

ICTJ | 10 years



BROOKINGS-LSE

Project on Internal Displacement

Case Studies on Transitional Justice and Displacement

The CAVR and the 2006 Displacement Crisis in Timor-Leste

Reflections on Truth-Telling, Dialogue, and Durable Solutions

Luiz Vieira¹
July 2012

Transitional Justice and Displacement Project

From 2010-2012, the International Center for Transitional Justice (ICTJ) and the Brookings-LSE Project on Internal Displacement collaborated on a research project to examine the relationship between transitional justice and displacement. The project examined the capacity of transitional justice measures to respond to the issue of displacement, to engage the justice claims of displaced persons, and to contribute to durable solutions. It also analyzed the links between transitional justice and other policy interventions, including those of humanitarian, development, and peacebuilding actors. Please see: www.ictj.org/our-work/research/transitional-justice-and-displacement and www.brookings.edu/idp.

About the Author

Luiz Vieira was the Chief of Mission for the International Organization for Migration (IOM) from 2002 to 2010 in Timor-Leste, and as such was responsible for all aspects of the Organization's programming in the country. Mr. Vieira was heavily involved in supporting government-led policy initiatives in the aftermath of the mass displacement crisis of 2006, and worked closely with the Inter-ministerial Commission in the development of the country's National Recovery Strategy. He also contributed to United Nations Country Team's (UNCT) deliberations on key development issues and participated in the development of the United Nations Development Assistance Framework (UNDAF) for the country. Mr. Vieira holds a Political Science degree from the University of New York at Albany and has been a guest lecturer at Columbia University's Conflict Prevention and Development Master's seminar since 2005.

Acknowledgements

ICTJ and the Brookings-LSE Project on Internal Displacement wish to thank the Swiss Federal Department of Foreign Affairs (FDFA) and the Canadian Department of Foreign Affairs and International Trade (DFAIT), which provided the funding that made this project possible.

About ICTJ

ICTJ assists societies confronting massive human rights abuses to promote accountability, pursue truth, provide reparations, and build trustworthy institutions. Committed to the vindication of victims' rights and the promotion of gender justice, we provide expert technical advice, policy analysis, and comparative research on transitional justice measures, including criminal prosecutions, reparations initiatives, truth seeking, memorialization efforts, and institutional reform. For more information, visit www.ictj.org.

About the Brookings-LSE Project on Internal Displacement

The Brookings-LSE Project on Internal Displacement was created to promote a more effective response to the global problem of internal displacement and supports the work of the UN Special Rapporteur on the Human Rights of Internally Displaced Persons. It conducts research, promotes the dissemination and application of the Guiding Principles on Internal Displacement, and works with governments, regional bodies, international organizations and civil society to create more effective policies and institutional arrangements for IDPs. For more information, visit: www.brookings.edu/idp.

The views expressed in this paper are the author's own and do not necessarily reflect the views of the International Center for Transitional Justice or the Brookings-LSE Project on Internal Displacement.

© International Center for Transitional Justice 2012. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

Table of Contents

1. Introduction	4
2. Establishment of the CAVR	5
3. The CAVR's Approach to Forced Displacement	6
4. Support for Reception and Reconciliation	7
5. The 2006 Crisis and the Return and Reintegration Process	10
6. The 2006 Dialogue Initiatives and the CRPs	11
7. The CAVR and the 2006 Crisis: Reflections on Durable Solutions	14
8. Conclusion	16
9. Notes	18

Introduction

This paper considers the efforts of Timor-Leste's Commission for Reception, Truth and Reconciliation (*Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste*, or CAVR) to address the forced displacement that occurred during the period of Indonesian occupation and in the post-Popular Consultation violence of 1999. It examines linkages between the work of the commission, which ended in October 2005, and the government's response to the 2006 displacement crisis. The paper argues that while the government and international community's emphasis on dialogue and mediation during the 2006 crisis and return process was informed by and in keeping with the spirit of the commission's Community Reconciliation Process (CRP), the two interventions differed significantly in practice. Despite these differences, by analyzing the commission's impact on the durability of return and reconciliation, an assessment of the 2006 crisis can inform discussions about the work of the commission.

The incorporation of a specific displacement component in the commission's mandate and its direct support of the return and resettlement process were key in creating an enabling environment for the short-term return of thousands of displaced people. That said, while the commission focused on supporting the return and reconciliation of individuals responsible for criminal acts, it did not for the most part make substantial contributions to facilitating durable solutions for the majority of displaced persons who either did not actively participate in the violence or opted not to take part in the work of the commission. In addition, in keeping with its mandate, the CAVR left the interplay between political and socioeconomic conditions largely unaddressed. No other mechanisms were developed to assist communities with adapting to the significant developments arising from the return process, such as rapid urbanization, which can lead to dramatic changes in lifestyle, customs, and livelihood strategies. These changes can interact with historical narratives and in turn create their own set of social interactions and constructs that may result in potential conflict. In Timor-Leste, return programming, even when complemented by the CAVR, was ill-equipped to help communities manage the nascent and fluid tensions that arose from a variety of sources, some of which were not at all or only tangentially related to the CAVR's mandate. For example, latent regionalism and competition over scarce resources in the capital, Dili, which were key contributors to the 2006 displacement crisis, were not addressed by the CAVR or other programs developed to support the return process

after the violence of 1999. The response to displacement in Timor-Leste was compartmentalized: the CAVR was tasked with dealing with the past, while the state and the international community focused on economic development in what was presumed to be an environment free of the risk of conflict, given the withdrawal of Indonesian forces. The inability of the international community and Timorese policymakers to develop a comprehensive policy and program framework that acknowledged and engaged with the challenges faced by communities undergoing rapid economic and social change compromised the durability of the return of displaced persons between 1999 and 2004, and indeed undermined the stability of the state.

