

Chega!

Chega!

**The Report of the
Commission for Reception,
Truth, and Reconciliation
Timor-Leste**

Executive Summary



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Contents

Contents	1
Acknowledgements	3
Foreword	4
Introduction to the Executive Summary	9
Background to the Commission	9
THE COMMISSION: MANDATE, ACTIVITIES AND ACHIEVEMENTS.....	17
Formation of the Commission	18
Mandate	19
Truth-seeking	20
Reconciliation	21
<i>Acolhimento</i> and Victim Support	29
THE FINDINGS OF THE COMMISSION	43
Profile of Human Rights Violations	44
Self-Determination	47
Unlawful Killings and Enforced Disappearances	54
Forced Displacement and Famine	72
Detention, Torture and Ill-Treatment	86
Violations of the Laws of War	107
Political Trials	112
Sexual Violence	116
Violations of the Rights of the Child	124
Violations of Economic and Social Rights	140
Responsibility and Accountability	146
THE RECOMMENDATIONS OF THE COMMISSION.....	155
Introduction	156
1. Timor-Leste and the international community	158
2. Timor-Leste and Portugal	160
3. Human rights in Timor-Leste: promoting and protecting all rights for all	161
4. Human rights in Timor-Leste: protecting and promoting the rights of the vulnerable	169
5. Human rights in Timor-Leste: protecting and promoting human rights through effective institutions	173
6. Human rights at home: security services that protect and promote human rights	179
7. Justice and truth	183
8. Reconciliation	190
9. Reconciliation in the East Timorese political community	193
10. Reconciliation with Indonesia	195
11. <i>Acolhimento</i> (Reception)	198
12. Reparations	200
13. Follow-on institution to the CAVR	211
Abbreviations and acronyms☒	212
Map of Timor-Leste.....☒	213
Endnotes.....☒	214

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Foreword

Address* by Aniceto Guterres Lopes, Chair CAVR

Your Excellencies, President Kay Rala Xanana Gusmão; President of the National Parliament, Francisco Guterres Lú-Olo; Prime Minister, Dr Mari Alkatiri; President of the Court of Appeal, Dr Claudio Ximenes; Dr Sukehiro Hasegawa, Special Representative of the Secretary-General; Members of the Parliament; Ministers of the Government; Distinguished members of the Diplomatic Corps and donor community. Representatives of the Church, faith communities and NGOs, my Commissioner colleagues and staff of CAVR, dear friends.

Today is both the end of CAVR's operational mandate and the occasion on which the Commission fulfills its last obligation – the hand over of our Report to the President of the Republic. This Report has been written pursuant to Regulation 2001/10 which required that the Commission prepares and makes public a report of its activities, findings and recommendations regarding human rights violations committed in the context of the political conflicts during the 25 year period 1974-1999. As amended by the National Parliament, this Regulation also required the Commission to present this Report to the President of the Republic before being dissolved. This is why we are here today.

Five years have passed since the idea of the CAVR was conceived in 2000. During these years Timor-Leste has moved on in many ways and continues to look to the future. Why, then, when Timor-Leste is focused on the future, is a Report being presented that deals with the past?

The function of history

The simple answer to this question is that the Commission did what it was asked to do, namely to inquire into and report on our tragic recent past. Because the result of this labour is a Report that touches on many difficult issues and sensitivities, it is important to remind ourselves that the CAVR was officially commissioned to do this work. The Commission's tasks were defined in law, written into the Constitution, endorsed by the current Parliament on more than one occasion and were supported by the United Nations and the international community. My Commissioner colleagues and I were required under oath to tell the truth, without fear or favour, about violations committed on all sides during Timor-Leste's tumultuous passage to independence. This included telling the truth about the role of the international community. The Report you see before you is not the outcome of a private initiative or enthusiasm. It is the product of a process officially mandated by the State.

This begs the deeper question, however, as to why Timor-Leste chose to address its difficult past. As a resource-poor nation burdened with exceptional challenges, Timor-Leste could have done nothing or opted to forgive and forget. Instead our nation chose to pursue accountability for past human rights violations, to do this comprehensively for both serious and less serious crimes, unlike some countries emerging from conflict

* The Presentation of the CAVR Report to the President of the Republic / Salao Nobre, Palacio Lahane, 31 October 2005

which focused on only one or two issues, and to demonstrate the immense damage done to individuals and communities when power is used with impunity. The CAVR was established as part of this process. Like other transitional justice mechanisms in Latin America, Africa and Europe, our mission was to establish accountability in order to deepen and strengthen the prospects for peace, democracy, the rule of law and human rights in our new nation. Central to this was the recognition that victims not only had a right to justice and the truth but that justice, truth and mutual understanding are essential for the healing and reconciliation of individuals and the nation. Our mission was not motivated by revenge or a morbid or political preoccupation with the past. The CAVR was required to focus on the past for the sake of the future – both the future of Timor-Leste and the future of the international system which, the Report demonstrates, also has much to learn from the experience of Timor-Leste.

The decision of our leaders to address the past through the CAVR process was widely supported by the community. The evidence for this can be seen in the excellent cooperation extended to all of the Commission's activities by all levels of society. Thousands of East Timorese from all parts of the country gave personal statements to the CAVR and, despite the pain it often caused them, participated in and supported reconciliation events and hearings both at district and national levels. The Government, Parliament, political parties, key political figures, civil society and the Church also gave CAVR excellent cooperation at all times, both morally and practically. Such was the cooperation given to the Commission that at no point did the CAVR have to consider activating its inquiry-related search and seizure powers. Only one conclusion is possible: the people of Timor-Leste strongly identified with the CAVR principles and process as the best way to build a stable future free of the violence that marred our past.

The Report

Allow me to say a few words about some features of the Report.

The Report is very long, over 2,000 pages. There are two main reasons for this. First, the CAVR's mandate covered 25 years of protracted conflict during which numerous violations of human rights were committed. In addition, many actors, both domestic and international, were involved making for a complex and dynamic mix of factors and events. Recording all of this has required many pages. Second, the Report is a compact with victims. It is based primarily on testimony from victims and is intended to contribute to healing through the restoration of their dignity. This also required space. The CAVR hopes that victims will see their experiences and suffering clearly reflected in the Report and know that what happened to them is valued in Timor-Leste and has been preserved for posterity. In addition to its Final Report, the CAVR is also publishing selected testimony in their own words by many victims to our seven national public hearings. The CAVR hopes that prioritising the interests and perspectives of victims and survivors in this way will contribute further to healing and a future free of violence.

Though a graphic medium for the voices of Timor-Leste's many victims, the Report is the result of impartial and painstaking inquiry and research. Our mandate required the CAVR to establish trends, patterns and factors. It also required the CAVR to establish accountability and to identify which persons, authorities, institutions and organisations were responsible for human rights violations. In carrying out these tasks, the CAVR has had no political agenda and has studiously avoided embellishment or the impulse to humiliate or take revenge. Human rights violations may have been utilised

in the past to mobilise political support and score points against an adversary. The CAVR's sole objective has been to record the truth so that the shocking consequences of violence recorded in this document will serve to deter its repetition in the future and end impunity. The result is not perfect and it was beyond the CAVR's capacity to investigate every case or to establish the definitive truth on all issues. We believe, however, that the Report gives the people of Timor-Leste the big picture of what happened over the 25 years in question and that it will help the community understand our history and the forces that shaped our destiny.

In contrast to its length, the title of the Report is just one word. This is the Portuguese word "Chega!" which roughly translates to "no more, stop, enough!" We feel that this single word, which is the title in all language versions, captures the essential message of the whole report in an arresting way. We believe it is also the essential message that victims want us all to hear and commit to, namely that the individual and collective nightmares described in this Report must never be permitted to recur.

