inside the framework of the CAVR (Nevins, 2007/2008). It was important for the CAVR to get the word out about their work, thus on a weekly basis a radio program was produced and broadcasted with different focuses on mandate-related topics, whereby most of them were related to the promotion of reconciliation (CAVR, 2006b: 7).

The reconciliation process was called “unique” because it was a bottom-up process based on traditional conflict resolution mechanism with voluntary involvement and included the public as well as local leaders and traditional elders (Pigou, 2004: 6). Overall, some 1,500 CRP were organized across the country allowing the participation of 40,000 people from August 2002 to March 2004 in community meetings. The character of the CRP was quasi-legal where deponents would provide their account

of what happened and provide the specific information about the time line and the location of events. Interviews showed that 96% stating, “the CRP had achieved its primary goal of promoting reconciliation in their community” (Horne, 2014: 27). The perpetrators were required to fully confess their involvement in the crimes they committed in front of the victim and the community at large. The panel of local leaders had then the task to broker an agreement in which the perpetrator would agree to fulfill some special actions related to the offence they had committed (Pigou, *op. cit.*: 26).

Overall, 7,669 statements of victims, witnesses and perpetrators were collected by dozens of CAVR staff travelling across the country, in addition 91 in West Timor (Nannelli, 2009: 32). Roosa (*op. cit.*, 2007/2008b: 571–574) criticizes that the quality of the interviews varies a lot, thus undermining its usefulness for the final report. Besides the statements that were collected, also some 1,000 oral interviews were conducted by leading experts on the Indonesian and East Timorese history about special topics that they followed, particularly the Santa Cruz massacre of 1991, and the abduction of East Timorese children by the Indonesian military and forced displacement.

There was also some suspicion and reluctance to participate of local communities against the CRP in some areas because it was not necessarily clear how this process played into a tool that would mean for perpetrators that they would be sent to prison. On the one hand there was the fear that no justice would be done to the perpetrators, on the other hand CAVR staff was in a few occasions threatened because the local community reacted in a very hostile way to them, in the fear that they, as perpetrators, would face punishment (Pigou, *op. cit.*: 47). Overall, however, the large majority of communities welcomed the CAVR and cooperated actively, willingly and with a lot of interest. It really depended on the active engagement of regional commissioners with the local communities how many people participated and moved forward. According to the final report, the CRP made a “significant contribution” to reconciliation (Nevins, *op. cit.*: 600).

One of the contradictions of the prosecution process in East Timor was that the SCU worked very slowly. Therefore, many of those people who were denied to participate in the CRP because they were considered to have committed a “serious crime,” were in fact never prosecuted



by the SCU. As a consequence, those considered to have committed worse crimes, were —ironically— more likely to receive immunity. The perpetrators of “less serious crimes” resented the CRP process when they realized that those who committed “serious crimes” were not prosecuted. While victims were in general satisfied with the CRP process, they were much less so with the serious crimes procedures undermining the right for justice (Hirst & Varney, 2005: 13–15).

## The CAVR Report and its Impact

In October 2005, the final report *Chega!* (Portuguese for ‘no more, stop, enough’) was published, containing 2,500 pages. The title was chosen because victims wanted that the violence would finally stop (CAVR, 2006a: 3). The report should have been published in four languages (English, Indonesian (Bahasa), Tetum<sup>9</sup> and Portuguese) although the full versions of the report are still not available in Portuguese and Tetum as of yet, despite the fact that they are the two official languages of the country. A Tetum version is available as a comic version and as a summary, but it was deemed to be too difficult to translate the whole document. As defined by its mandate, the CAVR came up with 204 recommendations, having the major weakness that they were not binding, thus the impact has been almost non-existent (CAVR, op. cit.: 10). Even worse, “since receiving the CAVR report, parliament has declined to debate it, let alone to act on its recommendations” (Robins, op. cit.: 89). Thus, the impact of the report was severely weakened, as the recommendations are a key part of an assumed possibility for reform and particularly reparations for victims.

The CAVR seemed to have been conscious that it had a function to search for a “useable past” that would account for past human rights violation but not seek revenge. It was not the aim to write a new authoritative history of Timor Leste, but rather present multiple voices. Yet there was a dichotomy between the inclusion of non-elite perspectives

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<sup>9</sup> Tetum is an Austronesian language spoken on the island of Timor and one of two official languages (next to Portuguese) in East Timor.

and showing the complexities of the past while being usable for the future by creating internal unity and allow for good relations with Indonesia (Webster, 2007/2008: 582–583). The work of the CAVR has been praised because it allows for an enormous record of history produced, the voice of the East Timorese. As little written evidence of the violence during the Indonesian occupation existed, a major effort was achieved to collect multiple voices of all parts of Timor Leste. *Chega!* as the final report of the CAVR has contributed to the collective memory of Timor Leste with the “as a vehicle for the transmission of these narratives across time and space” (Nannelli, op. cit.: 40).

The Commission also expressed the necessity to continue its work that would allow recognizing and acknowledging the truth of what happened to achieve non-violence and reconciliation. Therefore, a new institution was set up in 2005, the post-CAVR secretariat to: 1) implement the recommendations of the CAVR report; 2) continue with reconciliation efforts in East Timor; and 3) the former Comarca prison should be transformed from being the national office of the CAVR into a national center for education that should commemorate the human rights violations and its victims and should house the CAVR archives as well (CAVR, 2006b: 54). While the post-CAVR secretariat indeed has been established in a former Indonesian detention center, it has blocked civil society initiatives to work with them, having a very narrow understanding of its mandate. ICTJ, for example, offered to distribute the report, but the secretariat rejected the proposal.

