

## Past, present and future: some critical perspectives on British government policy in relation to impunity and justice matters in Timor-Leste

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The focus of this paper is upon official British government policy as regards Timor-Leste (East Timor) in recent years and some of the demands made on British policy makers domestically as regards Timorese matters. It deals with state and non-state interactions, government and non-government interactions and the context is the ongoing search for truth and justice in Timor-Leste. The paper proposes to concentrate on three aspects: first, the demands made upon government by Members of Parliament (MPs) at Westminster; second, the demands made upon the British government by key non-governmental organisations; and third, the responses made by British government spokespersons at Westminster and beyond to the above demands. Essentially, these are critical and constructive demands for the British government to be more proactive and 'to do more', at home and abroad, in the transition of Timor-Leste from an occupied and brutalised society to an emerging liberal democratic state. The paper argues that while the UK has provided financial aid to the fledgling state of Timor-Leste, it has fudged the issue of past human rights abuses in the territory despite calls by NGOs and others for urgent action on issues of impunity and justice. The conclusion to the paper suggests that British governments have been longstanding players in Timor-Leste's history but their potentially constructive role here has not yet finished.

### Context: Britain and CAVR

Following the independence referendum of 1999 and the subsequent accession of Timor-Leste as a sovereign state to the United Nations in 2002, the CAVR (the Commission for Reception, Truth and Reconciliation in Timor-Leste) came into being also in 2002, as a mechanism of transitional justice aimed at inquiring into human rights violations that took place in the territory under Indonesian occupation. In 2000, the Serious Crimes Unit (SCU) had also been set up by the United Nations Transitional Administration in East Timor (UNTAET) to prosecute perpetrators of such crimes as war crimes, genocide, crimes against humanity, murder, sexual offences and torture. The SCU had some success here but was dogged by limited resources, operational problems and the difficulty of prosecuting major perpetrators residing outside the territory, in Indonesia and elsewhere. In 2005, the United Nations Security Council wound up this process amidst lack of political will within the Timorese government and the UN (Hirst and Varney 2005).

The CAVR's mandate enabled the organisation to deal with lesser crimes than those dealt with by the SCU. The CAVR report (entitled *Chega!* or 'Enough') included, *inter alia*, some recommendations for the international community. The international community, not least the United Nations Security Council (UNSC) and some key players, were seen to have played a part in the history of Timor-Leste and were expected to do so in the future. In this respect, Britain is urged by CAVR to give its report the widest possible distribution at home and abroad and, for truth-seeking purposes, to make available relevant archival material from the 1974-99 period of occupation.

Moreover, the report calls for reparations from key participants in Timor-Leste's past. The recommendation therefore is for:

The Permanent Members of the Security Council, particularly the US but also Britain and France, who gave military backing to the Indonesian Government between 1974 and 1979 and who are duty bound to uphold the highest principles of world order and peace and to protect the weak and vulnerable,

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assist the Government of Timor-Leste in the provision of reparations to victims of human rights violations suffered during the Indonesian occupation (CAVR Recommendations, 2005: pt 11, 4, 1.7).

In the above context, one critical observer explains that, '[a] number of states gained political, economic and strategic power from violence in the region' (Stanley 2009, 39). According to a Timorese voice 'from below', 'I want to tell you what your country, Britain, did. Your country made a lot of money out of suffering and they have shown little care for that' (quoted in Stanley 2009, 15). As regards this sentiment, it is worth noting the findings of the Campaign Against Arms Trade (CAAT)-TAPOL (i.e. the Indonesia Human Rights Campaign) 2005 report on *Arms to Indonesia*. The report pointed in some detail to the leading role that the United Kingdom (UK) had played, including under New Labour governments, as a supplier of arms to Indonesia – despite that country's record on military violations of human rights (CAAT-TAPOL 2005; see also Chalmers 1997; Hainsworth 2000).

Another CAVR recommendation with clear implications for Britain and British-based enterprises, therefore, was for 'business corporations which profited from the sale of weapons to Indonesia during the occupation of Timor-Leste and particularly those whose material was used in Timor-Leste to contribute to the reparations programme for victims of human rights violations' (CAVR, 2005, pt. 11, 4, 1.8). Arguably, the most persuasive and considered call for a more comprehensive reparations programme has come from the concept paper of the Working Group on Reparations, prepared for the National Parliament of Timor-Leste. This document, too detailed to discuss here, should be considered more widely though at home and abroad, including in Britain. Again, along with Australia and New Zealand, Britain was urged by the CAVR to 'undertake a joint initiative to establish the truth about the deaths of six foreign journalists [including two Britons] in Timor-Leste in 1975' (CAVR 2005, pt. 11, 4, 1.11) – i.e. the so-called Balibo case (see below), that has continued to command much interest right up to today.