The paper begins with an examination of the CAVR's mandate and methodology, paying particular attention to the CRP. It then considers the relationship between the work of the commission and the approaches implemented by the government and international community to address the displacement that arose from the 2006 civil unrest. Finally, the paper briefly considers the impact of the CAVR and the subsequent dialogue processes in the aftermath of the 2006 crisis in promoting durable solutions.

Establishment of the CAVR

Indonesia's 24-year occupation of East Timor, which began in December 1975, was marked by extreme violence, forced displacement, torture, and other human rights violations.² In 1999, the fall of President Suharto in Indonesia and the changing geopolitical context that followed the fall of the Berlin Wall increased international attention to the "Timor question," leading to a change in Indonesia's position. Under President B. J. Habibie, Indonesia agreed to hold a Popular Consultation to determine once and for all the status of what it saw as its 27th province.³ The consultation was scheduled for August 1999.

Security was a primary concern for both the Timorese population and the international community—a concern that was increasingly pertinent as it became evident that the Indonesian security forces had increased support to their Timorese militia proxies throughout East Timor. As the date of the consultation approached, militia activities, threats, and violence worsened. It is estimated that up to 40,000 people were displaced in the lead-up to the consultation.⁴ On August 30, 1999, despite the violence and intimidation, the Popular Consultation took place. Voter turnout was extremely high, and the population opted overwhelmingly for independence and against autonomy within Indonesia. The joy of the occasion was not to last, however, as the Indonesian-controlled militias responded to the announcement of the results with severe violence. It was mid-September before Indonesia acquiesced to an international intervention and a UN-backed, Australian-led military mission (INTERFET) was launched to stabilize the situation. By that time, more than 1,000 people had been killed and an estimated 70 percent of the country's infrastructure had been destroyed. Thousands more were displaced to West Timor or internally within East Timor.⁵

In an effort to support East Timor's transition from an occupied territory (officially under Portuguese administration) to a fully-fledged independent nation, the UN Transitional Authority for East Timor (UNTAET) was established on October 25, 1999, by Security Council Resolution 1272. UNTAET was empowered to exercise all legislative authority for the new country,⁶ and during its mandate the

first Timorese Constitutional Assembly was established.⁷ Its members, as provided for by UNTAET regulations, eventually went on to form the country's first constitutional government, with Xanana Gusmão as its head of state and Mari Alkiriti as head of a Fretilin-controlled government.

In 1999, the UN sent a Commission of Inquiry to investigate the post-Popular Consultation events and to recommend methods of accountability for those responsible. While the commission recommended the establishment of an international tribunal to try criminal cases,⁸ the UN chose instead to establish a Serious Crimes Unit within East Timor and encouraged the Indonesian government to use its own judicial system to try Indonesian residents.⁹ Recognizing that the pursuit of criminal justice solely through the nation's newly established judiciary would prove extremely challenging, and that much of the population continued to adhere to and respect modes of justice and reconciliation based on traditional mechanisms, such as those dependent on intermediation by elders and *lia-nain* (literally, keepers of the word),¹⁰ the UN transitional administrator and the Timorese leadership established the CAVR in 2002.

The commission's mandate was not restricted solely to violence from the era of Indonesian occupation, but also included events dating from the Timorese civil war. The CAVR therefore examined incidents from 1974 to 1999¹¹ in an effort to document the events of that period and attribute responsibility. Its initial 24-month mandate was extended several times and finally expired on October 31, 2005.¹² The commission had no mandate to prosecute those accused of serious crimes (murder, rape, and torture), but it was responsible for ensuring the connection between the Office of the General Prosecutor, which was charged with the prosecution of serious crimes, and the CRP initiatives, which were restricted to addressing "minor criminal offenses and other harmful acts."¹³

The CAVR's Approach to Forced Displacement

The CAVR explains in its final report that addressing the issue of forced displacement (and famine) was "critical to understanding the story of human suffering and human rights violations associated with the conflict because displacement was a defining feature of the years of conflict in Timor-Leste. Almost every East Timorese person who lived through these years suffered some form of displacement, and many were displaced several times."¹⁴ It also notes that displacement is closely related to other human rights violations:

By uprooting civilians from the settings in which they have supported themselves, displacement commonly results in deprivation of various kinds, including hunger, disease and the loss of adequate shelter. Often displacement is in effect a form of arbitrary collective punishment, and as such is associated with violations of a range of human rights, civil and political as well as economic, social and cultural. All of these features of displacement were not just present in Timor-Leste, but in a very pronounced way.¹⁵

The CAVR's report devotes a full chapter to describing in detail its approach to forced displacement and its methods for gathering information on the topic. These included: an analysis of the more than 7,500 narrative statements taken by the commission (cataloguing 16,977 unique displacement

events); the information gathered during Community Profile Workshops; a public hearing specific to displacement;¹⁶ interviews with victims of displacement; a statistical analysis of data gathered through a special investigation to estimate patterns of displacement (the Death Toll Project); submissions on the topic from within and outside Timor-Leste; and an analysis of written material and radio and video broadcasts.¹⁷ The chapter on displacement provides a detailed account of the commission's findings, cataloguing the events that led to forced displacement, the responsibility for these events, and their consequences. "It is likely that more people died from the effects of displacement," the report asserts, "than from any other violation."¹⁸

Support for Reception and Reconciliation

As noted above, the CAVR's mandate encompassed violations that occurred over a period of approximately 25 years. However, it undertook its work within the context of massive displacement surrounding the Popular Consultation of 1999, when it is estimated that more than 450,000 people were displaced by violence, including roughly 240,000 people to Indonesia.¹⁹ By 2004, the International Organization for Migration (IOM) and the Office of the UN High Commissioner for Refugees (UNHCR) estimated that all but approximately 25,000 of the refugees had returned to Timor-Leste. While the commission's mandate clearly stated that its work toward reconciliation must necessarily concern itself with the conflicts and antagonisms that occurred during and prior to the period of occupation, in practice support for the return and reconciliation of those who had committed criminal or harmful acts in 1999 tended to take precedence.²⁰ The CAVR report notes, for example, that "a smaller proportion of cases concerned deponents giving support or supplying information to the Indonesian occupying forces, and unresolved issues arising out of the political conflict of 1974-76."²¹ According to the commission, the majority of deponents were males between 25 and 35 years of age, which would seem to indicate a focus on relatively recent acts.

