

Can there be healing without justice? Lessons from the Commission for Reception, Truth and Reconciliation in East Timor

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Truth and reconciliation processes initiated in post-conflict countries have several interrelated objectives with the two key aims being to confront past injustices and to heal the suffering caused by such abuses. Structural constraints, however, often limit the extent to which justice can be achieved for all victims and their families. The present report is based on a review of the Commission for Reception, Truth and Reconciliation (known by its Portuguese acronym CAVR), a national initiative that was concluded in 2005. The review was based on interviews with key staff associated with the Commission. Although the key CAVR personnel and support agencies interviewed believed that the process was beneficial, they also noted that a minority of participants continued to suffer from a range of traumatic mental health problems that required special psychological attention. Pervasive anger was evident amongst survivors, particularly in response to the impunity enjoyed by the leading perpetrators of past atrocities, most of whom had sought refuge in Indonesia. Lessons from East Timor and elsewhere suggest the importance of anticipating the inevitable feelings of anger and frustration arising from the limitations of TRC processes in achieving justice for all victims.

Keywords: anger, East Timor *hanoim barak*, impunity, *moi*, reconciliation

Introduction

A fundamental assumption underlying truth and reconciliation commissions (TRCs) is that revealing the truth is an important step towards reconciliation and healing. An important question, however, is whether truth and acknowledgement are sufficient to satisfy the sense of injustice experienced by survivors and/or family members, particularly in settings where TRC processes are unable to prosecute perpetrators of serious human rights violations. The TRC recently concluded in Timor Leste (East Timor) was forced to confront this critical issue, since many of the high-level military personnel and militia leaders indicted for atrocities evaded prosecution by seeking sanctuary in Indonesia. The Commission for Reception, Truth and Reconciliation in Timor Leste (*Comissao de Acholimento, Verdade e Reconciliacao de Timor Leste*, CAVR) was established in 2002 and completed its substantive work in 2004. The present paper¹ is based on a review undertaken at the conclusion of the process by a research team from two academic departments at the University of New South Wales, Sydney, namely Psychiatry and Public Health and Community Medicine. Personnel from the university have had an ongoing involvement in

developing mental health and community health services in Timor Leste since 1999 (Zwi and Silove, 2002; Silove et al, 2004). The CAVR's mandate was to establish the 'truth' in relation to human rights violations in Timor Leste between 1974 and 1999, a key aim being to facilitate reconciliation and the re-integration into the community of those who committed 'less serious' offences (such as arson, theft, house destruction, or the killing of livestock) (Pigou, 2004). A separate body, the Serious Crimes Unit, was established to indict and prosecute those accused of crimes such as murder and rape. CAVR staff likened these two parallel structures, the CAVR and the Serious Crimes Unit, to the wings of a bird – both were considered essential to allow the new nation to 'fly', thereby leaving its long history of persecution and conflict behind.

In this paper, we consider the advantages and limitations of such a dual structure, particularly in relation to its impact on psychosocial healing. Other truth and reconciliation commissions, such as in Rwanda, have faced similar dilemmas in separating the two processes of reconciliation and prosecution. In the South African TRC, the granting of amnesty in exchange for confessions and expressions of contrition proved contentious, with some families of victims resenting the fact that perpetrators were not subject to criminal prosecution (Winslow, 1997). As a consequence, a minority of victims sought separate legal redress (Winslow, 1997). As detailed below, the capacity to prosecute high-level perpetrators in Timor Leste has been severely limited because there are no extradition provisions with the neighbouring country of Indonesia.