All in all then, Britain is urged to recognise the significant role that it has played historically in Timor-Leste's tragic history and to now partake of a constructive role in truth recovery and rebuilding processes of the society and territory. Indeed, besides the CAVR, other sources have pointed critically to Britain's role over Timor-Leste. Certainly, 'on the ground' and beyond there is a belief that Britain has played a part in Timor-Leste's tragedy (Curtis 2003; Pilger 1998; Taylor 1999; Stanley 2009). In the above context then, what demands have been forthcoming from the British parliament at Westminster and from NGOs, as regards Timor-Leste, and what format have these taken?

### **British parliamentary demands**

At least four types of intervention can be noted as contributions by Westminster MPs in the House of Commons at Westminster: parliamentary questions (PQs); early day motions (EDMs); debates; and participation in in-house events. For reasons of space, it is not possible to say much about the activities of parliamentarians *outside* the House of Commons – in the country at large that is - or, for instance, within the European Union and Parliament. Nor (again for reasons of space) can the paper focus on the House of Lords, except to say that certain individual peers such as Lord Avebury, have played a very significant role in supporting Timor-Leste's cause in the British upper house and in Westminster committees and groupings.

As regards PQs, these have emanated from different parties - Labour, Conservative and Liberal Democrat - on an intermittent basis, illustrating the concern of Members of Parliament to keep alive Timorese matters in the post-conflict, transitional phase of the territory's development. The PQs have focused upon various concerns, including aid to UN missions in Timor-Leste, the Timor-Leste National Development Plan, the Department for International Development (DFID)'s role in the territory, the wisdom of the closure of the British embassy in Dili, the ongoing socio-political situation, and civil unrest and violence, as well as questions relating to the CAVR report.

In addition to PQs, several early day motions (EDMs) have focused on matters relating to Timor Leste, including the CAVR report and the Balibo incident. An EDM at Westminster functions as a kind of petition for MPs to sign and register their support for a particular cause or issue. Thus in 2005, Liberal Democrat MP Don Foster's EDM called for the publication of the CAVR report and for the British Foreign Secretary to make representations to that effect. The EDM attracted 66 signatures of MPs from all the main parties. The EDM called for justice for the Timorese people and also for the families of British journalists Malcolm Rennie and Brian Peters, both killed by Indonesian military forces at Balibo in 1975 (*Hansard* 30 November 2005). The mover of the EDM took the view that such EDMs prevented

the British government from ‘sweeping the issue under the carpet’ and enabled information to be more accessible than might have been the case (communication from Don Foster to the author, 9 September 2009). More recently, in July 2009, Labour MP Ann Clwyd’s EDM attracted 38 signatures and commended ‘the UK Government for funding part of the truth and reconciliation process in East Timor, culminating in the release of the *Chega!* Report in 2006; [and] hope[d] that Parliament in Timor-Leste will soon debate the report and establish a mechanism to facilitate the implementation of its recommendations’ (*Hansard* 3 July 2009). In addition, the UK government was called to act upon the recommendations of the CAVR report that were addressed to it and to consider supporting the said follow-up mechanism.

Furthermore, specific debates on Balibo took place in the House of Commons in 2006 and 2008, as a result of Don Foster’s initiatives. In 2006, Foster accused British governments of involvement in ‘a disgraceful cover-up’ over the death of British journalists in Balibo in 1975 and – based on evidence from released official documents (see Dowson 2005) – a ‘sorry role in Indonesia’s war on East Timor’. Foster urged the current Labour government ‘to come clean’ here in order to help relatives find answers and obtain justice. The FCO Minister defended the role of the Foreign Office over Balibo but welcomed the coroner’s inquest in Australia in 2006 on the matter (*Hansard* 1 February 2006). In a follow-up debate in 2008, Foster again reiterated the view that the FCO had ‘stonewalled’ over Balibo and Indonesia’s invasion of Timor-Leste, even to the extent of the British Ambassador to Indonesia claiming at the time that British policy ‘has so far paid off handsomely. The lack of involvement has largely kept Timor out of the British and US headlines and away from becoming a major public issue’ (*Hansard* 27 February 2008). Over thirty years later, though, the story is destined to run and run, with the newly released, big-screen, Australian feature film *Balibo* attracting many plaudits and awards at home and abroad. Towards the end of 2009, for instance, the film was screened in the prestigious London Film Festival, censored in Indonesia and won Australian Film Institute awards – not too long after the Australian Federal Police agreed to re-open the Balibo case.

