

Gender and Reparations in Timor-Leste*

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In 1975, following the end of nearly 400 years of Portuguese colonization, Indonesia invaded and occupied the territory of Timor-Leste. Though two generations of East Timorese men and women took up arms, joined clandestine networks, and tirelessly lobbied the international community to resist the Indonesian oppression, Indonesia brutally occupied the territory for more than 24 years. In 1999, a year after the fall of Indonesia's General Suharto, the United Nations administered a popular consultation to decide on the direction of Timor-Leste's future. The result was a majority vote for independence, followed by weeks of intense violence and destruction by Indonesian security forces and their militia. An international peacekeeping force entered East Timor¹ in September 1999, and a month later the UN became the transitional administrator of the territory until its full independence on 20 May 2002.

During the conflict in East Timor, women and girls suffered sexual abuse and other forms of violence, including detention, extrajudicial killings and torture by the Indonesian military. They were targeted because of their direct involvement in resisting the Indonesian occupation and because they were related to men involved in the opposition or were from communities suspected of collaboration with the opposition. Women and girls with no clear connection to the resistance also suffered as the result of large-scale military operations that targeted civilian populations.

Human rights violations during the conflict affected men and women in different ways. Timorese men were targeted by large-scale Indonesian military operations in which they were killed, disappeared, detained, and tortured. Women suffered these violations in smaller numbers, but were the main victims of sexual violence. However, when male members of the family were killed, detained, disappeared, or maimed, women bore the consequences. They became sole breadwinners and protectors of their families with few, if any, resources to support themselves and their children, and they became increasingly vulnerable to abuse by members of security forces or other civilians. Also, as victims of sexual violence, women experienced not only a violation of their physical integrity, but

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¹ East Timor and Timor-Leste, the official name of the country, are used here interchangeably.

often a lifetime of marginalization and discrimination. Community misperceptions of non-consensual sexual relations lead to the view of women victims of sexual violence as immoral, ‘fallen women.’

Since the violence in 1999, a number of judicial and non-judicial responses to human rights violations have been developed, including a serious Crimes Unit (SCU) and a Special Panel for Serious Crimes at the Dili District Court, and an Indonesian Ad Hoc Human Rights Court for East Timor. UN Regulation 2001/10 established the Commission for Reception, Truth and Reconciliation of Timor-Leste [*Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste*] (CAVR), mandating that a gender perspective be integrated into all aspects of its work, including its focus on reparations. The CAVR began its work in 2002 with objectives that included: the reception and reintegration of individuals who committed minor crimes into their communities through facilitation of a community-based process of reconciliation; the investigation and establishment of the truth regarding human rights violations committed between 25 April 1974 and 25 October 1999, and a report on the Commission’s findings to identify practices and policies to prevent future recurrences of such violations; and the restoration of dignity to victims through public hearings, healing workshops and urgent reparations. (To date, no other organizations in Timor-Leste have taken such initiatives to address reparations.) The CAVR sought to guarantee women’s agency at the national and district levels through the participation of women as Commissioners and staff in both healing workshops and the CAVR’s Urgent Reparations Program. A special research team on women’s issues and a national public hearing on women in the conflict were formed to give special attention to women’s varied experiences of the conflict. Women’s organizations also partnered with the CAVR in different ways.

Women’s Participation in the Design of the Reparations Program

Women’s role in the articulation of reparations has been limited. Since Indonesia’s withdrawal, women’s mobilization efforts have focused more on women’s rights in reconstructing the present and imagining a new future than in repairing the past. Women’s leadership in victims’ groups has not been notable. Those in which women do play a leadership role are mostly community-based, self-help widows’ groups focused on addressing issues of economic survival whose primary demands have been for justice and disclosure of the whereabouts of the disappeared, rather than reparations.

In general, the strongest mechanism for the articulation of victims’ voices has been in the context of the CAVR’s work. The CAVR encouraged victims to make recommendations, often after giving a statement or at the end of oral testimonies during hearings; it became clear that many victims were still severely suffering from the impact of the abuses. In line with the Commissioners’ policy decision to keep victims at the heart of the CAVR’s activities, the executive body secured funding from donors for its Urgent Reparations Program. A Working Group on Victim Support consisting of seven members, four of whom were women, was formed to design the Urgent Reparations Program and develop guidelines for its implementation.