The CAVR supported more than 1,400 Community Reconciliation Processes, of which 90 percent were completed. The remainder consisted of cases retained by the Office of the Prosecutor General (OPG), in which the deponent did not attend or the hearing was adjourned.²² The CRPs were developed partially as a response to the fact that resolving the vast number of ordinary crimes that had been committed would be a challenge for the country's new judicial system. As an additional motivation, the CAVR's report explains that "the CRP procedure was based on the philosophy that community reconciliation could best be achieved through a facilitated, village-based, participatory mechanism. This mechanism combined practices of traditional justice, arbitration, mediation and aspects of both criminal and civil law."²³

After various community and expert consultations, the commission established the CRP framework, which incorporated the role of *lia-nian* and elders, and the *nahe biti bo'ot* (spreading the large mat) in conflict and dispute resolution.²⁴ A particular CRP was initiated by a perpetrator's voluntary submission of a statement to the commission detailing the nature of the acts committed and admitting responsibility for them. The statement was subsequently provided to the OPG, which would decide whether to exercise its jurisdiction for prosecution. If it decided that the CRP could be used, the commission was charged with organizing a hearing for the perpetrator.

According to the CAVR, perpetrators at CRP hearings had to make formal public admissions, and could be questioned by victims and community members. A panel of three to five local leaders would then prescribe the “acts of reconciliation” that a perpetrator should perform “in order to be accepted back into the community.” These could include community service, an apology, or the payment of reparations. If the perpetrator accepted the decision, an agreement would be forwarded to the appropriate District Court to be formalized. “On completion of all required ‘acts of reconciliation,’” reports the commission, “the perpetrator was automatically entitled to civil and criminal immunity for all actions covered in the agreement.”²⁵

Traditional *lisan* procedures and the participation of spiritual leaders were incorporated into the hearings, which was important because “participants believe that their ancestors, who are summoned at the beginning of the ceremony, are witnesses to the *nahe biti bo’ot* ritual and validate the proceedings. Their presence makes the process binding, and any failure to accept the outcome is believed to have serious consequences.”²⁶ It has also been argued that the commission’s strategy of giving traditional leaders a prominent role in the CRP panels was aimed at the “rehabilitation” of traditional structures, which had been heavily manipulated during the Indonesian occupation.²⁷ The resulting increased standing of and trust in the traditional leadership was expected to enhance traditional justice schema beyond the immediate context of the CRP.

The commission’s activities can be best understood by recognizing that its mandate reached beyond truth-telling, justice, and a narrow sense of localized community accommodation. Rather, it was rather anchored in a broad concept of reconciliation, defined as:

a process, which acknowledges past mistakes including regret and forgiveness as a product of a path inherent in the process of achieving justice; it is also a process which must involve the People of Timor-Leste so that the cycle of accusation, denial and counter-accusation can be broken. This process must not be seen only as a conflict resolution or mere political tool, which aims at pacification and reintegration of individuals or groups in the context of their acceptance of independence and sovereignty of Timor-Leste but, above all, must be seen as a process where truth must be the outcome.²⁸

Nonetheless, even within that broad context, the commission recognized that the challenges to the reintegration of people who had committed criminal or harmful acts against their communities constituted a potential source of instability at the community level. It hoped that the process of truth-telling inherent in the CRP would work to diminish suspicion and anger.

As Ben Larke argues, however, the commission’s decisions to avoid the label of “perpetrators” for those who opted to acknowledge their crimes through the CRP (it called them “deponents”), and to focus the hearings on the narrative of the deponent rather than the victims, allowed the construction of a framework in which both victims and deponents sought to inhabit similar ground—that of the marginalized, coerced, and violated.²⁹ It could be argued that a narrative of a population victimized by the circumstances of war, rather than by the willful violent acts of a neighbor, was slowly constructed—perhaps not coincidentally in concert with the reconciliation ethos pursued by the country’s leadership. While this evolving construct did not seem to play an important role in the post-1999 return and reintegration process, it did contribute to the dynamic of the 2006 displacement

crisis, as discussed below. The leadership's faith in this construct was evidenced by the willingness of prominent members of the resistance to participate in public hearings. The message that forgiveness is preferable to a potentially destructive search for "revenge" through criminal justice remains common currency in Timor-Leste today. There is, in fact, a growing propensity toward abdication of personal responsibility rooted in a sense of generalized victimhood. This was clearly evident during the 2006 crisis, when many perpetrators of arson and other acts attributed responsibility for their behavior to the leadership (normally referred to as "*Emá Bo'ot*"—"Big People"). The pardons granted by the president of the republic to people convicted of violent crimes can be seen as consistent with this paradigm.

