

The Unique Contribution Of The Community-Based Reconciliation Process In East Timor

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The Commission for Reception, Truth and Reconciliation (CAVR) was established to accommodate the desire for reconciliation both amongst the leadership and the people of East Timor, and it endeavours to ascertain the truth regarding the past human rights violations. CAVR is currently expected to submit its final report to the President of the Republic of East Timor some time in October this year. It is therefore timely to analyse its operation, including the contribution it has made towards the process of justice and reconciliation in the new East Timor.

Although this Paper does not provide an overall analysis regarding the mandates of CAVR, it aims to provide a mini-analysis and evaluation of the particular contribution CAVR has made through its well-known mandate of 'Community-based Reconciliation Process' (CRP). Based heavily on the regulation that stipulates the establishment of CAVR, this Paper seeks to analyse the contradictions that have emerged in the interpretation of the Community-based Reconciliation Process as a non-punitive measure that is proposed to confer impunity to the perpetrators of past human rights violations.

As discussed in the Paper, the Community-based Reconciliation Process facilitated by CAVR does not confer impunity nor does it provide the chance for deponents to escape from their responsibility. Furthermore, the full disclosure and public apology it requires from the deponents does not mean that the deponents will be free from prosecution, as has occurred in other Truth and Reconciliation Commissions.

In the Community-based Reconciliation Process facilitated by CAVR, a deponent is further required to carry out 'community reconciliation acts' recommended by the CRP Panel after his/her statement is reviewed by the Office of the General Prosecutor. Only in cases where the Office of the General Prosecutor does not find the commission of serious crimes and where it chooses not to exercise its jurisdiction over the concerned statements, can deponents participate in the Community-based Reconciliation Process. Failure to meet these conditions would result in prosecution or the imposition of a fine or a certain period of imprisonment.

In looking at the above-mentioned procedures, it is fair to argue that the process was not only a Community-based Reconciliation Process, but it was indeed a Community-based Justice and Reconciliation Process - a process that is just according to the community, different to the formal justice process as applied by the court of law. It was indeed a Community-based Justice and Reconciliation Process due to the fact that the deponents who wished to participate in the Community-based Reconciliation Process had to pass

through strict procedures, which included the deponents' obligation to carry out community works as recommended by the CRP Panel for a certain period of time in order to compensate for their past acts.

Therefore, a careful analysis of the procedures of the Community-based Reconciliation Process and its relationship with the formal justice system is of paramount importance in order to avoid the misconception regarding the Community-based Reconciliation Process facilitated by CAVR. Although it is acknowledged that the Community-based Reconciliation Process should not be considered as an alternative to the formal justice system, it is crucial to note that the Community-based Reconciliation Process has made an invaluable contribution not only to the reconciliation process in East Timor, but also to the formal justice system due to its ability to fill the void created by the formal justice system as result of its limited capacity. The Community-based Reconciliation Process has assisted the formal justice system by relieving the courts' burden and further giving a chance to the formal justice system to improve and strengthen itself in order to be able to fully assume its mandates when the CAVR completed its tasks.

Furthermore, through the mandate of the Community-based Reconciliation Process, CAVR has assisted in encouraging the repatriation of refugees due to its broad public information programme that reaches not only the thirteen districts of East Timor, but also the Indonesian province of West Timor where most of East Timorese refugees are currently settled. This public information programme clarifies the current situation in East Timor and outlines the procedures for participation in the Community-based Reconciliation Process. This is particularly important due to the information scarcity in the refugees camps in West Timor and the constant intimidation which the refugees suffer in the hands of the militia group members in order to prevent their repatriation.

This paper therefore concludes that the Community-based Reconciliation Process facilitated by the CAVR should not be subjected to the generalised and uniform interpretation of other Truth and Reconciliation Commissions, such that it exempts the perpetrators of human rights violations from their accountability. Rather, it should be understood that Truth and Reconciliation Commissions vary greatly both in their forms and mandates, and thus they deserve deeper analysis of their specific mandates. In East Timor's case, the Community-based Reconciliation Process is the process that makes CAVR 'unique' as compared to other Truth and Reconciliation Commissions -from the procedures which it applies to its relationship with the formal justice system. It is therefore highly recommended that further comprehensive studies on this specific mandate should be made in order to establish the future possibility of a continuous application of this particular mandate.