In preparing this Report, the CAVR had both to work in several languages and present this Report in several languages. This was both an official and practical imperative that placed additional heavy demands on the Commission. I want to stress, however, that the CAVR was also deeply aware that the "Question of East Timor", as it was referred to by the United Nations, was an international question and that it is important to ensure that the Report is accessible to key stakeholders in their own languages. The Report will be available in Portuguese, Indonesian, English and at least partially in Tetum. We hope that in due course an institution will offer to translate the full text into Tetum. In this context I should make it clear that Commissioners formally approved the text of the Report in Indonesian. We verified the text in the other languages but it is the Indonesian version of the Report that should be consulted if there is any misinterpretation of the Report or confusion about what we wanted to say.

Archives

In the course of its inquiry, the CAVR has amassed much documentation for the period 1974-1999. The bulk of this evidence now almost fills two large rooms in the Comarca. I want to make four points about this collection. First, these records are unique and must be preserved with great care – they are the living testimony of victims and key actors from a period that witnessed both the painful birth of this nation and a shameful chapter in international politics. Second, they are a rich resource for further research, writing, and education. They will be a valuable resource for the Education Department in the development of curriculum and materials for the classroom and lecture theatre. As such I hope they will continue to attract continuing support to ensure their long term preservation, accessibility and use. Third, this collection must be further enriched through additional contributions. I take this opportunity to appeal to all East Timorese people who have material related to 1974-1999 in their possession, whether in Timor-Leste or abroad, to consider contributing their records, either originals or copies, to this central national depository. And fourthly, every care must be taken to ensure that access to the statements entrusted to the CAVR by victims is controlled and that the confidentiality of evidence and the rights and security of statement-givers are fully respected. The CAVR has made every effort, in collaboration with the Parliament and the Ministry of Justice, to ensure that this is guaranteed following its dissolution.

The future

This brings me to a final point in relation to the content of the Report. Much of the CAVR's work has been a good start but much remains to be done – in the areas of reconciliation, truth-seeking, healing and justice.

The CAVR believes that it has contributed to stabilising many local communities through its reconciliation programme. Nevertheless, many cases were not addressed and creative ways of using the CAVR's methodology need to be developed so that this unique process can be utilised to address conflict in the future. In the area of truth-seeking, the CAVR was not able to give definitive answers to many issues. It is hoped that, based on the evidence it has collected and the uncovering of new information through further research, the process of truth-seeking can continue. It also remains for this Report to be disseminated and its recommendations acted on. This is an item of unfinished business that is essential to the healing process, the deepening of a culture of human rights and rule of law, and the learning of lessons both nationally and internationally. For this to happen, an effective follow-up institution is essential. This body is also necessary to ensure the security, professional management, and development of the CAVR archives.

Appreciation

After being very high-profile in all parts of the country and through our nationally broadcast public hearings, the CAVR has been low-profile for over 12 months. Some may have wondered if we had gone to sleep on the job! The reality is that we have been fully engaged in fulfilling the second of our mandates over the past months – truth-seeking — and this has proven extremely taxing, difficult and time-consuming.

Therefore I want to begin this list of appreciations by acknowledging the understanding and support we have had from the National Parliament, particularly by granting us extra time on three occasions to complete our work. Thank you President Francisco Guterres Lú-Olo and all your Parliamentary colleagues.

The experts say that one of the conditions for a successful truth commission is a certain level of official support or acquiescence. That condition was certainly met in the CAVR's case. As Commissioners from the relatively youthful post-1975 generation, we can now confess that we felt considerable trepidation having to address issues in which revered older leaders were key actors. We need not have worried and owe a profound debt of thanks to our political leaders whose understanding and support meant a lot to us.

Mr President, you have long been a champion of reconciliation, and the CAVR's approach owes much to the inclusive ethos that is a hallmark of your leadership. We have deeply appreciated your support on the many occasions that we have sought your advice. Thank you also for sharing your knowledge with the Commission, for giving public testimony and assisting with fund-raising. We are also indebted to you, Mr Prime Minister. You gave unambiguous public support to the CAVR from the beginning, totally respected the independence of the Commission, and on top of your numerous duties found time to assist with fund-raising, to be interviewed and to give public testimony. The same can be said for your Senior Minister and Minister for Foreign Affairs and Cooperation, Dr José Ramos-Horta, who in addition to other assistance, used his access to international fora to speak on behalf of the CAVR.

Because of their support, which was widely shared by the political parties, the faith community, the Catholic Bishops and civil society, the CAVR was able to focus on its sensitive work free of controversy and distraction.

We also wish to thank the President of the Court of Appeal, Dr Claudio Ximenes, and the Prosecutor General, Dr Longuinhos Monteiro, for their personal and institutional support. Both institutions were key components in the success of the CAVR Community Reconciliation Process.

The CAVR also enjoyed generous support from the international community, particularly in the form of financial grants and human resources. Because of Timor-Leste's economic situation, all funding for the CAVR had to be found externally. Over 25 governments and funding agencies responded to our appeals and provided the funds necessary to rehabilitate and run six offices, place nearly 300 staff in the field, provide the transport, equipment and resources needed for our work and to provide expert advisors to the Commission in several areas. The names and contributions of these donors can be found in the Report. On behalf of all my colleagues at the CAVR I wish to thank each of them most sincerely both for recognising that peace-building is the basis of sustainable development and for their unstinting practical and moral support over five years.

Last but not least, I wish to thank my six National and 28 Regional Commissioner colleagues and all our wonderful staff for their contribution. Over 500 people – including Commissioners, national and international staff and short-term volunteers – have worked at or for the CAVR since 2001. The CAVR was an ambitious magnum opus and adventure into the unknown for all of us. More than once it threatened to overwhelm us emotionally and organisationally. It has been particularly intense and demanding over the past 12 months. I know that working at the CAVR has been a unique and deeply meaningful experience for all my colleagues, Commissioners and staff alike. Nevertheless, Timor-Leste owes each of them an immense debt for the contribution they have made to peace, unity and human rights in our new nation.

Conclusion

Before I present our Report, I have only one thing to say by way of conclusion. It is that the deepest wish of all at the CAVR is that the Report will be received in the spirit in which it was written – with openness, honesty, a deep compassion for those who have suffered the most, an almost fanatical commitment to non-violence, and a determination never, ever to let any of what is in this Report happen again to our beautiful country and people.

On behalf of my Commissioner colleagues and all the CAVR staff, it is now my great honour and privilege to hand over the CAVR Report to your Excellency Mr President.

Introduction to the Executive Summary

The executive Summary to the Final Report entitled *Chega!* contains excerpts from the full report. Its purpose is to provide an overview of the activities, achievements and findings of the Commission.

This version is divided into three parts:

THE COMMISSION: MANDATE, ACTIVITIES AND ACHIEVEMENTS — provides an overview of the mandate, activities and achievements of the Commission;

THE FINDINGS OF THE COMMISSION — provides a summary of the Findings of the Commission;

THE RECOMMENDATIONS OF THE COMMISSION — contains the Recommendations of the Commission exactly as they appear in the full report.

While this version contains a number of key references to the sources used by the Commission in developing the Final Report and its findings, it does not make exhaustive reference to these sources. Readers are therefore encouraged to refer to the Final Report for full documentation of the Commission's sources.

In addition, the Executive Summary, due to considerations of brevity, does not reflect the voices of thousands of victims which can be found in the Final Report. The Commission hopes that the reader will use the short version as an invitation to read the full text of the Final Report.