History of Timor Leste

Timor Leste is a half-island territory located north of Australia and east of the main Indonesian archipelago. The country has a long history of conflict dating back to World War II when the local population suffered widespread human rights violations during the jungle war waged between the Japanese invaders and the Allied forces. After the war, a nationalist movement gained ground resulting in the unilateral declaration of independence from Portugal, the colonial power, in 1974. A short civil war between opposing political groupings ensued during which atrocities were committed on all sides. Indonesia invaded the territory in 1975, occupying Timor Leste for the following 24 years. Extensive human rights abuses were documented during and after the invasion, with a quarter (approximately 300 000) of the population dying between 1975 and 1999 (Taylor, 1999) as a consequence of scorched earth policies, aerial bombings, forced displacements and other atrocities. A low-grade resistance struggle continued throughout the period, with the independence army, Falintil, waging a guerrilla war against the occupying Indonesian military. Resistance fighters and their families were specifically targeted, with many suffering extrajudicial incarceration, torture, 'disappearances' and other forms of gross victimization.

In 1999, a large majority of Timorese voted in favour of independence. Militia supported by the Indonesian military then initiated a campaign of violence, which led to the widespread destruction of the built infrastructure of the country and displacement of the majority of the population. A United Nations force established peace in 2000 and national independence followed in 2002. Leaders of the responsible Indonesian military and the militia fled to West Timor and

other areas in Indonesia. As a consequence, these key perpetrators continue to live with impunity in Indonesia where attempts to prosecute them have largely been ineffective. There is no extradition arrangement between the two countries, and no evident political will on either side to ensure that those responsible for the abuses are brought to justice.

The objectives, structure and functions of the CAVR

Objectives. The CAVR is an independent Timorese institution with a mandate to:

- establish the truth regarding human rights violations in Timor Leste committed on all sides between April 1974 and October 1999;
- facilitate reconciliation and re-integration for those who committed 'less serious offences';
- recommend measures for preventing future human rights violations, and to respond to ongoing needs of victims of human rights violations (Commission for Truth Reception and Reconciliation, 2004).

In July 2005 the CAVR final report was submitted to the government, the community and the international community, and will soon be disseminated more widely in written and audio-visual formats (Commission for Truth Reception and Reconciliation, 2005).

Structure. The headquarters of the CAVR is based in the capital, Dili, in a former prison that was known to be the centre for torture during the Indonesian occupation. A panel of seven national commissioners and 29 regional commissioners were appointed to oversee the work of the CAVR. Approximately 260 staff, including 15 international advisors, was responsible for implementing the various programs.

During the active stage of the proceedings, the majority of CAVR staff worked in Timor's 13 districts, supported by five regional offices. District teams each comprised 11-12 staff members: three regional commissioners, one team co-ordinator, two Victim Support and Community Outreach Team members (one man and one woman), two Community Reconciliation Team members (one man and one woman), and four statement takers (from the Truth Seeking Team; two men and two women)

Functions. The truth seeking team's mandate was to establish the facts concerning human rights violations between 1974 and 1999 by undertaking three inter-related activities: statement-taking from victims and their families, research, and organizing public hearings. The Community Reconciliation division assisted with the voluntary re-integration of those responsible for minor crimes through the process of community reconciliation hearings. Religious and traditional ceremonies were central to the process in a country where animistic and Catholic belief systems remain strong. Throughout the CAVR process, local traditions and beliefs were integral to the way protocols were shaped and implemented. The Victim Support and Reception group had the task to assist in restoring the dignity and wellbeing of victims and their families. The team collaborated closely with agencies responsible for repatriating refugees who had fled to West Timor and other parts of Indonesia. CAVR personnel contacted the displaced persons, providing them with information about conditions in Timor Leste, with the aim of encouraging an orderly return to their homeland.

More generally, the CAVR team attempted to identify the ongoing needs of victims, linking survivors with available services, and offering support during reconciliation

activities. A key activity was the holding of a series of three-day Healing Workshops, with survivors representing all the districts of Timor Leste. Workshops included group-based counselling sessions provided by an NGO; expressive arts such as drama, music and painting; prayer sessions; and the allocation of small financial grants as a form of reparation.

The study

This article aims to describe the common mental health responses observed in survivors by CAVR workers. In particular we will focus on the link between impunity and responses of persisting anger and frustration in victims and their families.