As reflected in the *Chega* report, the CAVR's analysis of the impact of the CRP concluded that the process was extremely successful. According to the report, "Ninety-six [percent] of all persons interviewed said that the CRP had achieved its primary goal of promoting reconciliation in their community."³⁰ The report asserted that the CRP had a powerful symbolic value within communities, representing the end of the nation's long history of conflict, but it also stated that reconciliation cannot be achieved instantly or through a single, one-time process. It noted the need for continued support to community reconciliation processes and recommended that the government "establish a community-focused mechanism for conflict prevention and resolution, based on the lessons learned from the CAVR community reconciliation process."³¹ Significantly, the suggestion was that the mechanism "be mandated to address both past political conflicts in Timor-Leste and contemporary challenges to the peace and stability of communities."³²

It is worth recalling that the commission's grassroots reconciliation initiatives were focused on the return and reintegration of persons who had committed harmful acts against their communities. It was not mandated to analyze or respond to the potential conflict dynamics arising from the mass return and resettlement of persons who did not participate in CRPs. Indeed, the vast majority of those displaced did not perceive themselves to have a need for "reconciliation-related" reintegration support. Their needs, time was to demonstrate, related to support in overcoming broader, evolving socioeconomic challenges within a political environment characterized by increasingly hostile rhetoric. The commission's admission of its limitations in this regard is clearly expressed in the above-mentioned recommendation that the government establish a community-based conflict resolution mechanism.

The medium-term consequences of large-scale returns and resettlement to a capital city with scarce housing and employment were not methodically considered during the return process. The scale and speed of the return process, which included both assisted and spontaneous returns, challenged the capacity and resources of those involved and made it impossible, as is often the case in post-emergency settings, to link returns with more permanent housing reconstruction and land titling. The failure of broader development programming and policies to prioritize the housing deficit and to address the impact of rapid urbanization and competition for resources in the capital seems more difficult to explain—as is the inaction with regard to a community-based conflict resolution mechanism.

As the 2006 crisis made clear, these oversights proved costly. The CAVR, demonstrating commendable foresight, recommended that: "The Parliament and the Government institute an inquiry into land disputes that have arisen as a result of the wide-scale resettlement programmes undertaken during the political conflicts, with a view to promoting peaceful mediation of these disputes and avoiding violence."³³ The dynamics that created the conditions for the 2006 crisis were slow to develop and

arose not because of some inherent weakness in the CAVR process or its truth-telling component, but because the country's leadership and the international community were unable to identify latent conflicts before it was too late. The idea that the return process signaled, once and for all, the end of conflict in the country was adopted nearly wholesale by all. The process was considered in isolation, as if it had no impact on broader social dynamics. At the same time, development actors proceeded as if the Timorese population's recent experience had little immediate relevance. The failures lie not in the return process as such; it can only be expected to achieve so much. Rather, they lie to a significant extent in the inability of the Timorese leadership and international community to pursue development strategies that gave due consideration to the challenges faced by a population with a traumatic and violent past—a population that was subjected to rapid change across nearly every sphere of life.

The 2006 Crisis and the Return and Reintegration Process

An in-depth analysis of the precise origins of the 2006 crisis is beyond the scope of this paper. That said, its proximate causes are widely attributed to the interaction of regional antagonisms (*East/Lorosae* vs. *West/Loromonu*) and the internal dynamics of the security forces and political leadership. Escalating tensions in late April 2006 led to the displacement of approximately 12,000 people within Dili. By late May, the situation had deteriorated, culminating in an open exchange of gunfire between police and the armed forces and the displacement of an estimated 100,000 additional people. The violence was contained, however, by the arrival of an International Stabilisation Force. In June, the government estimated that approximately 150,000 people had been displaced, and 56 internally displaced person (IDP) camps had been established in Dili.³⁴ While some displacement took place outside of Dili, and some camps were established in the country's second city of Baucau, the vast majority of violence and displacement was restricted to Dili. It is noteworthy that while more than 14,000 homes were damaged or destroyed during the crisis, the level of physical violence to people was comparatively very low.³⁵ It is estimated that approximately 40 people were killed as a result of the 2006 conflict.³⁶

In 2008, in response to significant political events, dramatically decreased levels of violence, and pressure from IDPs, the government turned its attention fully to the return process. At the same time, as the situation stabilized, IDPs turned their attention to return and resettlement. Initially, government policies sought to support resettlement of Dili-based IDPs to the districts through the provision of material support for building materials and transport; however, the vast majority of IDPs opted to seek return or reintegration within the capital. Families made the decision to return to their villages of residence prior to displacement or to reintegrate elsewhere within the capital on the basis of perceptions of security and the general viability of return. Consultations with IDPs revealed that fear, damaged and destroyed homes, and land disputes were the principal barriers to return.³⁷ The government, responding to the needs identified by the IDPs as well as increasing political pressure to “close the camps,” developed a comprehensive National Recovery Strategy (“Building the Future Together”). Despite its comprehensive five-pillar framework,³⁸ however, the strategy's attention and resources were almost exclusively limited to the individual reconstruction or rehabilitation of homes (“Building Homes Together”) and its community dialogue program (“Building Trust Together”).

As is noted extensively in the literature on the subject, Timor-Leste has a long tradition of using communal meetings (*nahe biti bo'ot*) to arbitrate conflicts and disagreements. The CAVR Final Report is explicit in recognizing the importance of this legacy and in acknowledging that its approach, as in the CRPs, is an adaptation of preexisting traditions. The Timorese leadership in fact made ample use of dialogue immediately after the post-1999 violence, as evidenced, for example, by the president's numerous outreach initiatives to the militia leadership and his efforts to support community dialogues at the border. The government and others also used dialogue initiatives in the aftermath of the 2006 crisis, as discussed in the next section. As communal dialogue predated the CAVR process, though, these and other trust-building initiatives were viewed in 2006 in terms of their cultural heritage, rather than as something developed by the CAVR-CRP process.

After considerable debate, including discussions of the government's administrative capacities and the need to rapidly respond to increased pressure from the IDP community, the government chose to address the issue of reconstruction by providing a cash "recovery package" to each displaced household. (The term "compensation" was explicitly avoided as it was thought that the term would open the door to disputes about the value of homes, assets, and so on.) The term "recovery package" was also chosen to reflect the government's focus on broad communal recovery from a crisis, as illustrated by its strong emphasis on and resources dedicated to the dialogue pillar.