Background to the Commission

The people of Timor-Leste's long struggle to secure their freedom and their destiny as a nation reached a decisive moment in 1999. After hundreds of years of Portuguese colonialism and 24 years of foreign occupation, we were finally able to express our wish to live as free and independent people in a free and independent country, as the international community at last supported our fundamental right to self-determination. The oppression of the long years of colonialism and the shocking violence of the years of militarised foreign occupation culminated in one last campaign of violence against the people of Timor-Leste in September and October 1999, which left our tiny country devastated in the wake of the departing military.

The immediate signs of the devastation were plain for all to see. The burned-out towns and villages, the bloodstained buildings which had been the site of massacres, whole regions almost empty of people who had fled or been forced to leave their homes. As slowly people returned home to look for the living and seek to salvage what they could, and as the international community came to help with emergency relief, gradually the longer-term scars of the long political conflicts became apparent.

For ordinary people the legacy of 24 years of conflict and violence was profound and multi-faceted. Amid the rubble of late 1999 it was apparent that steps needed to be

taken to address the many elements of this legacy, to assist people to rebuild their lives and to enshrine human rights and the rule of law as governing principles of the new nation.

On October 25 1999 the United Nations Security Council created the UNTAET mission, with a mandate to provide transitional administration of the territory and prepare it for independence. As the initial demands of the humanitarian crisis diminished, the focus shifted to the establishment of essential institutions. These included the institutions responsible for administering justice, including for past violations.

Many East Timorese human rights activists' first preoccupation was how to help tackle the humanitarian emergency produced by the violence of September-October. As humanitarian relief programmes became established, activists turned in 2000 to the issue of past crimes and the legacy of the long conflict. There were concerns for the potential for violence to reignite, especially in the context of the virtually complete impunity enjoyed by perpetrators of crimes. And the longer term issue of developing a culture of respect for human rights and the rule of law in a society from which these had been long demanded action.

In late 1999 the United Nations sent a Commission of Inquiry to investigate recent events and to recommend how those responsible for them should be held accountable. The Commission recommended an International Tribunal be established to try cases of 1999 crimes. Instead the UN established a Serious Crimes process in Timor-Leste and encouraged the Indonesian Government to show its commitment to the rule of law by using its own judicial system to try people residing in Indonesia. East Timorese human rights activists, aware that the impact of the conflict on East Timorese society was not confined to the events of 1999, sought other measures to complement this process.

On 7 March 2000, at a conference of its Comissão Política Nacional (National Political Commission, NPC) the CNRT decided to form a commission for reconciliation. In June 2000 the CNRT Reconciliation Commission conducted a workshop with support from Uppsala University (Sweden) and the Human Rights Unit of UNTAET. Participants included members of political organisations, human rights activists and members of the Catholic Church, who explored the idea of a truth and reconciliation commission. The group brought this idea to the August 2000 CNRT National Congress, a landmark gathering to help formulate the vision for the new independent Timor-Leste. The Congress endorsed the idea of a truth and reconciliation commission and established a steering committee to conduct consultations to determine whether the idea was acceptable to the broader East Timorese community. This was the beginning of the CAVR.

From colonialism to militarised occupation

About 500 kilometres north of Australia, Timor-Leste straddles Asia and the Pacific, and this can be seen in the country's cultural and linguistic diversity. Timor was colonised by the Portuguese, just as their power in the region was diminishing in the face of the growing assertiveness of the Dutch and the British. Over the following centuries Portuguese Timor became increasingly isolated, Portugal's only foothold on the fringe of South-East Asia.

The Portuguese hold on Timor was tenuous until the 19th century, as it did little to assert control over the majority of East Timorese living in the mountainous interior. In the mid-19th century, Portugal introduced the forced cultivation of coffee as a cash crop, which together with the imposition of various taxes put them in much closer control of Timorese people's daily lives. Rebellions ensued into the early 20th century, when the Portuguese violently put down an uprising led by Dom Boaventura from Manufahi, which gained widespread support throughout the territory. Portugal sought to shore up its control through a system of government which favoured certain local leaders over others. The result was a society which lacked the cohesion required to forge a sense of nationhood.

Compounding this colonial legacy was the fact that for most of the 20th century Portugal itself was under the authoritarian regime of Salazar and his successor Marcelo Caetano. From the late 1920s until the Carnation Revolution of April 1974, political freedoms in Portugal were heavily curtailed. Portugal suppressed all aspirations for independence in its colonies, characterising them as an integral part of Portugal, even after the United Nations had declared them non-self-governing territories in 1960. Portugal was the last of the European powers to decolonise, ignoring the wave of decolonisation that began after the Second World War. It was only after liberation wars in Portugal's African colonies convinced many Portuguese that the empire could not be sustained that change occurred with the Carnation Revolution of 15 April 1974.

The promise of decolonisation was one of the main rallying cries of this revolution in Lisbon. However, for the Portuguese decolonisation meant above all rapid disengagement from the wars it was fighting against the liberation movements in its African colonies. Their Asian colony of Timor was a special case that was easily overlooked. Over the ensuing months Portuguese policy towards Timor suffered from, inadequate attention and planning, compounded by constant changes of government in Lisbon. In Timor the Carnation Revolution opened the way for aspirations for freedom among the mostly young and inexperienced politically active. Political associations quickly formed, with the two main ones, *Associação Social Democrata Timorese* (Timorese Social Democratic Association, ASDT), later to be renamed *Frente Revolucionária de Timor Leste Independente* (Revolutionary Front for an Independent East Timor, Fretilin) and *União Democrática Timorese* (Timorese Democratic Union, UDT), favouring independence for the territory.

This was the height of the Cold War. During 1975, the year after the Carnation Revolution, the war in Vietnam was fought to its conclusion with the victory of the communist north over the south and its US patron. Amid US and Western fears of a "domino effect" that could turn more of South-East Asia communist, the staunchly anti-communist military regime of President Soeharto came to be seen as a bulwark of stability in the region.

Hopes that decolonisation in Timor would be smooth were thwarted by Portuguese neglect, Indonesian interference supported by its key Western allies, the US and Australia, and the inexperience and lack of political experience of the mainly young leaders of the newly-formed parties, whose political discourse was heavily laced with the rhetoric of violence and personal attacks rather than interchange of ideas.

On 11 August 1975 the centre-right party UDT launched an armed movement in Dili. Its objective was to establish control of the territory, demand the removal of Portuguese and East Timorese radicals, and thus demonstrate to Indonesia that Timor was not

about to become a breeding ground for communism. An already volatile state of affairs exploded into violence across the districts of Timor. Within ten days the left-wing party Fretilin responded with a general armed insurrection.

This brief civil war was over by early September, but it had changed the situation irreversibly. The fighting took up to 3,000 lives and left deep and enduring scars. At the end of August the Portuguese colonial administration fled the mainland for the island of Ataúro, never to return. Leaders and members of UDT, and the other three smaller parties, *Associação Popular Democrática Timorese* (Timorese Popular Democratic Association, Apodeti), *Klibur Oan Timor Aswain* (Association of Timorese Warrior Sons, KOTA) and *Trabalhista* (Labour), fled across the border into Indonesian West Timor, and aligned themselves with Indonesian aims.

The Indonesian armed forces had been conducting covert operations in Portuguese Timor since mid-1974, and had been giving members of Apodeti military training in West Timor since December 1974. From September 1975 the Indonesian military conducted cross-border operations into Portuguese Timor aimed at undermining the position of the hard-pressed Fretilin *de facto* administration. In October 1975 it stepped up these operations through large-scale combined air, sea and land attacks that resulted in the occupation of key towns in the western district of Bobonaro.

Fretilin, hoping to put the decolonisation process back on track, sought the return of the Portuguese administration. Denied support or direction from Lisbon, the governor, Mário Lemos Pires, refused to return or to enter negotiations with Fretilin on the basis of its claim that it was the sole legitimate representative of the East Timorese people. To prevent military aggression by Indonesia and to gain international recognition and assistance, Fretilin unilaterally declared independence on 28 November 1975.