As regards mobilizing events, on November 11 2006 at Westminster, the All-Party Human Rights Group (APHG) hosted the UK launch of the CAVR report and called upon the British government to respond to the document and its recommendations. The occasion provided a useful opportunity to flag up the practice of British co-financing for the CAVR and, thus, to raise the issue of value for money. There were several engaged NGOs represented at the launch, including Progressio, TAPOL, Amnesty International (AI), Human Rights Watch (HRW), as well as Jose Amorin Dias (Timor-Leste’s Ambassador to the European Union), a representative (Ivette de Oliveira) from the Timorese women’s organisation, Rede Feto, Fr Jovito de Araujo (CAVR) and several other Timorese activists. A televised message of solidarity was beamed in from Timorese President Jose Ramos-Horta. Also, an exhibition on Timor-Leste’s sufferings, organised by Progressio and others and co-incident with the 2009 EDM, took place at Westminster in July 2009, prior to it touring elsewhere to mark the tenth anniversary of the Timor-Leste independence referendum.

Such events served to bring activists together, to keep the focus on human rights issues in Timor-Leste, such as impunity and an international tribunal, and remind policy makers at home and abroad that there was still unfinished business in this respect.

### **NGO demands, observations and focus**

As intimated above, a number of British-based NGOs have expressed concern about issues of human rights, truth and justice in Timor-Leste (and elsewhere). Again, reasons of space preclude a comprehensive account here. Nonetheless, among the most proactive NGOs, there have been Progressio, TAPOL and Amnesty International. The former – with various longstanding activities in Timor-Leste and other developing countries - has been most conspicuous as regards Timor-Leste. The NGO recognised that there had been positives (notably the recognition of the right to self-determination) and negatives (such as pro-Indonesian, Cold War-related, sentiments) as regards British contributions to Timor-Leste. Progressio, formerly the Catholic Institute for International Relations (CIIR), wanted the British government to accentuate the positives and called upon it *inter alia* to take action to support the people of Timor-Leste by implementing the recommendations of the CAVR report, discussing it at Westminster (following similar discussion in Timor-Leste’s parliament), backing the development of a CAVR/CTF follow-up institution and pushing for the report to be discussed at the UN. In 2008-9, these demands

formed the centre piece of Progressio's country-focused campaign, *East Timor: Who Cares* (Progressio January 2009). Furthermore, as Progressio's Catherine Scott and Jo Barrett argued, Britain still had a role to play in truth recovery and the narrative of Timor-Leste (*New Internationalist* 2009). As part of campaigning, Progressio urged supporters to write letters to British government ministers and other appropriate elites in order to help to achieve justice in Timor-Leste.

TAPOL also has a longstanding interest in addressing human rights violations in Indonesia and Timor-Leste. One key concern has been the sale of arms to Indonesia and TAPOL was critical of the British government for not responding to the CAVR recommendations where they applied to the UK and companies based there, notably British Aerospace (BAE) (Tapol press release, 18 May 2004). TAPOL welcomed the CAVR but was less forthcoming about the setting up of the bilateral (Indonesia – Timor-Leste) Commission on Truth and Friendship (CTF) in 2008, interpreting it as an attempt to sideline the CAVR report. Subsequently though TAPOL saw some good coming out of the eventual CTF report, notably the apportioning of blame against the Indonesian military for crimes against humanity in Timor-Leste (Tapol statement, 15 July 2008). Again, TAPOL called upon the UK government to question why the United Nations Integrated Mission in Timor-Leste (UNMIT) had not implemented its mandate on accountability and justice for serious crimes committed in East Timor (Tapol/Progressio open letter, 11 February 2008). Moreover, TAPOL took the view that the British government had not sufficiently used its position on the UNSC to discourage impunity in the territory.