The first author assessed the range of potential personnel and support groups who played a role in the CAVR process and then systematically interviewed representatives from each of these sectors. In total, 30 semi-structured interviews and four focus groups were conducted. An interpreter was available, with most interviews being conducted in Tetum, the indigenous language, or where appropriate, in English.

Interview questions evolved over the research period as specific themes were explored and new topics of interest came to light. Broadly, questions were aimed so as to focus on the roles and activities of interviewees, their observations concerning the mental status of survivors, perceptions of the psychosocial needs of victims, and recommendations for future mental health support. Further participant observation and unstructured interviewing took place at a CAVR Community Reconciliation Workshop, and an interagency meeting of mental health and social care service providers. Data were analysed by iterative review involving feedback by phone from the second and third authors in identifying

major emerging themes that needed further exploration and confirmation, rather than by formal qualitative analysis.

One member of the CAVR staff had been trained as a counsellor, and staff of independent NGOs had also received similar training. It became clear during the review however, that in an informal way, CAVR workers had developed effective interviewing skills and learned basic counselling techniques as they gained experience working with victims.

Common psychological reactions. Overall, in spite of the ongoing economic hardships faced by communities in Timor Leste, CAVR personnel noted that most participants were coping well. The majority did not manifest overtly disabling mental health problems and were able to confront the atrocities of the past during truth and reconciliation proceedings. The consensus of CAVR and other personnel was that most survivors felt that the TRC process was beneficial, both in terms of revealing and acknowledging the abuses of the past and in dealing with their feelings of grief and pain. CAVR staff did note, however, that a minority of participants appeared 'stuck' in their grief, being unable to move on from their memories of the violence and trauma they had experienced. CAVR personnel depicted these survivors as the minority whose chronic psychological pain 'would not go away'.

Range of mental health responses

Although the existing literature in the field of post-conflict mental health tends to focus on post traumatic stress disorder (PTSD) as the main outcome of trauma (Silove, 1999), emerging research suggests that there may be a wide range of psychological reactions following exposure to complex humanitarian crises (Momartin et al, 2004). The key

reactions noted in survivors were analogous to those described amongst survivors elsewhere, although cultural influences shaped the way these responses were expressed and understood. For example, in Guatemala, survivors reported feelings of sadness, injustice, helplessness, isolation and prolonged mourning up to twenty years after experiencing violence (Oficina de Derechos Humanos del Arzobispado de Guatemala, 1998; Garrard-Burnett, 2000). Staff of the CAVR provided a similarly rich array of descriptions of the psychological responses observed in survivors, linking these reactions to a complex matrix of traumatic, social, economic and cultural issues. We first describe some of the key patterns revealed by our inquiry and then focus particularly on the link between anger in survivors and the impunity enjoyed by perpetrators.

Hanoin barak ('thinking too much'). CAVR personnel commonly reported that survivors suffered from 'thinking too much' (*hanoin barak*). On further inquiry, it appeared that the term covered a broad spectrum of experiences from being quiet and pensive to symptoms suggestive of clinical depression. It is of interest that 'thinking too much' has also been described in Africa as a common way in which depression is expressed (Patel et al, 2001). In Timor Leste, *hanoin barak* was consistently depicted as a negative state and one that could hamper daily functioning. At times, *hanoin barak* could mean frank mental illness, being used in place of the less polite term *bulak* ('crazy') (Graves, 2003). Most often, however, *hanoin barak* was seen as a less severe form of disturbance that was common and remedied by support from community and family.

(Overwhelming) sadness. Staff described a pervasive form of 'overwhelming sadness' connected to loss, especially of family

members. Sadness was often associated with a feeling of 'heaviness'. CAVR staff commented that those with overwhelming sadness were 'easily distracted' by their feelings of loss and that some felt unable to rebuild their lives as a consequence. In its extreme and persisting form, pervasive sadness appeared to result in frank clinical depression.