The four other East Timorese political parties, under pressure from the Indonesian military, signed a declaration, the Balibo Declaration, in Bali the next day proclaiming Portuguese Timor's integration with Indonesia. Indonesia launched a full-scale invasion of Timor on 7 December 1975. Fretilin and its armed wing, Falintil, retreated to the interior with ten of thousands of civilians. Thus began the war that lasted, through several distinct military and political phases, for 24 years.

Indonesia sought to legitimise its annexation of Timor-Leste. The Popular Representative Assembly, consisting of hand-picked Timorese, met in Dili in May 1976 and, citing the Balibo Declaration, unanimously approved a petition calling for integration. On the basis of this purported act of self-determination, in July 1976 the Indonesian Parliament passed a law declaring East Timor the 27th province of Indonesia. The United Nations never recognised this process as constituting an internationally acceptable act of self-determination by the East Timorese people. The UN Security Council condemned the invasion and called for withdrawal of Indonesia troops in December 1975 and again in April 1976. The General Assembly passed a motion supporting self-determination for Timor-Leste every year until 1982, when the matter was referred to the good offices of the Secretary-General. Timor-Leste remained on the UN agenda throughout the occupation, listed as a non-self governing territory under Portuguese administration.

In reality key member states did little to challenge Indonesia's annexation of Timor-Leste or the violent means used to enforce it. Most nations were prepared to appease Indonesia as a major power in the South-East Asian region. The situation in Timor-Leste

was poorly understood. Governments friendly to Indonesia supported its version of events there. Isolated in its own region during the years of Portuguese colonialism, it was a closed territory for the first 13 years of the occupation as the Indonesian military used every means at its disposal to subdue the people of Timor-Leste. The UN was frustrated in its efforts to enter Timor-Leste to assess the situation, foreign aid was blocked and international diplomats and media were granted permission to make only occasional, tightly-controlled visits to the territory. East Timorese in exile worked vigorously with international civil society to bring attention to the plight of the East Timorese people, but with limited means compared to the powers supporting Indonesia.

The war reached every village of Timor-Leste and profoundly influenced the lives of all East Timorese people. Cut off from the world and without any form of institutional protection, ordinary civilians suffered massively from the merciless assaults and random cruelties of the Indonesian military, particularly in the early years of the occupation. Those perceived to be political opponents of the occupation were treated particularly brutally. Especially in the early years of the occupation, ordinary civilians could also suffer vicious treatment if they fell foul of the Resistance's sweeping notions of ideological deviance.

All this time Indonesian military and political leaders claimed that the activities of handful of "security disruptors" apart, the war was over and that reports of human rights violations were fabrications. Foreign allies of Indonesia were complicit in supporting these falsehoods, thereby reinforcing the impunity enjoyed by the Indonesian military domestically and allowing it to continue its ferocious campaign to subdue the people of Timor-Leste unchecked.

During the occupation years the character of the conflict went through several changes. The 1970s were years of large-scale military operations aimed at destroying the armed Resistance led by Fretilin. Large numbers of the civilian population lived in the interior with the Resistance, and suffered directly from these military operations. By the end of the 1970s the armed Resistance was shattered, and its strategy of fixed base areas, in which the civilian population was to play a crucial role, came to an end. When the civilian population were forced out of the interior, the Indonesian military pursued a strategy of separating the civilian population from the armed Resistance by holding tens of thousands of surrendered civilians in detention camps and resettlement villages with disastrous consequences for the people of Timor-Leste, who suffered terrible famine in the late 1970s and early 1980s.

The Resistance reorganised in the 1980s into a guerrilla force, supported by a growing clandestine movement in towns and villages. The Indonesian military extended its territorial reach to all villages in Timor-Leste, including a smothering intelligence and paramilitary presence made up largely of East Timorese. This militarisation of East Timorese society was pervasive and had the effect of severely curtailing the rights of East Timorese across the whole internationally-recognised spectrum that extends from the political and civil to the economic, social and cultural.

By the late 1980s Indonesia claimed to have "normalised" the province of East Timor, and partially lifted its ban on access to the territory. Earlier in the decade young people began attending universities in Indonesia, and the clandestine movement was increasingly driven by this new generation. As the Cold War ended in 1989, and as foreigners trickled into the newly opened province of East Timor, this young generation

were in the front line of a new Resistance strategy in which demonstrations against the occupation were a core component. The response was swift and ruthless, and in 1991 the infamous Santa Cruz Massacre of young people by the Indonesian security forces took place in Dili. Unlike previous massacres, this one was filmed by a foreign journalist and images of the carnage reached the outside world. This had a profound effect on understanding of the situation in Timor-Leste worldwide, and renewed international efforts to seek a solution to “the question of East Timor”.

With renewed international attention on Timor-Leste, and the paradigm shift in the assumptions of global politics that the end of the Cold War produced, Indonesia came under increasing pressure to respond. However, President Soeharto remained a favoured ally of Western and regional powers alike, and it was only when he fell from power in 1998 that real change became possible. The United Nations, which had remained seized of the matter throughout the occupation, stepped up its activities and ultimately brokered the 5 May Agreements that led to the Popular Consultation of 30 August 1999, in which the people of Timor-Leste chose independence.

While the international community finally supported the East Timorese right to self-determination by backing the Popular Consultation, once again it failed to confront the true nature of the Indonesian occupation. Security for the Consultation was placed in the hands of the Indonesian police, well-known to be subordinate to the Indonesian military, which not only continued to be deployed in the territory but blatantly nurtured East Timorese militias as the instrument of a strategy intended to ensure the victory of pro-integration forces. The result was predictable. However, the people of Timor-Leste defied the ensuing campaign of threats, intimidation and violence and came out and voted for independence. When the result of the ballot was announced, the Indonesian military and its militia allies carried out its threatened retaliation, to devastating effect, but this time governments were unable to ignore the contrast between the extraordinary courage and quiet dignity displayed by the voters of Timor-Leste and the terrible retribution wreaked by the TNI and its East Timorese partners.

Coming together: reconciliation

From the earliest days of the decolonisation process in Timor-Leste, when political associations were formed and differences emerged, there were efforts to try bridge these differences and to work cooperatively in the wider national interest. As members of the main political parties attacked each other verbally over the radio, others who saw the dangers came together and negotiated a short-lived coalition between the UDT and Fretilin parties. As this coalition threatened to unravel, there were members of both parties who struggled to keep it alive. The Commission heard that even in August-September 1975 hopes of a rapprochement appeared to have been definitively dashed by the UDT armed movement and the “civil war” that it precipitated, there were individuals prepared to try to open dialogue between the contending parties. In the early months after the invasion, when its true meaning was becoming apparent to many East Timorese who had supported it, the Commission also heard of quiet efforts at rapprochement between the enemies of the civil war. These early efforts largely failed, but they were the forerunners of the slow and persistent growth of a truly national consciousness that was forged in the long struggle for self-determination.

During the years of occupation the Resistance became an inclusive movement which sought ways to involve people from all East Timorese political backgrounds and those without any partisan allegiance, including members of the Catholic Church. As the Resistance moved away from hardline ideology during the 1980s and embraced a “national unity” strategy, it reached out to all East Timorese who supported self-determination. From the early 1980s members of UDT and Fretilin in exile began working together to influence the international community. The path to rapprochement was not smooth – but a common commitment to liberty and self-determination sustained these efforts. Institutionally, the Resistance moved from the leadership of the single party Fretilin to the *Concelho Revolucionário de Resistência Nacional* (Revolutionary Council of National Resistance, CRRN), then the *Concelho Nacional da Resistência Maubere* (National Council of Maubere Resistance, CNRM) and finally the *Conselho Nacional de Resistência Timorese* (National Council of Timorese Resistance, CNRT) – each shift signaling the progressive broadening of the movement to include all East Timorese people sharing that commitment. The new generation of the 1980s and 1990s increasingly adopted this nationalist, non-partisan perspective on the struggle.