Amnesty International (AI) is another, British-based, human rights body, with a longstanding record in monitoring human rights abuses globally, including in Timor-Leste, through its International Secretariat (IS) and through the AIUK country section. Thus, considerable campaigning activity by the organisation took place in the period leading up to independence for Timor-Leste, and thereafter Amnesty focused on issues of impunity, justice, truth recovery, and gender-based violence. Amnesty's annual country reports pointed to a number of serious concerns such as the weakness of the justice system, sexual and domestic violence, and the plight of internally displaced persons, as a result of violence and unrest. On these issues, there has been opportunity to make common cause with NGOs such as Progressio, Oxfam, Safer World and Tapol. Amnesty's most recent specific report on Timor-Leste – an outcome of a mission to the territory in June 2009 – documents the organisation's current concerns, with the focus very clearly on issues of justice and impunity (Amnesty International 2009). The report, '*We Cry for Justice: Impunity Persists 10 Years on in Timor-Leste*', carries recommendations for governments, such as the UK's, to 'support the establishment of [a] proposed international criminal tribunal' for Timor-Leste and to contribute financially and in other (legal, legislative) ways towards providing reparations for victims of crimes committed in Timor-Leste between 1975 and 1999 (Amnesty International 2009, 26).

So, certain demands, recommendations and expectations have been forthcoming from Westminster parliamentarians and from British-based human rights NGOs (historically and) in recent times. Essentially, the call has been for British governments to play a constructive and human rights-orientated role as regards abuses and shortcomings in relation to Timor-Leste.

### **British government responses to the campaigns, demands and lobbying**

How has the British government responded to the demands and lobbying from the above parliamentary and civil society quarters over Timor-Leste?

First, in response to parliamentary questions, the government has been keen to point to its financial support to Timor-Leste over recent years. For example, following the independence referendum in Timor-Leste, the Foreign and Commonwealth (FCO) Office Minister pointed to aid donations of £1.4m for road rehabilitation; £625,000 to UNICEF for programmes in water and sanitation; and £100,000 to CARE for Emergency Agricultural Rehabilitation Programmes (*Hansard* 21 February 2000). In 2002, the FCO Minister pointed to sums of £54.7m in support committed by the British government to Timor-Leste between 1999-2005 (to support civil society, the United Nations, humanitarian and emergency relief, and the National Development Plan, including support for health, education and anti-poverty needs (*Hansard* 5 November 2002). Again, in 2004, the FCO spokesperson in the Commons explained that the government had given £580,000 to UNMIT to support the CAVR process (*Hansard* 9 June 2004). More recently, the FCO Ministers reported donations of £150,000 to assist with the electoral process in Timor-Leste (*Hansard* 12 February 2009) and then over £6m from 'conflict sources' to

UNMIT in 2008-9 (*Hansard* 20 April 2009). According to the British ambassador to Indonesia and Timor-Leste, too, the UN assessed the UK contribution to UNMIT in 2009-10 as 7.8% of the overall \$215m dollars budget (Hatfull 2009b).

Unsurprisingly, support has been expressed by members of the British government in praise of various other developments in Timor-Leste that were deemed to be positive, such as the territory's entry into the United Nations (UN) 2002, Xanana Gusmao's election as president in 2003 and his subsequent visit to the United Kingdom. Later too, the British government expressed concern and sympathy as regards the life-threatening attacks on President Ramos-Horta and Prime Minister Xanana Gusmao in 2008. To sum up here, it is fair to say that British government ministerial statements and positions at Westminster and beyond have been largely supportive of the various perspectives and roles of the leaders of Timor-Leste, rather than of those of NGOs and parliamentary backbenchers. For instance, there has been recognition by the British government (and others) that reconciliation with Indonesia has emerged as a key priority and focus of the Timor-Leste leadership and duly the former has taken their cue from the latter.

Thus in early 2006, the FCO Minister replied to a specific PQ on CAVR: 'We do not intend to make a formal response to the report of the East Timorese Commission for Reception, Truth and Reconciliation' (*Hansard* 3 July 2006). Although the FCO Minister also said later that the British government had often expressed concerns about the practice of impunity in Timor-Leste (*Hansard* 4 July 2006). However, in early 2007, the British government admitted to no discussions between the Foreign Secretary and the UN or others about the CAVR: 'It is for the UN Secretary-General to decide how to handle the report within the UN, including when to discuss it in the Security Council.' Although, it was conceded that FCO officials had discussed the said matter with the UN Secretariat and other UN delegations (*Hansard* 19 February 2007).