As the specific trials and tribulations of the return process are beyond the scope of the present paper, I will merely note that the process resulted in the return and resettlement of thousands of people assisted by the government. While some cases of violence and threats against the returned or resettled have been identified, these have been very limited (particularly in light of the extent of the initial displacement). The government's cash recovery packages had an extremely significant impact on the return process, as the program allowed households to have primary control over their return and reintegration choices. It is important to note here the government's continued efforts to support dialogue initiatives alongside the implementation of the recovery package program, as well as the shifting nature of the dialogue process. In reality, the nature of the return process often required that families undertake individual "negotiations" and discussions with community members, particularly with those with outstanding land and property issues. The government provided strong support to this process alongside its wider community dialogue initiatives, which sought more generally to construct an environment that would enable returns.

The 2006 Dialogue Initiatives and the CRPs

In response to the displacement resulting from the 2006 political crisis, the Timorese government undertook a series of initiatives aimed at facilitating interaction and dialogue between the displaced and their return or resettlement communities. These ranged from visits to IDP camps by the president and the minister of social solidarity³⁹ (who was given primary responsibility for IDP-related issues), individual "go and see" and "come and talk" visits, large-scale community ceremonies based on traditional rites, individual mediation of land and property disputes, and mass information campaigns.

To an outside observer, it might seem that the 2006 postcrisis dialogues were the logical outgrowths of the CAVR process. However, to accurately assess the legacy of the CAVR, it is important to recognize the fundamental differences between and the distinct origins of the two processes. While the post-2006 dialogue initiatives shared with the CAVR process a genuine belief in the power and relevance of grassroots initiatives, the initiatives' approaches and methodologies differed significantly from those of the CRP, as did their overall objectives. Although they too benefitted from and were influenced by the strong, shared communal expectations relating to traditional dialogue initiatives, such as the *nahe biti bo'ot*, post-2006 dialogue initiatives were not (until very late in the process) guided by an overarching construct or methodology. The initiatives were highly decentralized and varied considerably depending on the involvement of outside agencies, the target community, and the issues to be addressed. Perhaps the greatest divergence between the CRP and the 2006 initiatives was the lack of an explicit truth-telling component in the latter, which did not make use of formal deponent/victim arrangements, were not driven or initiated by deponents, and did not tend to focus on individuals. In fact, the 2006 dialogue initiatives had much more modest, or narrow, objectives. Instead of seeking truth or indeed a broader conception of reconciliation built on the commission's model of community accords, the dialogue initiatives aimed at reaching consensual agreements focused on the cessation of violence between communities or on settlements between disputing claimants to property, for example. The 2006 crisis dialogue initiatives were much less formal and were widely used both by the government and by local and international organizations, as well as by individual communities seeking to address particular issues. A trust-building working group was established to assist with the interagency coordination of dialogue activities and as an avenue for sharing information regarding at-risk communities and as an effort to identify obstacles to return.

The 2006 initiatives tended to originate within a community's leadership (for example, church and community leaders) or outside agencies (for example, NGOs and government), and were primarily concerned with accommodation between groups. Additionally, while the CRPs benefited from the very well-defined parameters around which they were organized (that is, the deponent–community narrative concerning criminal and harmful acts), the 2006 dialogues encompassed a wide spectrum of social dynamics, including disputes relating to land and property and economic and business disputes. The breadth of topics raised during community dialogues made effective responses more difficult, and the capacity of community leaders to find long-term solutions to the above-mentioned issues was very limited. Perhaps not coincidentally, therefore, communities increasingly sought to ensure the presence of government officials at dialogues. Community dialogues evolved into a legitimate medium of contact with high-level government officials, and consequently became a venue to air grievances of all kinds and seek assistance.

The period between the creation of the CRPs and the 2006 crisis saw a significant increase in the use of community dialogue and consultation by the government and other actors. Prior to the 2006 crisis, the government and others used dialogue initiatives to “socialize” new policies or as a vehicle to reach out to communities generally. While the objectives were well defined and understood by CRP participants, the purpose of subsequent dialogues and consultations were less clearly articulated. Were they meant to be proper consultations, in which communities could expect to influence decisions and policies, or were they “merely” a vehicle for information sharing? Where communities were urged to raise issues during dialogues, to what extent could follow-up be expected? Preparations for

community dialogues in 2006 were therefore often confronted by a general skepticism that community dialogue initiatives would actually result in responses to the issues that community members put forward—which is particularly significant when considering the broad-based nature of the topics raised and the use of dialogues at least in part as a vehicle for contact with the government.

The extent to which the dialogue initiatives brought tangible results varied significantly, in accordance with the nature of the concerns discussed and the ability of the government or other party to respond. One clear example of a case in which a dialogue resulted in a very tangible positive outcome was that between the prime minister and the IDP camp leaders. As part of ongoing government efforts to maintain contact with the camp leadership, the minister of social solidarity and other members of the ministry met regularly with all camp leaders. At one such meeting, the prime minister, who presided over the meeting, agreed that the government would consider some arrangement for lost home and business assets, a key camp leadership demand prior to return.

The 2006 dialogue process was highly influenced by popular perceptions about responsibility for the crisis. The 2006 crisis was widely seen by the community at large as a result of the inability of the country's leaders to “reconcile” their differences in the interest of the nation. It was not unusual for people in camps and the community to renounce any responsibility for their actions, and to state instead that: “I burned the house because the leaders made me do it; the leaders are responsible.” Community members were at times highly critical of and angered by calls for reconciliation and dialogue among themselves, particularly when these coincided with heated rhetoric by political leaders. The impact of the abdication of personal responsibility in the postcrisis period and its impacts on community and political dynamics remains a matter of great debate and concern in Timor-Leste today.

