



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

JUSTICE UPDATE
JULY 2008

**JUSTICE NOT SERVED BY TRUTH AND FRIENDSHIP
COMMISSION**

Last week saw the much-anticipated release of the Truth and Friendship Commission (CTF) final report. The Commission was established by the governments of Indonesia and East Timor. It sought to establish the truth about violence that surrounded East Timor's independence vote. JSMP has conducted a series of interviews on the CTF with victims and community representatives from several districts, which inform this analysis of the outcome.

Reviewing evidence examined by previous investigations into the conflict, the report draws some familiar conclusions. Most notably, it finds that in 1999 the Indonesian military directed Timorese militia campaigns responsible for gross human rights violations. This is worth celebrating as a reversal of the official Indonesian position that the violence was solely a result of internal conflict.

The report is also evenhanded in recognising its own limitations. Echoing previous statements by JSMP and other commentators, the process of hearing testimony is acknowledged as flawed. Findings appear to reflect some Commissioners' frustrations with the grandstanding and evasiveness of witnesses, and with the inability to pursue sensitive lines of questioning.

The CTF was empowered to recommend amnesties for those perpetrators it called who showed remorse and cooperated fully. It is a measure of the incomplete and often self-serving narratives put forward by such individuals that it was concluded that in no case had the criteria been satisfied, and so no such recommendations for amnesty could be made.

The Commission's mandate did not extend to reparations, as did the more rigorous CAVR before it. Useful though it is to have an agreed history of events, the process is seen by many as further sidelining the voices and interests of victims. Even the report's laudable recommendation for a public apology by heads of state – an important symbolic step toward redress – has seemingly met with official resistance.

Father Ernesto Barreto, whose parish in Suai still suffers many ill effects from the 1999 violence, told JSMP “The CAVR had the integrity to pay attention to the victims and their families. However, the CTF is aimed at protecting leaders who were directly or indirectly involved in the humanitarian crisis that resulted from occupation by Indonesia. They should be ashamed of this attempt to protect themselves – victims will continue to suffer this trauma forever and the CTF brings them no benefits at all.”

Others have indicated a lack of grassroots education about the CTF process that led to much confusion and likely also to an incomplete assessment of the impact of pre-independence violence. Martinho Amaral, who was injured during attacks in Covalima during 1999, said “We are ordinary citizens who don’t really understand it; we thought that the CTF is a continuation of the CAVR because many of the people are the same .”

The report recommends investigation of disappearances from this period and documentation of the conflict – these are laudable measures. However, instead of emphasizing the creation of new legal processes and entities, critics feel that it should instead provide more practical, compensatory measures.

Speaking with JSMP, victims spokeswoman Anita Tilman dos Santos said “For families of the victims of 1999 like us, the existence of the CTF makes us feel as if those who died are not being given any value by the government. This is only for the leaders of our nation – ordinary citizens like us can only sit and look at the ground and ask: when will we get justice if the government lacks the good will?”

Among those interviewed, there were many who felt that the need for strong diplomatic ties between Indonesia and East Timor should not supersede the call to bring perpetrators to justice. Liquica district coordinator Alberto Gomes told JSMP “the relationship between Indonesia and Timor Leste can be nurtured as per normal, which doesn’t mean we have to sacrifice the truth finding process and justice through the courts.”

In accordance with the Commission’s terms of reference, the report did not name those responsible for coordinating the violence; nor does it advocate prosecutions. A number of those polled by JSMP spoke of their belief that too many questions yet remain unanswered in the interest of political expediency.

Maubara resident and 1999 victim Filomena de Jesus Santa said that in her opinion “justice should be upheld by a court that is open to the public. There is no reason to have good relations with a nation that has committed serious human rights violations if they don’t want to reveal the truth before a court. Why should our country be afraid of them?”

The CTF was intended to put an end to national debate over the cause and effect of East Timor's troubled rise to nationhood, though clearly it has not quelled public outrage. Politicians on both sides have played down the prospect of a tribunal to further investigate the crimes against humanity that were unquestionably visited upon the Timorese people. Despite the unwillingness of government, community support for a court-based approach is unyielding.

Domingas Mouzinho, a survivor of the Suai church killings in 1999, pleaded for "justice through the courts - I don't care if it is an international or national court, the important thing is the perpetrators of crimes need to be brought to justice so the victims like us can feel satisfied."

It is now incumbent on the architects of the CTF process, both Indonesian and Timorese, to make of it more than a rhetorical gesture. Whilst the report contains some difficult truths, it will take a more sustained effort to fully confront the legacy of violence and injustice with which so many still live. Much as political leaders may wish to leave the past behind, for many this will not be possible until justice is delivered to the victims, and served upon the perpetrators.

Rita Pereira dos Santos, who lost several family members to militia attacks on Liquica, summing up her views on the Commission, said "We, the family members, will be very upset if our demands are not realised and if our own government does not listen to us. It is like we are being killed all over again, not in a direct sense like the victims of 1999, but maybe this type of suffering is even worse because it is enduring and we will think about it forever".

For further information, or an interview, please contact:

Timotio de Deus
Director, JSMP
Email: timotio@jsmp.minihub.org
Mobile phone: +670 729 2909
Land line: +670 3323883