Moi ('shame' or 'embarrassment'). *Moi* is used in Tetum to describe a range of emotions including shame, embarrassment or shyness. In the case of some survivors of violence however, especially rape victims, the feeling was noted to be severe and disabling. The CAVR documented many cases of extreme sexual violence, including gang rape, repeated sexual abuse over long periods, public humiliations, sexual slavery and/or forced 'marriages', as well as sexual violence targeted at female family members of resistance fighters. Staff at PRADET, an NGO providing psychosocial support, commented that some women who described themselves as *moi* later 'shut down' and ceased to function effectively, especially those who had experienced grievous forms of sexual assault.

Shame and guilt were also linked to violations of taboos that, according to traditional beliefs, were responsible for precipitating mental illness. Killing a crocodile, entering a sacred house or handling sacred objects were believed to disturb ancestral spirits, resulting in psychological disturbances in the transgressor (Graves, 2003). Seeing ghosts and imaginary snakes were typical 'symptoms' caused by such self-inflicted mental illness. In parallel, the Catholic faith remains strong in Timor Leste, existing side-by-side with animistic belief systems. Some women who were raped believed that their subsequent mental illness was a justified punishment by God, making the

suffering inevitable and beyond the realm of professional help.

Silence/shutting down. The subgroup noted to be most likely to be overlooked were those who became silent and withdrawn because of their suffering, often referred to as the people who had 'shut down'. Fokupers, a local NGO supporting women, reported that silence was the most common response among clients who had been sexually violated. The Victim Support Team also noted several participants who were too withdrawn to engage in any activities of the Commission. These individuals were deemed to be in need of further intervention by mental health services, as often they had all but ceased to function, paralysed by their traumatic experiences.

Anger/frustration. CAVR personnel repeatedly commented that anger and related feelings of frustration were the most common responses noted amongst victims of human rights violations.

The daunting task of survival in a country that has been devastated by the destruction of 1999 was an immediate source of frustration. Poverty, unemployment and geographical isolation of remote communities all added to feelings of frustration, a collective feeling that was compounded by a sense that the reconstruction process was not preceding rapidly enough.

Although sources of resentment therefore were multiple and often interconnected, the link between anger and a sense of injustice seemed to be pervasive. As indicated, most of the leading perpetrators of serious crimes remained unpunished because they had fled to Indonesia and there were no mechanisms to ensure their extradition to face prosecution by the Serious Crimes Unit. The failure to bring the main perpetrators to justice continued to generate widespread feelings of impotence and resentment

amongst survivors and their families. Victims reportedly expressed feelings of bitter irony that they had received attention from the CAVR for so-called minor crimes but there was no recourse to justice for the major crimes committed. One woman was reported to comment: 'they have had ceremonies to deal with my house being burnt down but nothing has been done about the murder of my husband. The killers are still loose in West Timor (which forms part of Indonesia)'. Moreover, some perpetrators who were called to appear before reconciliation processes in the villages for minor crimes felt it unjust that they were held accountable for their actions by the CAVR whilst the 'big people' who had ordered or supervised serious crimes lived with impunity.

Other sources of frustration were evident. Some members of the resistance movement who fought for many years in conditions of great hardship felt that since independence, their contributions had been forgotten and their sacrifices remained unacknowledged. Similar feelings have been noted among former political prisoners in post-Apartheid South Africa (Kagee, 2003). In addition, the impact of the conflict on the post-independence social and economic status of victims and their families was a source of bitterness and frustration. A representative from the Timorese widows group, Rate Laek ('Empty Graves') commented that women are 'angry because when their husbands were alive they had everything. Now they have lost their husbands and their income, and there is no help'. Frustration was also expressed about the sense of 'not being listened to' by the current leaders. There were feelings of disappointment about the extent to which grassroots communities were able to contribute to the shaping of national policies and directions, itself reflecting the

high expectations that existed in the populace about participating in the new post-independence democracy. A common metaphor referred to the 'little people' (the general populace) who do not have a say and the 'big people' (politicians) who were perceived to hold all the power.