It is interesting to highlight that the Ministry of Social Solidarity has established a dialogue unit to assist communities in addressing local tensions nonviolently. The decision, while in line with the CAVR's recommendation, in fact originated from the perceived benefit of the ministry's work in response to the 2006 displacement crisis.⁴⁰ The dialogue unit was established on the back of the strong success of dialogue initiatives in assisting communities to reach agreements and settlements that enabled the return process—and consequently the closure of IDP camps, which was a very high political priority for the government. Dialogue initiatives were seen as essential tools in demonstrating government commitment to the communities and the displaced, and in providing a certain degree of breathing room and stability in the community. As mentioned above, the dialogues and other trust-building initiatives were devoid of an explicit truth-telling element, not linked to a judicial mechanism, and highly decentralized. Given popular resentment of the state and the political leadership, which were widely blamed by the people for the crisis, dialogue initiatives played a key role as vehicles for government outreach and consultation, a role which the CRP had not played.

The CAVR and the 2006 Crisis: Reflections on Durable Solutions

As outlined above, the CAVR's mandate was extremely broad but still well-defined. It considered reconciliation from a variety of perspectives and recognized the importance of the reception and reintegration of individuals who had caused harm to their communities.⁴¹ While the commission's final report deems the CRPs a success based on its own evaluations, it also highlights that its work and that of the CRPs in particular should not be considered the sole and sufficient mechanism for reconciliation. Indeed, it explicitly advocated for a series of follow-up actions, including several recommendations concerning the behavior of the political leadership and the security and defense forces.

By the time of the report's launch, however, the leadership's (if not the nation's) attention had arguably moved beyond the issues outlined in the report.⁴² It seems that the report's strong focus on the need for continued vigilance to guard against potential schisms within a society emerging from a long and difficult period were not internalized by the state or the international community. As suggested above, the new dialogue initiatives in response to the crisis had their origins in the country's strong cultural traditions. Just as the CAVR capitalized on this tradition, so did postcrisis efforts in 2006. While the CAVR process was indeed an extremely important initiative, providing volumes of information about shared struggles and mutual suffering, along with an important window into the country's brief civil war of 1974, it was unable to ensure cooperation and reconciliation among the country's elites and the population at large. The country's leadership, while happy to support the CAVR process, seemed to view it as an end in itself and made no reference to its findings after the report's publication. The CAVR was considered relevant to a very particular place in time and history: that of the occupation. As with the international community, the national leadership seemed to underestimate the linkages between past and present. The fact that the document has not been debated in parliament is instructive in this regard.

While the limiting of the focus of the commission's reception and reintegration activities to those who had done harm to their communities was consistent with its objectives, the CRPs did not benefit from complementary initiatives aimed at assisting communities to adapt to the massive influx of people after the end of the violence in 1999 and other nonpolitical tensions. The country's approach to economic development and the general consequences this has had are outside the scope of this paper, but these issues have been the subject of much academic research.⁴³ At the very least, however, it seems as though the difficulty of the task at hand—that is, the establishment of a productive economy able to generate employment and increase agricultural productivity—was underestimated.

It is true that the elements of UNTAET and the Timorese entities tasked with providing immediate return assistance to thousands of people after 1999 could hardly have been expected to conduct a detailed analysis of the impact of individual return and resettlement decisions. While the importance of land and property issues had been widely recognized,⁴⁴ it was impossible in practice to stop individuals from returning to or (re)settling in particular houses or property. However, it is clear in hindsight that scarcity of housing units, land and property issues, and the impact of the mass movement of people to Dili required political attention and a policy framework from the very beginning of the return process.

The land and property issue is instructive and merits a brief discussion. More than 10 years have passed since the end of the Indonesian occupation, but the much-discussed Land and Property Law has not been passed. While the first constitutional government did develop a Dili Urban Plan, it was never implemented and has been shelved with no alternatives proposed to date. Although small-scale land and property disputes were identified as a potential source of communal conflict in early assessments, UNTAET felt that, given the highly political nature of the issue, the drafting of the legislation should be left to the country's first sovereign government. Unfortunately, the land issue remains extremely controversial among the country's elites and, therefore, remains unaddressed. Indeed, the issue of land allocation was a major obstacle faced by the Ministry of Social Solidarity as it sought space for the development of transitional shelter after the 2006 crisis. The absence of a land law is in turn an obstacle to the development of an urban plan. To complicate matters further, the construction of social housing in the capital, which has been considered, would require counterbalancing initiatives in the districts (such as employment-generation programs) so as to minimize additional influx into the city. The 2006 crisis, then, can be seen as the result of a series of complex, interrelated elements, some of which related to the return process of those who had been displaced by the postconsultation violence, but all of which were affected by the slow and uneven pace of economic development and the population's perceptions regarding the distribution of assets and opportunities arising from new economic and power relationships. The inability of the government and its development partners to navigate these admittedly turbulent waters surely cannot be attributed to a failure of the CAVR specifically or truth-telling generally.

The events of 2006 demonstrated that the durability of solutions for people returning in the aftermath of the 1999 violence was dependent on perceptions of an individual's legitimacy within his or her community of return or resettlement. Community perceptions are of course complicated, dynamic, and highly contingent on outside political, economic, and other factors. The sustainability of return and reintegration within communities in Dili was subject to pressures around access to land and property, jobs, and resources. What seemed to be durable solutions in some cases proved to be unsustainable within the context of the 2006 crisis. The link between the 1999 return process and the violence of 2006 was made explicit by some government officials who stated that the international community should not have supported the "migration" of people to the capital at that time.⁴⁵ This sentiment was also reflected in frequent calls for the IDPs to "return to the districts." These statements were in fact reflected in policy, as the government provided material and transport support to IDPs opting to move back to the districts.⁴⁶ Little attention was paid by the state and the international community, however, to the impact of large-scale movement of people on the community dynamics of the capital. Ironically, the growing tensions in the capital were concurrent with an increasing belief in the need to shift away from Dili-centered assistance. As noted above, the Dili Urban Plan was never implemented, as it proved highly contentious.