Statement-takers (50% of whom were women) were asked to identify victims who fit beneficiary criteria (see below). District-level Victim Support staff and Regional Commissioners (50% and 30% women respectively) conducted follow-up visits to these persons and subsequently recommended them to the national office to receive urgent reparations. In conjunction with the individual urgent reparations, the Working Group also developed an initiative by which locally-based organizations could receive funding from the CAVR to provide services to persons identified through this program. The CAVR held healing workshops for beneficiaries in which staff members of the women's NGO Fokupers played a key role.

At the end of its field operations, the CAVR's Victim Support Division was restructured into the Reparations Unit tasked to formulate the lessons learned from the Urgent Reparations Program and other activities; to liaise with civil society and victims' groups; and to assist the writing and editorial team in formulating a reparations policy for discussion and approval by the National Commissioners. The Reparations Unit organized a series of internal workshops with National Commissioners to formulate the framework of the reparations policy and to produce a working draft. At the same time, the CAVR held workshops with civil society and government agency stakeholders on six key issues: reconciliation, health, education, security, children and justice. Women's issues were discussed in these six workshops, and women's groups were invited to participate.

The CAVR's Urgent Reparations Program

In its Urgent Reparations Program, the CAVR identified killing, disappearance, detention, torture, rape and other forms of sexual violence as harms or crimes to be addressed because of their severity and the longevity of their impact. Forced displacement and destruction of property were not included because they affected such a large percentage of the population. The program's Working Group, considering the limited resources available, prioritized the worst harms. The inclusion of rape—which primarily affected women—and the provision for immediate family members of those killed or disappeared allowed women to be included in the reparations program. The Working Group prioritized violations that resulted in severe and continued suffering, which in principle allowed those considered most vulnerable in each category of harm to be included in the program, including the most vulnerable women—widows, women with disabilities, and women still affected by severe trauma. It was assumed in the design of the program that this criterion would help put vulnerable women at the front of the queue.

Primary beneficiaries of the program were survivors of gross human rights violations (rape, imprisonment, and torture) as well as those who suffered indirectly from the disappearance or murder of family members. District Teams were to identify 10-15 persons from each sub-district who best met the criteria as beneficiaries. Victim Support staff conducted home visits to victims who were identified as potential beneficiaries by the statement-taking team. After the visit, the District Team, together with Regional Commissioners, would review the information and make a decision whether to recommend particular victims to the national office. The CAVR developed criteria to help District Teams and Regional Commissioners to identify those most in need. The

criteria included: degree of need is severe; person is clearly vulnerable; other referral sources do not exist or cannot be accessed easily; need is related to a particular human rights violation; urgency of the need is obvious; and, if possible, assistance sought will assist the person in a sustainable way. The Victim Support Unit at the CAVR's national office collected all names of potential beneficiaries, conducted a 'paper' assessment together with the Victim Support Working Group, and supervised the delivery of the monetary compensation and services to these individuals. In most cases, all potential beneficiaries presented by District Teams were accepted in the process. Beneficiaries were identified from among those who gave statements to the Commission.

As for the benefits, the Urgent Reparation Program provided monetary compensation to victims, actively referred victims to existing services, conducted healing workshops, provided funds to local organizations to provide services to these persons and, as a pilot study, implemented a collective reparations program delivered in conjunction with three NGOs. In total, approximately US\$160,000, or approximately 3% of the CAVR's total three-year operational budget, was earmarked for the program. Monetary compensation was the same for all victims without regard for number of dependents or the severity of the harm suffered. Most beneficiaries used the monetary compensation to pay for medical expenses, including the purchase of medicine and transport costs. Many beneficiaries also used the funds to pay school fees for their children or to cover start-up costs for income-generating activities. Others used the funds to repair their homes or to purchase food and other basic needs. By the end of its operations, the CAVR had provided urgent reparations in the form of cash grants to 516 men (73%) and 196 women (23%); 322 of these men (77%) and 95 of these women (23%) also received home visits and care by local NGOs. 156 victims –82 women (52%) and 74 men (47%)—also participated in a total of six healing workshops.