A month later, the FCO Minister - drawing on President Gusmao's 23 January 2006 address to the UNSC - reiterated the British government position: 'In the absence of further interventions by the East Timorese Government and Parliament, we do not believe it will serve the interests of the people of East Timor for the United Kingdom to call for the report to be placed on the agenda of the UN Security Council at this stage' (*Hansard* 12 March 2007). Effectively, the British government was sheltering behind the reticence of the Timorese leadership to progress the CAVR report and the fact that the document had not yet been discussed by the Timor-Leste parliament as yet.

In the above context, an interesting interchange or dialogue of sorts has opened up between the British Ambassador to Indonesia and Timor-Leste, based in Jakarta, and Progressio. In April 2009, the Ambassador - Martin Hatfull - responded to Progressio's 'Who cares?' campaign. Following his fact-finding visit to Dili in March 2009, the ambassador sent an open letter to Progressio, recognising that justice was a key issue in Timor-Leste and also promising that the UK would work with the Timorese government and the international community to support the free, democratic and prosperous development of the territory. Significantly too, Hatfull suggested that it was not appropriate for the British government to respond formally to the CAVR 'at this stage', but that it was important for the Timorese parliament to discuss the CAVR and the bilateral CTF report (i.e. the 2008 Indonesian-Timor-Leste Commission on Truth and Friendship document) (Hatfull 2009a).

In particular, Progressio welcomed the ambassador's recognition of the importance of justice in Timor Leste and the support for a parliamentary discussion of the CAVR and CTF reports. The correspondence between Progressio and the ambassador continued, with the latter expressing the UK's concern about impunity in Timor-Leste and recognising the important role of the CAVR in reconciliation, whilst encouraging the two governments to ensure that the CTF process enjoyed the support of victims and of the international community. However, once again, the ambassadorial/UK official line was that any further moves on the issues of impunity and justice lay with the respective governments - with the Timorese parliament still having to debate the CAVR (Hatfull 2009b).

So, the above statements illustrate the British government's response to backbench MPs and NGOs asking questions on issues such as justice and impunity in Timor-Leste. The British government has its concerns and views about Timor-Leste, but the official policy is one of 'wait and see' - support the territory financially and in other ways, but do not interfere in the internal matters or politics of another sovereign country. Consequently, in the view of the British government, there was no need for a debate at Westminster on the CAVR, whatever it might say about the UK's historic and potential role in the territory. Certainly, in mid-December 2009, this was the official position at this stage. There was no

guarantee that such a debate would transpire at Westminster and that the wishes of NGOs, CAVR proponents and Westminster backbenchers would be satisfied. Arguably, the British government/state should have been committing to conducting a debate at least on those parts of the CAVR report that refer to it specifically. The crimes recorded in the CAVR report, we recall, are crimes against humanity and the British government and relevant others should not be relying simply on the Timor-Leste government to take the lead on this, given the fledgling country's more precarious and less secure standing.

However, a significant development took place in mid-December 2009. The National Parliament of Timor-Leste tabled a resolution on implementing the recommendations of the CAVR and CTF reports and the motion was passed by 34 to 1, with 1 abstention. *Inter alia*, the resolution called for a review of these reports and for concrete measures to be proposed by the Committee on Constitutional Affairs, Justice, Public Administration, Local Government and Government Administration to implement the recommendations – including the creation of a body for this purpose (Democratic Republic of Timor-Leste National Parliament 2009). At time of writing, the outcome of this development is pending. But clearly, progress in the above matter would open up greater prospects, expectations and rationale for the relevant international dimensions of the CAVR report to be debated and acted upon elsewhere, including in the UK.

## Conclusion

In conclusion, British governments have been players in the Timor-Leste narrative. This has been the case in the pre-independence past, the post-independence present and it is likely to be so in the future to some extent.

As various parliamentary observers and NGOs and the CAVR have suggested, British governments still have a potentially constructive role to play in matters of truth recovery, justice, impunity, reparations and reconstruction in the territory. According to the results of an important recent survey 'most Timorese do not support impunity or pardons for serious crimes' (Asia Foundation 2008: 16). The mood 'on high' in Timor-Leste seems to be to place building relations with the Indonesian state above all else, even if this means giving amnesties to perpetrators of heinous crimes. Notwithstanding this and the undeniable need for Timorese-Indonesian good relations, crimes committed in Timor-Leste since 1974, and prosecuted in the Serious Crimes Unit and recorded in the CAVR report, constitute international crimes against humanity. Therefore, victims and their families, concerned NGOs, human rights advocates and hopefully the international community, including Britain, should want to respond to them as such and work against embedding impunity in the nascent state of Timor-Leste (see HRW 2006).

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