An important point, therefore, is that the mass return process within Timor-Leste had consequences for community dynamics that were beyond the scope of the country's truth and reconciliation commission. The vast majority of the thousands of people who returned after 1999 did not initiate a CRP. The perceived pressures faced by communities were influenced by large-scale urban migration as people sought postindependence employment and other opportunities. While some of the tensions that led to the violence in Dili in 2006 had their origins in the political events that took place during

the period covered by the CAVR, communal violence and displacement were to a large extent driven by the settling of personal scores with roots in a series of factors unrelated to the mandate of the CAVR, including competition (and jealousy) over housing, resources, and jobs. These in turn exposed in many cases the fragility of the returns that had taken place after 1999.⁴⁷ In light of this, two of the recommendations made by the CAVR *Chega! Report* seem particularly important and prescient. As discussed, the report calls for the establishment of a community-focused conflict prevention and resolution mechanism tasked with dealing with past political issues and contemporary challenges to peace and stability; but it also proposes that the government institute an inquiry into land disputes with a view toward promoting their peaceful mediation.⁴⁸

The CAVR's role in supporting the return and resettlement of those displaced during the postconsultation violence can be seen from different perspectives. In one view, it sent a clear and broad message that the government was committed to reconciliation and to acknowledging the tremendous collective suffering of the people and the general contribution of all to the liberation struggle. In another, its inclusion of the civil war period within its focus sent an important political message that the leadership acknowledged the past and would move on to cooperate in the interests of the nation. Public hearings, community outreach, and the CRPs worked to create local narratives and to facilitate reconciliation (at least as defined by the CRPs) at the community level. In the postconsultation environment, then, the CAVR, alongside border-dialogue initiatives, helped to foster an environment in which fear of reprisal was limited. The CAVR was, by its own admission, not meant to be the sole pillar on which stability would rest. Truth-telling was certainly useful and important, but it was obviously not sufficient to ensure long-term stability and reconciliation. Stability in general, and as it relates to returns and resettlement more specifically, is dependent on a variety of political, economic, and social factors. These require continuous attention and policy adaptations. In postcrisis settings, the historical narratives and perceptions among both the population at large and the previously displaced must be integrated into development approaches, lest these reignite tensions or allow for the development of new schisms.

Conclusion

While the CAVR represented an important and broad effort to address the varied reconciliation needs of a nation emerging from a prolonged period of conflict, factors other than those strictly linked to its mandate influenced the sustainability of post-1999 returns of displaced persons. In Timor-Leste, socioeconomic and political pressures evolved in directions that at times changed the environment in which sustainable return was rooted. Political rhetoric and competition for resources in the lead-up to the 2006 displacement crisis transformed community perceptions of belonging. The widely held popular perception that the crisis was the direct result of the leadership's unwillingness to reconcile in the interests of the nation challenged the edifice on which the CAVR was built. The general perception seemed to be that while the leadership could continue to pursue old grievances through political machinations, the masses were expected to reconcile. The vacuum in law and order that resulted from the initial events of the 2006 crisis opened the way for the settling of scores relating to a wide range of grievances and a reconsideration of the merits of reconciliation as such. In light of the limits of its mandate and its extensive work to fulfill it, there seems to be little else that the

commission could have done to advance the causes of reconciliation and durable returns. Durable solutions are dependent on general stability. While truth commissions can certainly make an important contribution by developing a narrative conducive to reconciliation and accommodation, these require continued attention and cannot be guaranteed by economic development and growth alone. Indeed, these processes can create or exacerbate conflicts. Complex postcrisis settings require approaches to development, institution-building, governance, and justice that are sensitive to latent grievances, divergent historical views, and the potential unintended consequences of orthodox economic development theory.

The commission recognized the fragility of post-conflict environments and noted that long-term success would require complementary activities and policies to assist communities in responding to evolving tensions and dynamics, both related and unrelated to its mandate. Regarding displacement and durable solutions, the experience in Timor-Leste illustrates that the large-scale movement of people during the post-1999 return process itself had an impact on community dynamics. The state and the international community did not aid communities in adapting to the changes in socioeconomic conditions brought about by the return (and migration) of thousands of people. The impact of large-scale population movements, including return and migration more generally, must be considered from the beginning as an essential element of the policy framework developed in support of durable solutions. The compartmentalization of the return and resettlement process and the inability or unwillingness of development actors and the Timorese leadership to pay due heed to the possibility of conflict within postoccupation Timor-Leste and adapt its “development” approach accordingly proved extremely costly. Whether the lesson has been learned remains to be seen.