The percentage of women identified as beneficiaries of the Urgent Reparations Program (23%) was consistent with the rate of women's participation in the statement-taking process (21.4%). Because potential beneficiaries were initially identified by statement takers, the obstacles women faced in accessing the statement-taking process were the obstacles they faced in accessing the Urgent Reparations Program. These included cultural barriers, limited access to information regarding the CAVR's activities, and the common notion that the men already represented families' experiences of the conflict. The CAVR tried to compensate for this problem by ensuring that more women than men were invited to attend the healing workshops at which cash grants were distributed. The collective reparations initiative also made efforts to tip the gender balance by supporting two women's NGOs to deliver services to groups of women. In retrospect, a higher percentage of women could have participated had the process to identify beneficiaries not relied *solely* on the statement-taking process. For example, the CAVR's women's research team would have been a reliable source of information regarding potential beneficiaries for urgent reparations.

Reparations Program in the CAVR's Recommendations

The CAVR proposed a reparations program for Timor-Leste. This proposal, included as part of the CAVR's Final Report, was presented by the President to Parliament on 28 November 2005. The recommendations relevant to reparations consist of three main points. First, the CAVR urged the Parliament to interpret a state obligation under the Constitution –namely, “to ensure special protection to the war-disabled, orphans, and other dependents of those who dedicated their lives to the struggle for independence and national sovereignty, and protect all those who participated in the resistance against the foreign occupation”²—to include victims of past atrocities on all sides of the conflict, thus not limiting the obligation to protect victims who participated on the side of the resistance, but to include all victims without regard for their past political affiliations. Second, the CAVR proposed a reparations program with five guiding principles – feasibility, accessibility, empowerment, gender and prioritization based on need—with the aim “to repair, as far as possible, the damage to their [victims'] lives caused by the violations, through the delivery of social services to vulnerable victims and symbolic and collective measures to acknowledge and honor victims of past violations.” Finally, the CAVR recommended a gender quota stating that “[a]t least 50% of resources in this program shall be earmarked for female beneficiaries.”³

In its recommendations for a national reparations policy, the CAVR defined victim as “a person who, individually or as part of a collective, has suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her rights as a result of acts or omissions over which the Commission has jurisdiction to consider and includes the relatives or dependents of persons who have individually suffered harm.”⁴ It further recommended that the reparations program consider victims who “have come before the Commission,” but also allow a two-year period to identify other potential beneficiaries. This was meant to allow more women beneficiaries to be identified, as well as other victims whose vulnerability was an impediment to their participation in the CAVR's activities during its 18-month operational period.

The reparations program prioritized victims of gross human rights violations thought to have endured the most severe harm. Guided by the principles of feasibility and prioritization based on need, the CAVR recommended priority be given to “[t]he most vulnerable from those who continue to suffer the consequences of gross human rights violations which took place during the period of conflict, 24 April 1974 - 25 October 1999,”⁵ namely: victims of torture, people with mental and physical disabilities, victims of sexual violence, widows and single-mothers, children affected by the conflict, and communities that suffered large-scale and gross human rights violations.

Several gender-sensitive features in this scheme deserve to be underlined. Widowers were not included in order to allow women greater accessibility to limited benefits and to acknowledge the fact that many more widowers (who remain the main breadwinners of

² Section 11, Constitution of the Democratic Republic of Timor-Leste, at <http://www.moj.gov-rdtl.org/tlaw/RDTL-Law/RDTL-Constitution.pdf> (retrieved November 21, 2005).

³ CAVR Final Report, Part 11: Recommendations, at <http://www.cavr-timorleste.org>

⁴ UNTAET Regulation 2001/10, Article 1.

⁵ CAVR Final Report, Part 11: Recommendations.

the family) than widows remarry after a few years. Another relevant feature is the inclusion of single mothers. Without forcing women to identify to which group they belonged, this designation covered all mothers who were not legally married, whose partner was killed or disappeared, or who were victims of sexual violence and bore children out of the rape. Finally, the broad definition of victims of sexual violence is also important. It covers not only women and girls, but also men and boys who were subjected to acts such as rape, sexual slavery, forced marriage or 'other forms of sexual violence.' The inclusion of children affected by the conflict clearly has a disparate positive impact on women as their primary caretakers.

