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Clearing House for Archival Records on Timor (CHART Project)

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In light of the recent publication in English of the draft legislation for the institution to continue the work of the CAVR and CTF, I would like to offer the following observations and suggestions on the small part the legislation. My focus is on the Archives aspect of the legislation only.

I am an Australian qualified archivist with a long-standing interest in East Timor. I am presently conducting a project in Australia to identify for long-term preservation and access archival materials about East Timor 1974-99, including access in Timor-Leste. I have visited T-L twice to learn about archival developments in the new country. I have been a regular, albeit informal, consultant on archival matters for CAVR since 2003.

In making the following brief comments, I am drawing on my own archival knowledge and a very important source-book on treatment of truth commission archives internationally -viz; "Final Acts: A guide to preserving the records of truth commissions", Trudy Huskamp Peterson, 2005. See online at: http://www.wilsoncenter.org/press/peterson_finalacts.pdf

COMMENTS ON DRAFT LEGISLATION

Chapter III Areas of activity

Article 25. Archive

My Comment: As it stands, this draft Article 25 lacks strength and detail. In keeping with my own knowledge of long-established professional archival principles (especially concerning the legal evidence value of preserving in unadulterated form the integrity of any given collection), I suggest the following re-wording of this article something along these lines.

1. The IM, I.P. shall keep the documents and other source materials gathered as evidence by the CAVR and CTF as separate, unique collections. The two Commissions' archives shall not be mixed together nor shall other materials later acquired or created by the IM, I.P. be incorporated into the archives of either of the Commissions.
2. The CAVR and CTF archives and any other unique original materials subsequently acquired by the IM, I.P. should be managed, preserved, catalogued and accessed according to internationally-accepted standards of archival practice.
3. In order to assure the long-term preservation for future generations of the unique materials described in 25.2, the IM I.P. will establish a relationship with a trusted institution abroad to arrange projects to house a copy of the archives abroad. This will be a continuation of copy projects already arranged between the post-CAVR Secretariat and the British Library.
4. In order to ensure professional management of the archives, the IM, I.P. shall seek, when and where required, formal archival advice or assistance from qualified individuals or institutions locally or abroad.

CHAPTER IV Access/Use of archives

Missing Article?

Probably appropriate place to include another Article here about protection of the integrity of the archival collections. Perhaps there is already some general applicable law that prevents defacement/destruction/removal of records and archives, but I don't know. Given that one of CAVR's recommendations is for the establishment of national archives legislation, there needs to be some interim article in this legislation which prevents at law anyone (staff, ministers or anyone else) removing/defacing/destroying material in the archives of the IM.

I suggest Article 34 be followed with two more articles in Chapter IV something along the following lines:

(New) Article 35: Protection of integrity of archives

The holders of positions in the IM, I.P. 's organs, their agents or any other person may not remove, deface or destroy any materials determined to be permanently kept in the CTF or CAVR archives or the archives of the new institution.

(New) Article 36: Violation of integrity of archives [Statement on penalties applicable to violation of (new) Article 35.]

Article 31.

My comment: This Article seems to lack a specific clause which covers likely personal privacy & safety issues for informants, victims and alleged perpetrators. Victims may for some reasons not want it to be known they were a source of incriminating information; accused may be innocent of claims against them but accusing info made public may lead to private acts of revenge etc. The access policy needs to strike a careful balance between the right to know what happened and protection of still-sensitive or vulnerable sources (which will change over time).

I therefore suggest the text of 31.2 be followed by a new sentence which says something like:

"The Access Regulation will be initially based on the existing draft Access Policy adopted by the STP-CAVR."