

National reparations program and establishment of Memorial Institute

In their final reports released in 2005 and 2008, the Commission for Reception, Truth and Reconciliation (CAVR) and the Truth and Friendship Commission (CVA) made various recommendations to the Government of Timor-Leste, to Timorese civil society and to the governments of other countries. Timor's National Parliament is currently considering two laws which will allow some of these recommendations to be implemented:

- one law to establish a follow up body to CAVR and CTF, called the Public Memorial Institute
- a second law to establish a national reparations program.

What is the current status of these laws?

These two have been signed off on by Parliament's Committee A; but they must be presented to Parliament for another reading and debate, before they can be passed into law.

What has been the process so far to get these draft laws into the Parliament?

- 2005 – President Xanana Gusmao presented CAVR's final report, *Chega!* to the Parliament
 - the President then established a Secretariat, to disseminate *Chega!* and to manage custody of the archives and the historic ex-Comarca site
- 2007 – After the 2007 elections, the new Parliament referred *Chega!* to its Committee A for detailed consideration
- 5 June 2008 – Committee A adopted a resolution which requested the full Parliament to:
 - formally receive the CAVR report
 - acknowledge the suffering of victims of past conflicts, especially those who continue to suffer and need help
 - advance the implementation of the CAVR recommendations
 - the Committee also recommended that an institution be established to care for CAVR archives and to undertake dissemination, education, memorialisation and reparations
 - Committee A also called on the Prosecutor General to take action on past crimes in line with Article 160 of the RDTL Constitution
- this resolution was never debated in Parliament
- 2009 – the National Consensus Dialogue, conducted in cooperation with international and national NGOs, convened three times in 2009, discussing how to move forward on CAVR and CTF recommendations and lobbying for bipartisan support. On 14 December, 2009, Parliament adopted resolution number 34/2009 which gave the green light to Commission A to follow-up on both reports
- 2010 – the two laws mentioned above began to be drafted in early 2010; and the drafts of these two laws were released, by Committee A, for public comments, in June 2010.

Does the public still have a chance to voice opinions or criticisms of these laws?

Victims, NGOs, local community groups and the church can still provide comment on these two laws to MPs from Parliament's Committee A, so that the MPs can consider this feedback before these drafts are passed by Parliament into law.

Draft law about the Public Memorial Institute

This law establishes a Public Memorial Institute under the auspices of the Ministry of Social Solidarity and which reports to the Parliament. Under this law, the Institute can:

- implement and monitor the implementation of CAVR and CTF recommendations
- support and promote research into human rights and Timorese history during the period 1974-99, including giving scholarships to Timorese nationals to study Timorese history
- maintain the CAVR archive and allow public access to the archive
- maintain the ex-Comarca Dili as a public space
- advise the Government on school curriculum material focusing on the period 1974-99 and on human rights
- develop a civic education program and a training program about the period 1974-99 and about human rights
- conduct public education campaigns to explain CAVR and CTF recommendations to the people
- collaborate with the Government, Red Cross TL, UNHCR and Indonesia on missing persons and also
 - establish a missing persons data base
 - cooperate with the relevant judicial/forensic authorities in investigations into the missing
- assist the Government in providing material and symbolic reparations
 - the Institute will consult with victims and their families, communities gravely affected by the conflict, NGOs, the church and Government bodies and make recommendations to the Government based on these consultations

Draft law about the national reparations program

This law establishes three reparations programs:

- a national commemoration program for all victims
- a individual reparations program for “vulnerable victims” only
- a collective reparations program for communities gravely affected by the conflict

Definition of victim and vulnerable victim

- the law defines a victim as someone who suffered a violation of their human rights during the conflict 1974-99
 - it includes the spouse, widow/widower, children, parents or dependent of anyone who was killed or is missing as a result of the conflict 1974-99
- non discrimination – no victim can be denied the right to reparations based on their past or present political affiliations; or based on the affiliation of the perpetrator
- the law defines a vulnerable victim as someone who continues to suffer physically or mentally or whose economic situation is precarious due to:
 - torture
 - physical or mental incapacitation as a result of the violation of their human rights
 - the execution or disappearance of a spouse, parent or child
 - their forced removal from their parents when they were a child and for a long period of time
 - sexually abused or the fact that someone was born as a result of sexual abuse of their mother during the conflict.

1. Memorial program for victims

The memorial program, which honors all victims, will include the following activities:

- commemoration ceremonies

- erecting monuments
- searching for people missing as a result of the conflict
- exhuming and reburying the remains of people killed during the conflict
- acknowledging individual or community suffering

2. Reparations program for vulnerable victims

Vulnerable victims can receive assistance in the following five areas:

- health and rehabilitation services
- mental health services
- education subsidies for children; and education and literacy programs
- training programs
- assistance to re-bury the remains of missing people.

Those who are eligible for veterans' benefits are not eligible for individual reparations.

3. Community reparations programs

Communities gravely affected by the conflict 1974-1999 are eligible for assistance including:

- infrastructure programs
- subsistence programs
- programs honouring victims from local communities.

The Institute will create a national register of beneficiaries, including individuals and communities

This register can include information

- about the victim's current situation
- how and why the victim's health or mental health has been affected by the violation of their human rights
- difficulties they have encountered as a result of the violation of their human rights.

Information which victims provide in interviews for this register must be treated confidentially.

Registering for benefits

The Institute will assist those who wish to register for benefits including

- providing victim support experts
- and staff of the same sex to assist during the registration process

During the interview, victims will be helped to fill in forms; and to obtain the required ID

Referring victims to existing programs

The Institute can link vulnerable victims with existing organisations which can assist them, including state or church bodies or NGOs; and assist them to register with state assistance programs.