Moreover, the Resistance learned the strength of peaceful dialogue as a means of creating mutual respect and building confidence. In 1983 the Resistance promoted its first peace plan, and in the early 1990s the CNRM disseminated a peace plan that proposed unconditional dialogue to try to resolve the conflict. In the mid-1990s, under the auspices of the UN, East Timorese people from pro-independence and pro-integration backgrounds came together for a series of meetings designated the All-Inclusive Intra-East Timorese Dialogue. When change looked truly possible in Timor-Leste in 1998, but was threatened by violence, the Catholic Bishops of Timor-Leste brought together pro-independence and pro-integration East Timorese leaders in the meeting known as Dare I. A second meeting, Dare II, was convened in Jakarta in 1999, when violence put the Popular Consultation at risk.

It could be said from the violence of September-October 1999 these initiatives failed. However, this misses their true significance, which is that for 25 years there were East Timorese who struggled to find a peaceful way of resolving divisions, and that ultimately, through the Popular Consultation of August 1999, the overwhelming majority of the people supported this approach. We need to learn from this, and to take inspiration from the efforts of East Timorese peacemakers. In the future, there will always be differences of view in our society and with our neighbours. We will be faced with choices, at the local, national and international levels, about how we approach these differences. The experience of the past shows that we must always choose the path of peace. That way we can secure our future, and we can become a shining light to the world. Our knowledge of our past can help us shape a peaceful future.

The truth

The mandate of the Commission was to establish the truth about the human rights violations which occurred in Timor-Leste throughout the 25-year mandate period. The scope of this mandate included determining the factors such as the context, causes, antecedents, motives and perspectives which led to the violence, whether they were part of a systematic pattern of abuse, the identity of persons, authorities, institutions and organisations involved in the violations, and whether the violations were a result

of deliberate planning, policy or authorisation on the part of the state, political groups, militia groups, liberation movements or other groups or individuals.¹ The Commission was also mandated to examine the role of both internal and external factors, and to determine accountability for the violations (Regulation 2001/10.)

The Commission was not a court of law, and has not prepared cases or indictments against individuals or about individual cases. Nevertheless, the Commission's work to establish the truth has involved the gathering of a wide range of material that constitutes strong evidence of the human rights violations which occurred throughout the period. According to the mandate of the Commission, this truth has several purposes. For example:

- To shed light on events that have until now been largely unreported or even covered up
- To encourage further investigation, by states, international organisations and others, that can lead to prosecutions and thus advance the fight against impunity for serious crimes
- To assist victims regain their dignity, by sharing with the nation and the international community the truth which has until now been suppressed and so not understood or perhaps not believed
- To understand better the forces which have shaped East Timorese society and the nation, and to draw lessons from the past which can nurture a culture of peace and respect for human rights and the rule of law
- To foster an awareness and understanding of the past in all citizens of Timor-Leste, especially among the young and in future generations, so that by remembering and honouring the suffering of our people during these years of conflict we learn to appreciate the difficult challenges they faced, how they coped with those challenges and value in particular those who made a contribution to lasting peace and freedom in our land.

The truth contained in this Report comes largely from the words of those who directly experienced the years of conflict. The Commission has attached special importance to listening directly to those who suffered human rights violations throughout the 25-year period, most of whom had not spoken outside the narrow circle of their family. These many voices, from across the country, have given Timor-Leste a priceless asset. They tell us who we are, what we have been through, what we have lost, and show us the value of what we have gained. From the stories of our sisters and brothers we learn that victory is not a simple matter of heroes and villains; that history is more than the listing of major events or the biographies of those who are called leaders. The experiences of "ordinary people", both the many who died and those who survived, tell us where we have come from and help us understand who we are today. From their stories we see more clearly both the extremes of human dignity and of human degradation that were manifested in our country during these 25 years. We must learn from both sides of this human story. We must acknowledge our potential for both extremes, and strive always to bring the best of our humanity into our lives and relationships—our families, our communities and our nation—each day as we build a new future.

**THE COMMISSION:
MANDATE, ACTIVITIES AND
ACHIEVEMENTS**

Formation of the Commission

In June 2000 representatives of East Timorese civil society, the Catholic Church and community leaders held a workshop to consider transitional justice mechanisms, supported by the UNTAET Human Rights Unit. The advisability of establishing a truth commission for Timor-Leste was part of its agenda. The workshop recommended that a proposal to establish an independent commission with a mandate to investigate past violations and promote reconciliation should be put to the first National Congress of the CNRT (*Conselho Nacional da Resistencia Timorese*) in August 2000.

The CNRT Congress adopted the following vision of reconciliation:

Reconciliation is a process, which acknowledges past mistakes including regret and forgiveness as a product of a path inherent in the process of achieving justice; it is also a process which must involve the People of Timor-Leste so that the cycle of accusation, denial and counter-accusation can be broken. This process must not be seen only as a conflict resolution or mere political tool which aims at pacification and reintegration of individuals or groups in the context of their acceptance of independence and sovereignty of Timor-Leste but, above all, must be seen as a process where truth must be the outcome.

The Congress unanimously recommended the establishment of a “Commission for Resettlement and National Reconciliation”. A Steering Committee to develop the proposal was formed. It included representatives from the CNRT, East Timorese human rights NGOs, women’s groups, youth organisations, the Catholic Church, the Association of ex-Political Prisoners (Assepol), Falintil, UNTAET and UNHCR. The Committee’s first task was to conduct community consultations across Timor-Leste, and with East Timorese refugees in West Timor and other parts of Indonesia. The objective of these consultations was to collect information so as to gain an understanding of the attitudes of the East Timorese people on issues relating to reconciliation.

Following the Congress, assistance was sought from the UNTAET mission. The Transitional Administrator, Sérgio Vieira de Mello, nominated the Human Rights Unit of the mission to act on behalf of the UN in supporting the Steering Committee.

The Steering Committee conducted consultations with communities across Timor-Leste from September 2000 to January 2001. It visited each of the 13 districts, holding public meetings at district, sub-district and village level. It also consulted political parties, jurists and human rights organisations and victims’ groups. It found overwhelming community support for a truth and reconciliation commission.

On 21 January 2002 the Transitional Administrator, Sérgio Vieira de Mello, swore in as National Commissioners the five men and two women whom the Selection Panel had nominated. Those appointed were Aniceto Longuinhos Guterres Lopes, Father Jovito Rêgo de Jesus Araújo, Maria Olandina Isabel Caeiro Alves, Jacinto das Neves Raimundo Alves, José Estêvão Soares, Reverend Agostinho de Vasconcelos, and Isabel Amaral Guterres.

Following a public nomination process in each district the Transitional Administrator, Sérgio Vieira de Mello, swore in 29 Regional Commissioners on 15 May 2002. Ten of those appointed were women.

The following individuals were appointed as Regional Commissioners of the CAVR: Francisco Martins, Meta Mendonça (Aileu); Filomena Barros Pereira, Alarico da Costa Reis (Ainaro); Carolina M E do Rosario, Aleixo Ximenes (Baucau); Ana de Fatima Cunha, Francisco dos Reis Magno, Domingas dos Santos (Bobonaro); Antonio Alves Fahik, Maria Nunes (Covalima); Teresinha Maria Cardoso, Pedro Correia Lebre, Joanico dos Santos (Dili); Eduardo de Deus Barreto, Egidio Maia (Ermera); Albino da Silva, Justino Valentim (Lautem); Maria Fernanda Mendes, Ana Maria J dos Santos (Liquiça); Geraldo Gomes, Ildefonso Pereira (Manatuto); Jaime da Costa (later resigned); Saturnino Tilman (Manufahi); Antonio da Costa, José Antonio Ote, Arnold Sunny (Oecusse); Helena H X Gomes, Daniel Sarmento Soares (Viqueque).