The CAVR proposed that methods for delivery of reparations be developed in consultation with victims and victims' groups. Recommendations for the program include: providing single mothers, including victims of sexual violence and war widows, with a scholarship for their school-aged children until they turn 18 years old as well as access to other services such as counseling, peer support, livelihood skills training, and access to micro-credit for livelihood activities; providing widows, survivors of sexual violence (without school-aged children), the disabled, and torture survivors with social services, including rehabilitation, skills training and access to micro-credit for livelihood activities; providing support to severely affected communities who make a collective application for reparations, including activities such as healing workshops and other restorative work (a gender balance of beneficiaries is a criteria for eligibility); promoting national memorialization in consultation with victims and other stakeholders, including commemoration ceremonies, dates, monuments, and other initiatives to honor and remember victims in local communities and at the national level; and, as part of a national commitment to non-repetition of violence, a special education program to be conducted together with relevant government agencies and civil society.

The CAVR recommended that an implementing body coordinate the national reparations program in cooperation with government agencies and NGOs. If and when the reparations program becomes a reality, the implementing body will face a number of challenges. One of these will be reaching out to women victims. It is hoped that by setting a quota of 50% of reparations resources for female beneficiaries, the implementing body will have to develop good gender policies from its inception. To operationalize this quota, the implementing body will have to reach out to male and female children equally and overcome cultural biases that prioritize the education of boys over girls. It will also have to think of ways of identifying women who became widows and single mothers because of the conflict, devise a safe space for women victims of sexual violence to identify themselves as beneficiaries, and be creative in devising and delivering benefits to women victims. Another challenge will be to ensure quality of services delivered to the victims so that there is an impact in terms of empowerment and improved standards of living.

Conclusion

The CAVR provided space for recognition of women victims of the conflict. Although ultimately only a small percentage of women participated in the statement-taking process,

the CAVR used other innovative methods to engage women in its activities. The urgent reparations program and other reparative activities conducted by the CAVR provided important lessons on reaching out to female victims, which informed the design of the proposed national reparations program and can assist its implementation, if and when it is approved by Parliament. Among the lessons learned are the following:

- The urgent reparations scheme did not reach a substantial number of women victims because it relied solely on identification from its statement-taking process. Multi-strategies should have been used. Also, in delivery of collective reparations, special mechanisms to listen to women victims within the ‘collective’ must be developed to ensure a gendered recognition of past violations.
- The CAVR proposed a reparations policy with an institutional bias for the most victimized victims. The prioritization of victims based on the primary and secondary harms they experienced, and their level of need and vulnerability, will lead the reparations program to identify more women beneficiaries.
- The proposed reparations program has a number of features that were made to ensure gender balance. These include: the provision for immediate family members of those killed and disappeared, mainly widows and single mothers; the incorporation of guiding principles of gender, accessibility, and empowerment, which will improve outreach to women victims; the conceptualization of participatory forms of collective reparations to ensure that women’s groups are included; using gender balance of beneficiaries as a criteria for application of collective reparations; and the establishment of a 50% quota of reparations resources for women. The proposed program also allowed a two-year period for further identification of potential beneficiaries who did not come before the CAVR to address the short-comings of the urgent reparations process.
- Additionally, the proposed reparations program linked reparations to children and women as a way to force the latter to think about themselves. It also conceived a public education program as part of collective reparations to help with issues of stigmatization of victims (especially victims of sexual violence), and it proposed forms of economic reparation that are more likely to help women (training, micro-credit, services) than simple economic compensation.
- The proposed reparations program did not include some forms of violence against women, such as violations of reproductive rights. It remains to be seen whether the implementing body, using the guiding principles, will be able to broaden the interpretation of beneficiaries.

The reparations program proposed by the CAVR is an opportunity to address past injustices. According to its obligations under international law, the Government of Timor-Leste must implement this proposal. The Government of Indonesia, as the invading country whose security forces committed serious crimes, must pay reparations. Civil society, victims’ and women’s groups, and advocates from the two countries must unite, once again, on the long journey to achieve justice and reparations for victims of human rights violations.