Notes

- ¹ The author draws on his personal experience as chief of mission for the International Organization for Migration (IOM) in Timor-Leste from May 2002 to February 2010. The author was a member of the advisory Technical Working Group, which was tasked by the minister of social solidarity to support the development of the government's National Recovery Strategy in response to the 2006 crisis. The opinions expressed in this article are the author's own and do not necessarily reflect the official position of the IOM.
- ² See, for example, relevant sections of CAVR, *Chega! Final Report of the Commission for Reception, Truth, and Reconciliation in Timor-Leste* (Dili: CAVR, 2005), www.cavr-timorleste.org/en/chegaReport.htm, hereinafter *Chega! Report*. In particular, part 7 provides substantial details regarding specific violations, such as chapter 7.3 on "Forced Displacement and Famine."
- ³ *Chega! Report*, part 3, "The History of the Conflict," 124–127.
- ⁴ *Ibid.*, 134.
- ⁵ *Ibid.*, 143–153.
- ⁶ UN Security Council Resolution 1272, UN Doc. S/RES/1272 (1999), October 25, 1999.
- ⁷ UNTAET Regulation 2001/2, "On the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor," UN Doc. UNTAET/REG/2001/2, March 16, 2001.
- ⁸ *Chega! Report*, part 1, "Introduction," 3 (para. 6).
- ⁹ *Ibid.*
- ¹⁰ Kay Rala Xanana Gusmão, "On the Occasion of the International Conference on Traditional Conflict Resolution & Traditional Justice in Timor-Leste," *East Timor Law Journal* (2005), 3.
- ¹¹ UNTAET Regulation 2001/10, "On the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor," UN Doc. UNTAET/REG/2001/10, July 13, 2001.
- ¹² *Chega! Report*, part 2, "The Mandate of the Commission," 2. While the 2006 displacement crisis led to government programs aimed at assisting the return of the displaced through mediated solutions (e.g., dialogue processes and community meetings), the prospect of a revival of the CAVR process to deal with the events of 2006 was never raised, either within government or the international community.
- ¹³ CAVR *Chega! Report*, part 2, 2.
- ¹⁴ *Ibid.*, part 7, chap. 7.3, "Forced Displacement and Famine," 1.
- ¹⁵ *Ibid.*, 5.
- ¹⁶ According to the CAVR's Public Hearing Book on Forced Displacement and Famine, the public hearing was held on July 28–29, 2003, and focused on the events relating to the "great famine of 1977–79." According to the publication, it did not seek to reach conclusions on the subject, but rather to provide

- an opportunity for survivors to relate their experiences and the experiences of those who perished: CAVR, *Forced Displacement and Famine: National Public Hearing*, 28-29 July 2003 (Dili: CAVR, 2005).
- ¹⁷ Ibid., 8–9.
- ¹⁸ Ibid., 144.
- ¹⁹ Larry Niksch, Lois McHugh, and Rhoda Margesson, “East Timor Situation Report” (Congressional Research Service, Library of Congress), July 9, 2001, 2, <http://www.globalsecurity.org/military/library/report/crs/RL30975.pdf>.
- ²⁰ See UNTAET Regulation 2001/10, which states: “In undertaking its functions under Part IV, the Commission may give priority to facilitating Community Reconciliation Processes in respect of acts committed during 1999.”
- ²¹ *Chega! Report*, part 9, “Community Reconciliation,” 31.
- ²² Ibid.
- ²³ Ibid., 2.
- ²⁴ Ibid., 5.
- ²⁵ Ibid., 10.
- ²⁶ Ibid, 5.
- ²⁷ Ben Larke, “‘...And the Truth Shall Set You Free’: Confessional Trade-Offs and Community Reconciliation in East Timor,” *Asian Journal of Social Science* 37, no. 4 (2009): 646–676.
- ²⁸ *Chega! Report*, “Executive Summary,” 18.
- ²⁹ Larke, “And the Truth Shall Set You Free.”
- ³⁰ *Chega! Report*, part 9, 34.
- ³¹ Ibid., part 11, “Acolhimento (Reception) and Victim Support,” 29.
- ³² Ibid.
- ³³ Ibid., 8.
- ³⁴ UN Office for the Coordination of Humanitarian Affairs, “Consolidated Appeals Process (CAP): Appeal for Timor Leste,” January 16, 2007, 10.
- ³⁵ Ministry of Social Solidarity, “Minister of Social Solidarity Provides Update on Work of MSS During 2009,” press release, December 17, 2009, <http://www.etan.org/et2009/12december/20/17mss.htm>.
- ³⁶ International Crisis Group, “Resolving Timor-Leste’s Crisis,” (Asia Report No. 120), October 10, 2006.
- ³⁷ For a detailed overview, see the IOM’s periodic Return Monitoring Reports, available at <http://www.iom.int/jahia/jahia/activities/asia-and-oceania/timor-leste>.
- ³⁸ The National Recovery Strategy was comprised of the following five pillars: 1) Building Homes Together; 2) Building Protection Together; 3) Building Stability Together; 4) Building the Economy Together; and 5) Building Trust Together. See Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste, “‘Hamatuk Hari’I Futuru’: A National Recovery Strategy,” East Timor Action Network website, December 19, 2007, <http://www.etan.org/et2008/6june/22/19hamutuk.htm>.
- ³⁹ This emphasis was also very much present in the previous government, and was led by the minister for labor and solidarity.
- ⁴⁰ The statement above is made with a fair degree of certainty, as I was deeply involved in the process and discussions leading to the establishment of the unit.
- ⁴¹ *Chega! Report*, part 2, 2.
- ⁴² Indeed, the author did not encounter a single mention of the report in his work in support of the government’s 2006 postcrisis response.
- ⁴³ See, for example: Hal Hill, “Tiny, Poor and War-Torn: Development Challenges for East Timor,” *World Development* 29, no. 7 (July 2001): 1137–1156; and Rebecca E. Engel and Luiz F. Vieira, “International Contributions to State-Building in Timor-Leste: The Undermining of State Legitimacy?” (Norwegian Peacebuilding Resource Centre, August 2011).
- ⁴⁴ See *Chega! Report*, part 11, “Recommendations,” recommendation 3.4.3.

⁴⁵ Personal conversations and discussions with various government staff from 2006 to 2009.

⁴⁶ This policy was abandoned in practice after it became evident that the vast majority of the scheme's beneficiaries had accepted the support but nonetheless eventually returned to the capital.

⁴⁷ A similar dynamic applies to other migrants to Dili—including those who migrated during the Indonesian occupation.

⁴⁸ *Chega! Report*, part 11, recommendations 8.1–8.4, and 3.4.3, respectively.