Mandate

UNTAET Regulation 2001/10 established the Commission as an independent authority, with a requirement that it “not be subject to the control or direction” of any cabinet minister or other government official.[†] The establishment of the Commission was recognised in the Constitution of the RDTL, Article 162. It was granted an initial operational period of 24 months. Three later amendments to the Regulation extended this period first to 30 months, then to 39 months, and finally an extension to 31 October 2005.[†]

Under its mandate the Commission’s tasks included the following.

1. Inquiring into and establishing the truth regarding human rights violations which took place in the context of the political conflicts in Timor-Leste between 25 April 1974 and 25 October 1999.² The inquiries were to include:
 - The context, causes, antecedents, motives and perspectives which led to the violations³
 - Whether they were part of a systematic pattern of abuse⁴
 - The identity of persons, authorities, institutions and organisations involved in them⁵
 - Whether they were the result of deliberate planning, policy or authorisation on the part of the state, political groups, militia groups, liberation movements or other groups or individuals⁶
 - The role of both internal and external factors⁷
 - Accountability, “political or otherwise”, for the violations.⁸

^{*} Regulation 2001/10 On the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor, Section 2.2. In this Part, the Commission uses the term East Timor when making specific reference to Regulation 2001/10 and other legal instruments such as the United Nations Resolutions and international law; it also generally uses the term East Timor to reflect the term as used throughout the mandate period in the context of international law and the issue of self-determination.

[†] Although Section 2.4 of the Regulation allowed for a six-month extension without recourse to parliamentary consideration, all extensions were sanctioned by formal amendments to the Regulation. Democratic Republic of Timor-Leste National Parliament Law No 7/2003, Article 1 extended the mandate to 30 months. Democratic Republic of Timor-Leste National Parliament Law No 13/2004, Article 1 extended the mandate to 7 July 2005. Democratic Republic of Timor-Leste National Parliament Law No 11/2005, Article 1 extended the mandate to 31 October 2005.

2. Preparing a “comprehensive report which sets out the Commission’s activities and findings, based on factual and objective information and evidence collected or received by it or placed at its disposal”.⁹
3. Formulating recommendations concerning reforms and initiatives designed to prevent the recurrence of human rights violations¹⁰ and to respond to the needs of victims. The recommendations could also include proposals for legal, administrative and other measures which could contribute the achievement of the objectives of the Commission.¹¹
- 4..Recommending prosecutions, where appropriate, to the Office of the General Prosecutor.¹²
- 5..Promoting reconciliation.¹³
6. Implementing Community Reconciliation Processes (CRPs), whose object was to support the reception and reintegration of individuals who had caused harm to their communities through the commission of minor criminal offences and other harmful acts.¹⁴
7. Assisting in restoring the dignity of victims.¹⁵
8. Promoting human rights.¹⁶

Truth-seeking

The goal of the truth-seeking programme was to document human rights violations committed by all parties to the political conflict between April 1974 and October 1999. The strategies developed were systematic statement-taking in each sub-district, focused research and the holding of public hearings. Submissions, including documents and other relevant materials, were sought from sources both within Timor-Leste and from abroad.

The Commission collected 7,669 statements from the 13 districts and 65 sub-districts of Timor-Leste.^{*} Together with a coalition of local non-governmental organisations in West Timor it worked to give East Timorese people in West Timor an opportunity also to give statements. Between February and August 2003 the NGO coalition collected on behalf of the Commission a total of 91 statements from East Timorese living in the regions of Belu, Kefamenanu, Soe and Kupang in West Timor.

The research unit of the Commission conducted over 1,000 interviews focusing on famine and displacement; the Indonesian security forces; Fretilin/Falintil; detention and torture; extra-judicial killings and forced disappearances; children; women; and the internal armed conflict. Subjects included individuals who had played significant roles in events and had held leadership positions at various stages of the conflict, as well as perpetrators and victims. Commissioners and staff conducted these interviews in Dili, in the districts, in Portugal and in Indonesia. The research themes broadly corresponded with those of the national public hearings, and researchers also played an important role in identifying and contacting victims and witnesses to testify during these hearings. In mid-2003 the Commission began a series of interviews with key national figures, known as VIP interviews. In addition to personal testimony of direct

^{*} Although the National Development Plan of Timor-Leste refers to 67 sub-districts in the nation, at the time of the formation of the Commission there were 65 generally agreed upon sub-districts, which formed the basis of the operational strategies of the Commission.

experience, these interviews enabled the Commission to investigate the background and details of organisations and events. The Commission conducted 15 VIP interviews in Timor-Leste and Indonesia, including West Timor.

In June 2003 the Commission launched a statistical inquiry into the number of East Timorese people who died as a direct result of the conflict, whether due to deprivation, in armed combat, in crossfire or as victims of unlawful killing or enforced disappearance. Although several previous attempts have been made over the years to estimate the number of fatalities from these causes, this was the first opportunity for any organisation to undertake objective research into the death toll during the conflict.

This project was designed and implemented in cooperation with The Human Rights Data Analysis Group, an international organisation which specialises in human rights statistical analysis and which has worked with several other truth commissions. The analysis was based on three sets of independent data:

- information contained in the approximately 8,000 statements which had been collected, coded and entered into the Commission's data base,
- a Graveyard Census based on a count of gravestones in a total of 492 graveyards across Timor-Leste,
- a Retrospective Mortality Survey, which was designed by the Human Rights Data Analysis Group. An intensive survey of members of 1,322 randomly selected households in 121 aldeias across the territory was undertaken. The survey included a questionnaire designed to yield information related to the death toll, such as the date, circumstances and causes of deaths of family members during the period of the conflict.

The application of statistical techniques to these disparate sets of data, each of which had its own strengths and weaknesses, was able to yield an estimate of the death toll that was scientifically reliable.

Reconciliation

We attended two biti boot meetings — one at the aldeia and one at the village level. They were good because through reconciliation we could confess everything that we had done — fighting, burning houses — including the one belonging to the head of the village. Through the process we could apologise and they forgave us. We fixed the roof — it wasn't a punishment but a sign of reconciliation. After reconciliation we felt better, because in the reconciliation process we agreed that nobody could say that we are refugees — the case is closed.

Deponent — Aileu¹⁷

I feel very happy with the process because now we can live in peace. Before I couldn't really talk to the [deponents]. I wanted them to declare what they did. I felt I said what I needed to say. Now I feel more free. I feel close to the deponents.

Victim — Aileu¹⁸

The Community Reconciliation Process

One of the Commission's core functions was promoting reconciliation in Timor-Leste. This objective informed the design of all Commission programmes and the way such programmes were implemented. The Commission adopted a holistic, integrated approach to promoting reconciliation in Timor-Leste, involving all levels of society in its work. It also approached the goal of reconciliation from a variety of angles through the broad range of programmes it undertook during its operational period. It was understood by the Commission that, if it was to be truly effective, work on reconciliation must engage individuals, families and community groups from all sides of the conflict, reach to the highest levels of the national leadership, and continue for many years to come.