Discussion

The primary observation arising out of the review was that most victims were able to participate in, and benefit from the truth, reconciliation and healing processes undertaken and that their psychological status did not hamper the successful pursuit of the strategies implemented. That inference is constrained however by the nature of our study which focused on personnel from the CAVR and other agencies, and not directly on victims providing testimony to the Commission. The logistic and ethical complexities of undertaking research directly with victims and their families precluded us from pursuing a more comprehensive study, given also the limited time and finances available.

Although mental health professionals did not examine participants in the CAVR process, CAVR staff provided convincing reports relating to a minority of participants who continued to suffer severe and unremitting psychological problems such as *hainin barak, moi* and extreme sadness. The most consistent observation, however, related to the prevalence of anger and frustration. These responses were evident in those who had been victims of serious crimes and who felt that the CAVR process had not been successful in calling perpetrators to account. As such, there was a sense of 'unfinished business' among local communities surrounding issues of justice. In the eyes of many people, to be effective, the CAVR needed wider ranging powers to

enforce justice, and to insist on the prosecution of high-level perpetrators now living in Indonesia. A clearer link between the truth and reconciliation processes of the CAVR and the Serious Crimes Unit may have mitigated, but not fully resolved, this issue.

There clearly is a need to refine existing conceptualizations of the role of justice in understanding the psychosocial consequences of mass conflict. Silove (1999; 2004) has proposed an ADAPT framework (Adaptation and Development After Persecution and Trauma) in which justice is posited as one of the five key pillars that maintain the framework of a stable society, the other four being: systems that support conditions of security and safety, the integrity of family and community bonds, the capacity to pursue roles and identities, and the ability to engage in practices that confer existential meaning (political, religious, spiritual, social, cultural). Situations of mass violence and systematic oppression undermine these systems, resulting in predictable collective psychosocial reactions that have both universal themes and culturally specific manifestations. It is postulated, for example, that acute posttraumatic stress symptoms such as avoidance, fear, and physiological arousal are largely normative when individuals are exposed to life threat, and it is only in a minority that these reactions become chronic and disabling. The key to recovery for most survivors is the re-establishment of conditions of safety and security. Similarly, grief is a widespread normative response to traumatic loss, with that reaction only becoming complicated in some survivors, for example, where the losses have been multiple and overwhelming, and where the capacity to recover or re-establish bonds is inhibited (Momartin et al, 2004b). Similarly, the ADAPT model postulates a specific connection between the

experience of injustice, particularly if inadequately addressed and consequent anger, both at an individual and collective level. In many post conflict settings therefore, communal anger should be regarded as normative and understandable and it is important that its common manifestations are not labelled as pathological (Summerfield, 2002).

At the same time, it is possible that uncontrolled anger can result in adverse social consequences, for example by contributing to problems such as domestic and interpersonal violence, explosiveness at work and in social settings, and at times, in acts of criminal violence. Since there are no data as yet to support such links, further research in the field is needed. In particular, at a societal level, it is possible that some of the social instability and civic upheavals that are common in post conflict settings may occur, at least in part, from collective anger arising out of feelings that past injustices have not been adequately addressed. These frustrations may be compounded and heightened by current life conditions, such as poverty and lack of opportunities.

At the same time, while communal anger in Timor Leste needs to be conceptualized primarily in social terms, reports by CAVR staff match our clinical impressions in suggesting that there are some instances where individual survivors manifest such severe forms of anger that their lives, and those of their families, are severely disrupted by the problem. In these instances, a case can be made for offering affected survivors direct clinical assistance. Yet, current diagnostic systems are deficient in identifying these cases. Western psychiatric classificatory systems contain extensive subcategories for depression and anxiety, but few where anger is the core characteristic. Instead, anger is regarded as one feature of several

unrelated categories such as Intermittent Explosive Disorder, borderline personality disorder and PTSD.

Our experience suggests that some survivors manifest recurrent acute episodes of anger (anger attacks) that can be damaging socially and personally and that this pattern can become repetitive and self-perpetuating. Further research is needed into the factors that determine that outcome in a minority of survivors of gross human rights violations.