*Chega!* has been distributed to formal organizations like churches, donors, political parties and the international community and followed up with the local community in the time period of six months, from April to September 2006. Moreover, the post-CAVR secretariat produced at the beginning a weekly radio program on the report, invited community groups to visit the exhibition of *Chega!* and published a “plain guide to *Chega!*” that is a much shorter and comprehensive version of the final report (CAVR, 2006a: 2). In 2008, there was additionally a comic version of the report printed for children and for the many people with a low literacy rate in Timor Leste. However, the post-CAVR secretariat was not able, and it seems also not willing, to disseminate and advocate the report through different means. Consequently, the material did not reach the

audience, like teachers, community leaders or victims. In current debates about curriculum changes of history books, *Chega!* should finally find its place inside there. That also shows the weakness of civil society that did not demand a more pro-active approach of the post-CAVR secretariat, with the exception of international NGOs like ICTJ.

Although the CAVR wrote a massive report, the impact has not been very strong. Indonesia has dismissed the report, but also the major power centers in the world like Washington or London have not paid attention to it. Even inside Timor Leste, there was hardly any impact, if any. Even politicians favorable to the work of the CAVR, like Ramos Horta and Gusmão were not backing up the final report. The call for reparations in the report has not been fulfilled as of yet by East Timorese politicians, thus many East Timorese were frustrated because their participation did not materialize in economic support of the new government. Moreover, the report has not been widely distributed (Hayner, op. cit.: 42), many people are not aware of *Chega!* and there is very little knowledge of CAVR's recommendations. Overall, there was relatively little follow-up on the recommendations. While the East Timorese government claimed that "many" recommendations were already implemented, in fact human rights groups claim that not a single one has been even touched so far. In short, in any policy proposal, politicians do not refer to the recommendations. Some initiatives, like *Chega Ba Ita* (ACBIT) are working on the dissemination of the report, although the impact is limited.

What the CAVR provided for the victims though, argues Guthrey (2015), is voice and a sense of healing. This is done through getting the message out, not even to the rest of Timor Leste but in fact to the entire world that is linked to a sense of empowerment. She also found some sense of relief to speak out, although Hayner argues that in truth commissions across the world, mixed results can be found (Hayner, op. cit.). The acknowledgement of crimes also helped to get support, inside the family and particularly the wider community. However, Guthrey also found that shaming was the result of the truth-telling, particularly for women when it comes to sexual violence (Guthrey, op. cit.). In fact, even retraumatization is possible, as Brounéus already discussed in the case of Rwanda with the Gacaca courts (Brounéus, 2008).

Finally, as it happens with many truth commissions, the resources were limited, expectations were too high and many different, even contradictory agendas influenced the creation and the work of the CAVR. The process of obtaining the information has mostly been based on individual memory, the oral interviews being a methodological exception. The *truth* inside *Chega!* surely is not impartial or objective; however, it is a vital source for nation-building, reconciliation and restorative justice. As Kent shows, the CAVR did not satisfy the demand for justice for local communities (Kent, 2012). They set up consequently their own initiatives to construct memorial, create victims' support groups and gain political recognition of their suffering during the Indonesian occupation and beyond. These "unofficial memory practices" that are bottom-up approached and based on their own Timorese culture with believes that ancestors are restructuring society (Ibídem, 174).

## Conclusions

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Civil society involvement is difficult to achieve in countries that come out of devastating violence and destruction. Transitional justice mechanisms were not so much the primary concern in Timor Leste in comparison to the reconstruction of the country. Even more so, concerns about justice in Timor Leste and not so much truth-telling guided demands of human rights groups and other CSOs at the time, including the Catholic Church. Although the CAVR tried hard to involve CSOs in the set-up of the commission as well as the selection of the commissioners, there was not much involvement or pressure of CSOs during CAVR's work.

A particular mistake of the CAVR was that CSOs were not involved in the writing of recommendations, which is related to the rush of coming up with them in the last minute. That might have been of the factors why hardly any civil society group stood up for *Chega!* or disseminated its products so people would be aware about the findings of the final report. The question comes up whether the truth commission came too early for Timor Leste and it would have been better to wait some time when basic reconstruction efforts were finished. However, Hayner argues that it is critical that the momentum of transition should be used because there

is more political space to do the exercise and the evidence is still fresh (Hayner, op. cit.: 111). The only demand that was taken over by CSOs was the reparation for victims, although this point did not have much influence either on politicians who only made sure that veteran fighters secured a pension and other benefits (ICTJ, 2010).

Participatory approaches are difficult to achieve in post-conflict settings where the state is in the making. The consequence, however, is a top-down approach in the creation of collective memory. An active involvement of CSOs would imply that there is pressure and ownership of citizens of the transitional justice processes. That was not the case in Timor Leste. It would be critical for future exercises that the CSOs are actively listened to and commissioners provide space for civil society to help shaping its work. That seems to be a critical tool and will allow that civil society is actively consulted in drafting the recommendations in the final report for the state. Such involvement can help to bring about ownership of the truth-telling process, as CSOs more likely will lobby and pressure the government afterwards to actually implement the recommendations and contribute to the no-repetition of violence and an end to impunity.

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