The Commission's main reconciliation initiative at the grassroots level was its programme on the Community Reconciliation Process (CRP). This was a novel and previously untested programme designed to promote reconciliation in local communities. It aimed to achieve this through reintegrating people who had become estranged from their communities by committing politically-related, "less serious", harmful acts during the political conflicts in Timor-Leste.^{*} The underlying belief of the programme was that communities in Timor-Leste, and those who had harmed them in less serious ways, were ready to reconcile with each other. The CRP procedure was based on the philosophy that community reconciliation could best be achieved through a facilitated, village-based, participatory mechanism. This mechanism combined practices of traditional justice, arbitration, mediation and aspects of both criminal and civil law.

Accordingly, the Commission was given a mandate by Regulation 2001/10¹⁹ to organise community-based hearings. At these hearings victims, perpetrators and the wider community could participate directly in finding a solution to enable perpetrators of "harmful acts" to be reaccepted into the community. The regulation set out the basic steps to be followed in a CRP but did not spell out the precise procedure, allowing flexibility for the inclusion of elements from local traditional practice.

The CRP was a voluntary process. Hearings were conducted in the affected community by a panel of local leaders, chaired by a Regional Commissioner with responsibility for the district where the hearing was held. At the hearing the perpetrator was required to admit fully his participation in the conflict. Victims and other members of the public were then given the opportunity to ask questions and make comments on the perpetrator's statement. Hearings were often an extremely emotional experience for the participants and could continue all day and into the night. After all relevant actors had spoken, the panel brokered an agreement in which the perpetrator consented to undertake certain actions. These could include community service or the payment of reparations to victims. In return for performing these actions the perpetrator was reaccepted into the community. Traditional practices, or *lisan*[†] were incorporated into the procedure, varying according to local custom.

^{*} During the design of the CRP, community consultations were held at which community members expressed the strong feeling that they could not reconcile with those responsible for more serious crimes, such as murder, rape and torture, until they had been formally prosecuted and tried.

[†] *Lisan* (Tetum) is a combination of beliefs, customs and traditions of East Timorese people. *Lisan* varies from community to community and is generally an important aspect of community life, especially in rural areas. It is often referred to as *adat* in the Indonesian language.

Before a hearing could be conducted, the Office of the General Prosecutor (OGP)²⁰ was required to consider the case and agree that it could proceed through a CRP rather than be prosecuted in the courts. Following the hearing the drafted reconciliation agreement could, after judicial consideration, become an Order of the Court. If the Court approved, and the perpetrator carried out his or her obligations, immunity from civil or criminal action would be granted.

The results of the CRP programme indicate that it has made a real contribution to community reconciliation in Timor-Leste, and the reintegration of perpetrators of past wrongs into their communities. 1,371 perpetrators successfully completed a CRP, many more than the initial target of 1,000. Many more requested that the CRP programme continue. Perpetrators, victims and other participants have reported to the Commission that the CRP programme contributed significantly to the maintenance of peace in their communities and to settling past divisions. Perhaps the most important indicator of CRP's success, however, is that, despite predictions of revenge attacks on perpetrators for their role in the violence of 1999, Timor-Leste has enjoyed a high level of peace and stability during the difficult initial years of nation building.

In summary, during the operational period of the CRP programme:

- The Commission received a total of 1,541 statements from deponents requesting to participate in CRP, all of which were forwarded to the OGP.
- Cases involving 1,371 deponents were successfully completed through CRP hearings.
- The OGP did not grant approval for 85 cases to be proceeded with by way of CRP. These cases were retained by the OGP.
- Thirty-two cases were adjourned during the hearing because credible information came to light which indicated that the deponent might have been involved in a "serious criminal offence", or because communities refused to accept the deponent.
- These figures show that nearly 90% of all cases received proceeded to completion. The remaining 10% were cases where the deponent did not attend the scheduled hearing, the hearing was adjourned or the OGP did not consent to them proceeding by CRP.

Impact of CRP

Today is the end of 24 years of suffering, violence and division for our community. In 1999 we saw the Indonesian soldiers and militia leave. On 20 May 2002 we celebrated our independence as a nation. But it is only today that we as a community can be released from our suffering from this terrible past. Let us roll up the mat, and this will symbolise the end of all of these issues for us. From today we will look only forward. Let us now eat and dance together, and celebrate the future.

Community leader-Maliana²¹

Besides giving communities the opportunity to explore and find solutions to problems between individuals in dispute, for many communities the CRP provided a symbolic closure to the long period of conflict. Although the formal objective of hearings was

to allow deponents to gain readmission to the communities by telling the truth and performing “acts of reconciliation”, in fact the give-and-take between deponents and other participants often produced a more rounded and more accurate version of events that was of wider benefit to the community.

It is likely that the CRP performed this important function because it gave communities their first chance to focus on their own particular experience. Moreover, it gave them this opportunity in a contained and safe forum within which they could open up old wounds before declaring, on the basis of a broadly acceptable resolution, that the wounds should now be closed.

Contribution to the fight against impunity

After the end of the conflict in October 1999 national leaders and representatives of the international community repeatedly told the population of Timor-Leste that they should not seek to avenge past wrongs and must rely on formal justice mechanisms for solutions. This faith in the rule of law was unfamiliar to most East Timorese, since throughout the occupation the law had come to be seen as an instrument of oppression or simply irrelevant. However, for various reasons there was little progress in achieving justice for past offences in the three years after the end of the conflict. Considered in this context, the success of the CRP was an example for the new nation of the value of the rule of law. This was particularly so because the programme reached into remote parts of the country, and many participants reported to the Commission that the CRP was their only experience of any official legal mechanism since the departure of the Indonesian military.

In addition to buttressing the rule of law, the CRP held many perpetrators of “harmful acts” accountable, who would otherwise probably have enjoyed complete immunity. Although these persons were not forced to undergo trials or imprisonment, their experience in the CRP and their subsequent “acts of reconciliation” were often painful and humiliating. Follow-up interviews indicated that the admissions and apologies that deponents made frequently had a lasting effect on their lives.

In this manner the CRP, together with the increasing number of successful prosecutions for “serious crimes” in the Special Panels, demonstrated that there was not complete impunity for past offences. It also served to weaken the case for an amnesty for past offences. Community members who had experienced the CRP found it difficult to accept the argument that amnesty was the only option for dealing with the massive number of unresolved “less serious crimes”. Moreover, the proposal simply to drop the cases against perpetrators of such crimes seemed unfair after other perpetrators had been required to go through the painful process of a CRP.

The failure to bring those most responsible to account

*We were just ordinary people. We were forced to join the militia. Why should we go through this process while the big people continue to be free?**

Two of our family members were killed during the violence. Those who killed them have not yet come back from Atambua. While my wife was still pregnant with our first child, I was jailed in West Timor from 1997 to 1999 because I was involved in the clandestine movement. I was beaten many times and thrown into the sea. Until now my eyes are dizzy and I cannot see very well. During 1999 our house was also burned and our things destroyed.²²

Victim — Suai

Regulation 2001/10 clearly prohibited the CRP from dealing with offenders who were most responsible for serious violations. There was a perception that this category of offender had evaded justice of any kind and that they remained free and unrepentant. This sense of injustice was expressed in different ways at almost all CRP hearings. The Jakarta Ad Hoc Tribunal had not yielded any tangible results and the Serious Crimes Process was unable to reach the majority of perpetrators of gross violations, who remained in West Timor or other parts of Indonesia. Further, because of resource constraints, the Serious Crimes Unit had still to investigate a number of persons suspected by their communities of being responsible for serious crimes, even though they had returned to Timor-Leste. In a number of cases these individuals had not returned to their original villages but remained in Dili. Community members commonly expressed frustration and anger that they had not been held to account for their actions in any way.

Even within the category of offender eligible for CRP, many individuals who were suspected of committing “less serious crimes” or other acts did not choose to participate in CRP hearings in their villages. The voluntary nature of the process meant that if these persons did not choose to give a statement, they could not be required to participate. Although in theory they remained liable to arrest and trial, the likelihood that this would happen diminished as the legal system became increasingly overburdened with new cases.

