

# REPORT ON UN SEMINAR ON HUMAN RIGHTS ARCHIVES

Pat Walsh, 5 April 2011

**UN Seminar on Experiences of Archives as Means to Guarantee the Right to the Truth, Geneva, 24-25 February 2011.**

## **1. Background**

The seminar was convened by the Office of the UN High Commissioner for Human Rights (OHCHR) in response to a request by the UN Human Rights Council for practical guidelines on the role of archives in advancing the rights of victims and accountability for human rights violations.

UN consideration of the right to the truth about human rights violations has been evolving since the 1970s, first in response to the issue of the missing/forced disappearances, then in response to extrajudicial executions and torture. Since 2005, the issue has received further attention and the OHCHR has prepared a number of reports including a *Study of the Right to the Truth* (2006), the *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* (2005) and reports on national and international practices on the right to the truth, including on practices relating to archives and witness protection programs. In another related initiative, the Council adopted a resolution on 17 June 2010 proclaiming 24 March as the *International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims*. (24 March is the anniversary of the murder of Archbishop Oscar Romero in El Salvador in 1980).

In its most recent resolution on the subject (1 October 2009), the Human Rights Council, inter alia, reaffirmed (a) the right of victims/relatives to seek, receive and impart information on human rights violations (including the identity of perpetrators); and (b) recognised that States should preserve historic memory related to gross human rights violations through the conservation of archives and other relevant documents in order to facilitate knowledge of such violations, assist with investigations and provide victims with access to effective remedy in accordance with international law. The same resolution invited OHCHR to convene the Seminar that is the subject of this report.

The relevance of the issue to both Timor-Leste and Indonesia is obvious. Essential information on enforced disappearances, executions, torture and other past human rights violations in both Indonesia proper and Timor-Leste is held in Indonesia in many different jurisdictions (government departments, military, intelligence agencies, prisons, hospitals, cemeteries etc). The UN initiative will encourage and assist Indonesia as a member of the UN to take measures and legislative steps to ensure these archives are preserved in their original state and made accessible. The experience of governments, legislators and NGOs in Latin America, Europe and elsewhere has much to offer Indonesia in this regard.

## **2. Timor-Leste**

I was invited to share with the UN seminar the experience of CAVR (truth-seeking) and Post-CAVR (archiving) and practical lessons learned that might be taken into account in the preparation of guidelines. This presentation is available on request.

Points made in the presentation and on subsequent reflection include the following:

- guidelines on the role of archives in truth-seeking should take into account the different levels of development of post-conflict societies and address the specific circumstances and needs of less-developed societies like Timor-Leste, which share the experience of conflict with societies like Chile, Serbia or South Africa, but differ in terms of capacity and technical know-how;
- guidelines should also address the issue of second or third countries or institutions which have archives

on human rights violations outside the affected society. This is particularly relevant for Timor-Leste case where primary information critical to the truth and accountability is held in Indonesia and other relevant information is held by governments or institutions such as the Vatican, ICRC etc; an NGO model with application for some countries is the CHART (Clearing House for Archival Records on Timor) project, an Australian initiative focussed on locating, preserving and digitalising records for the period 1974-1999;

- guidelines should also apply to the UN itself; none of the UN interventions in Timor-Leste in 1999 (e.g. 5 May Agreement, UNAMET, UNTAET, Interfet) made reference to the obligations of the UN or party principals (including Indonesia) to preserve or make accessible information on human rights violations;
- Timor-Leste has an estimated 11 related archival projects underway but there is little or no communication or coordination between them; the establishment of a national association of archivists should be considered to coordinate and strengthen the sector, promote training, standards and certification, and press for archival legislation;
- the absence of archival legislation in Timor-Leste has contributed to the restriction of access to the CAVR archives;
- archival legislation and regulations governing access should be consistent in both spirit and letter with the principles of the Right to the Truth as articulated by the UN, particularly with regard to accessibility by victims and relatives and the principles governing action to combat impunity;
- relevant UN bodies that might continue working in Timor-Leste post-2012, such as the OHCHR, UNESCO and UNICEF, should add human rights archival development to their agendas.

Other presenters were:

- Trudy Huskamp Peterson (Rapporteur, Certified Archivist, USA)
- Antonio Gonzalez Quintana (Deputy Director General, Archives of the Community of Madrid, Spain)
- Marco Tulio Alvarez Bobadilla (Director, Archives of the Presidential Secretariat for Peace, Guatemala, on the use of archives in criminal accountability processes in Guatemala)
- Sandra Orlovic (Deputy Director, Humanitarian Law Centre, Serbia, on the use of archives in criminal processes in Serbia)
- Diane Brown (Legal Officer, International Tribunal for the former Yugoslavia, on the use of archives in the International Criminal Tribunal for former Yugoslavia)
- Maria Luisa Ortiz Rojas (Museum of Memory and Human Rights, Chile, on the use of archives in truth-seeking in Chile)
- Catherine Kennedy (Director, South African History Archive, on the use of archives in truth-seeking in South Africa)
- Patricia de Valdez (Director, Memoria Abierta, Argentina, on the role of Memoria Abierta – Open Memory – in Argentina).

Invitees from Morocco and Iraq were not able to attend. The ICRC was also represented throughout the seminar.

Texts of a number of the above presentations are available on request.

The OHCHR will report on the seminar to the Human Rights Council in June 2011.

### **3. My recommendations**

(a) That the Government of Timor-Leste

- supports UN initiatives to develop and implement the Right to the Truth;
- signs and ratifies the Convention on Enforced Disappearance;
- votes in the UN General Assembly to proclaim 24 March the International Day for the right to the truth on human rights violations;
- uses its forthcoming membership of ASEAN to encourage the ASEAN Intergovernmental Commission on Human Rights (AICHR) to act on the three points above;
- urges, through the Provedor for Human Rights, the 17 national Human Rights Commissions that belong to

the Asia Pacific Forum to advocate that their respective governments ratify the Convention on Enforced Disappearance (where necessary), support the right to the truth initiatives of the UN, and vote in the UN General Assembly to proclaim 24 March the international day for the right to the truth on human rights violations;

- supports the development of forensic capacity-building in Timor-Leste in accordance with the UN Human Rights Council resolution 10/26 of 27 March 2009 on forensic genetics and human rights.

(b) That representatives of the various human rights related archival projects in Timor-Leste meet to discuss forms of cooperation, including consideration of establishing an archival association with the objectives referred to in 1.2 (dot point 4) above.

(c) That the UN bodies that continue to work in Timor-Leste post-2012 consider how they might assist human rights related archival development in Timor-Leste.

(d) That Timor-Leste archivists, including those focussed on past human rights violations, attend the congress of the International Council on Archives (ICA), to be held in Brisbane, Australia, 2012.

(e) That Timor-Leste archivists involved in human rights work link up with like-minded organizations in other countries such as CHART (Clearing House for Archival Records on Timor, Australia), Archivists without Borders (AwB) International, and the International Coalition of Sites of Conscience.

*UN Seminar on archives Pat's report. doc*