At the wider level, social and political remedies for the pervasive sense of injustice felt by survivors of persecution in countries such as Timor Leste remain elusive. As in other post-conflict countries, there is tension between the desire to build peace and leave the past behind, and the need to establish the truth and achieve justice in relation to past human rights violations. It clearly is important for Timor Leste to repair its relationship with its powerful neighbour, Indonesia, as a prerequisite to establishing and maintaining the peace that the newly independent country has been remarkably successful in achieving. The TRC model is based to some extent on the recognition that it is not feasible logistically to prosecute large numbers of perpetrators in post-conflict countries where human rights violations were ubiquitous. There is also the concern that in so doing, the process will open up old divisions and hence risk precipitating further political instability. The situation in Timor Leste is somewhat different, since the military and militia leaders directing the atrocities are largely known and relatively limited in numbers. Although many rank-and-file members of the military, the militia and more generally, indigenous collaborators, were involved in atrocities, the focus of the Timorese community appears to be on the culpability of the

highest ranking military and militia leaders during the emergency period in 1999. Problems of achieving justice in relation to these prominent perpetrators relate more to political issues (the relationship between Indonesia and Timor Leste and their joint commitment to achieving justice) than to the practicalities of apprehending and extraditing those who are indicted. These realities are evident to the Timorese people.

Conclusions

A key lesson that can be derived from the largely successful CAVR is that all TRC processes are limited by structural constraints and that it is inevitable that some participants will feel angry and frustrated about the perceived inadequacy of the process in delivering justice to all survivors. Clearly, TRC processes are ambitious and generally initiated and executed with a high level of idealism and commitment. Expectations amongst the public are high and may, at times, be unrealistic. The TRC process alone cannot possibly address all the complex issues relating to justice, reconciliation and peace building, nor can such commissions directly address important issues such as creating economic opportunities, promoting cultural revival and developing new political systems. At best, TRC processes can act as one of several catalysts that advance these longer-term developments. In order to minimize frustration with TRCs and create realistic expectations, there may be an argument for more comprehensive preliminary consultation and awareness raising at the public level, highlighting the strengths and inherent limitations of the alternative models being proposed. Such consultation processes have the potential advantage of giving a voice to survivors in the decision-making process, thereby promoting a sense of communal

ownership rather than reinforcing and perpetuating the tradition of passive compliance that may have been the hallmark of civic life under the previous authoritarian regime. Hence, promoting consultation and communal debate over the design of the TRC may provide a useful model, not only in relation to achieving a final design but also, in facilitating participation in the new democracy. The sense of urgency with which some TRC processes have been initiated, although well-meaning, may be misguided - haste may in fact lead to social interventions that may seem intuitively sensible but that lack the imprimatur of the survivor community, hence sowing potential seeds of frustration at the outset. What does seem to be clear, however - and this factor should be fully anticipated in future TRC proceedings - is that whatever model is adopted, there is likely to be a substantial level of anger generated by the process, since it is very unlikely that justice will be achieved for all participants however well the TRC is designed. Anger, and its expression, should be anticipated and regarded as integral to the process, not requiring therapy but rather genuine acknowledgement. The difficult task for all levels of personnel involved in TRC processes, and the wider society, is to understand that for many victims and their families, there is no simple remedy for the extreme pain, loss and humiliation they have suffered. The task for mental health professionals is to reflect this reality to TRC personnel and other agencies, and to prevent any tendency towards regarding communal anger as remediable by standard psychological interventions (Summerfield, 2002). At the same time, there is a need to refine our understanding of the less common but more severe and self-perpetuating anger reactions that, once entrenched, become the source of

ongoing suffering for victims and their families. Cautious initiatives aimed at developing models for psychological interventions for this minority of survivors is warranted, as long as the therapeutic approaches that are devised incorporate an understanding of the human rights and cultural factors underlying these reactions.

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