The result of this uneven treatment of offenders was that while communities expressed appreciation of the actions of those perpetrators who stood before them and accounted for their actions, they were often clearly dissatisfied at the apparent impunity enjoyed by more serious offenders who, for whatever reason, remained beyond the reach of the formal justice system.

* Justice System Monitoring Programme, Unfulfilled Expectations: Community Views on CAVR’s Community Reconciliation Process, Lia Kent, Dili, August 2004, p. 15. (available at www.jsmp.minihub.org.) This is not a quote from a deponent, but JSMP reported that it was a “common refrain” heard from deponents in the CRP. The JSMP report added that “[t]he perception is that those most responsible live comfortably, and with impunity, whether in West Timor or in Timor-Leste”.

Conclusions from CRP

The CRP programme was devised to address the need to reunite communities that the political conflicts had divided. As there was no precedent for this kind of programme, the prospects for its success were uncertain at the time the Regulation was passed.

Implementing the programme posed logistical, administrative, educational, political and legal challenges. These challenges ranged from reaching some of the remotest villages in the country, to establishing working relationships with the OGP and the courts, to attracting the support of local leaders and community members, to handling emotionally charged disputes between perpetrators and victims. All of these challenges were met, through a great deal of hard work and dedication on the part of the staff, advisors and Commissioners of the CAVR.

In addition to the large number of individuals who were successfully reintegrated into their communities, the CRP produced a number of other benefits:

- It created a mechanism for communities to explore their own part in the history of the conflict and to clarify the role of individual perpetrators and victims in these events.
- It gave communities an opportunity to celebrate an end to hostility and division, and symbolically close the conflict.
- It trained a number of East Timorese, from every district, in the principles and practice of mediation and arbitration, and offered a model of peaceful dispute resolution to tens of thousands of participants.
- It reinforced the value of the rule of law, and contributed to the fight against impunity by resolving a significant number of cases that could not realistically have been dealt with through the formal justice system.
- It helped the formal justice system to find its feet in the vulnerable period of its infancy by relieving it of the burden of having to deal with a significant number of outstanding cases.
- Together with other, complementary programmes, it encouraged a general attitude of support for forgiveness and reconciliation among community members.
- It sent a clear message to East Timorese refugees in West Timor that if they returned to Timor-Leste a specific mechanism was in place which would assist them to reintegrate, and that communities strongly supported this non-violent approach to settling past differences.

Unfinished business

The Commission recognises that transitional justice mechanisms established following massive violence and upheaval can never hope to provide closure for all the crimes and human rights violations committed. Timor-Leste, through the work of the SCU and the CAVR, has been more successful in finding effective responses than many other countries facing similar situations. However, the substantial body of cases that have not been processed in any way at all remains an obstacle to reconciliation in Timor-Leste.

From the initial planning phase of the CRP the Steering Committee recognised that the Commission could not deal with all cases of “less serious crimes” committed between April 1974 and October 1999. It set itself the more modest objectives of finalising a significant proportion of these cases and thereby making a contribution to reconciliation, dispelling some of the anger that permeated life in many communities and averting revenge attacks.

The programme achieved these goals but, having done so, created the new expectation that everyone who wanted to take part in a CRP would have an opportunity to apply. This clearly was not possible within the time the Commission had to complete its work. Despite a target of approximately 1,000 individual cases, and the actual completion of almost 1,400 cases, the Commission’s CRP Division estimated that at least 3,000 additional perpetrators could have participated in a CRP had the programme been able to continue. Communities were disappointed that so many cases that could have been dealt with through the CRP were not heard, and were overwhelmingly in favour of extending the programme or replacing it with something similar.

Another area of unfinished business was the more than 100 cases that the OGP had retained. The OGP had decided to hold these cases for further investigation because evidence indicating involvement in a serious crime had arisen either in the OGP’s own files, in a deponent’s statement or during a hearing.*

The Serious Crimes Unit has continued to struggle with a larger caseload than it can manage and, as of the date of publication of this Report, the OGP had not proceeded with any of the CRP deponent statements that it had decided to retain. If the OGP eventually finds no grounds for proceeding with these cases, their diversion will have deprived perpetrators who had been willing to participate in a CRP of an opportunity to settle issues from their past with their communities, or to provide additional information clarifying their involvement in the conflicts.

The under-resourcing of the SCU has had broader repercussions on the work of the CRP. The SCU has limited its investigations and prosecutions to crimes committed in 1999. At the time of writing it has completed less than half of the cases of serious crimes reported and effectively ceased its operations in May 2005.† This has resulted in a situation in which the vast majority of human rights violations committed during the whole period of the political conflicts have yet to be dealt with in any fashion. The fact that many perpetrators have voluntarily participated in the painful and often humiliating experience of a CRP hearing, while those guilty of more serious crimes seem unlikely ever to be held to account, has produced a situation of unequal accountability and a perceived justice deficit. This imbalance and the institutional factors that underlie it must be addressed when considering future strategies and needs in the area of reconciliation and justice.

* If such evidence was presented during a hearing the Regulation required that the hearing be adjourned and the case be referred back to the OGP (UNTAET Regulation 2001/10 Section 27.5).

† As preparations were being made for the delivery of this Final Report to the President of Timor-Leste in July 2005, the United Nations had placed a moratorium on the closure of the Serious Crimes Unit, pending consideration of the report of the Commission of Experts. In September 2005, the future of the Serious Crimes Unit remained unclear.

The future of the CRP

The success of the CRP programme has generated much debate about whether the programme should continue, either in its existing or in some other format. At the time that CRP was designed, it was unclear whether communities would find it acceptable. The results clearly show that communities throughout Timor-Leste found the CRP to be extremely valuable and, as mentioned, at the end of the operational period there was a high level of unsatisfied demand for the process.

On 7 July 2004, the Commission hosted a one-day workshop entitled “Resolving the Past to Embrace the Future”. The workshop identified what needs to be done to foster reconciliation in the future. Participants in the workshop included members of the National Parliament, judges, lawyers, representatives of local and international NGOs and civil society groups, as well as the CAVR’s National Commissioners:

The main conclusions and recommendations of the workshop were:

- The process of community-based reconciliation should continue. Any successor to the CRP should also focus on the resolution of lesser crimes and have among its fundamental objectives the restoration and repair of community relations.
- The CRP has served as a model for reintegration of community members who committed “harmful acts” in 1999. Demand for the service that the CRP provided for this group will continue to be strong, coming from perpetrators who have already returned to Timor-Leste as well as those who have yet to return. The workshop recommended that cases arising from events that occurred in 1999 should be dealt with separately from those that occurred between 1974 and 1998.
- The government should create an independent institution to facilitate the community reconciliation processes post-CAVR. The institution that undertakes this work should do so within a framework of clearly defined objectives and responsibilities. It was generally agreed that the systems and modus operandi of the CRP provided a model for how its successor could be implemented.
- Any subsequent community reconciliation initiatives should retain the relationship between the customary and the formal justice systems.²³

It is clear that grassroots demand for the continuation of the CRP is strong and that there is a determination in many sectors of East Timorese society that that demand should be met. The main obstacles to doing so are largely institutional. They include finding an appropriate institutional home where the work of the CRP can be carried on, and reformulating the relationship between this successor institution and the formal justice system at a time when the future of prosecution of “serious crimes” is uncertain.

***Acolhimento* and Victim Support**

When I participated in the hearing a lot of my family supported me in my desire to speak in public. They didn't object. They were grateful that I could tell the story of the suffering that I experienced throughout my life and that the leaders could hear it and take care of us...After I testified in the public hearing, my neighbours and my family were not upset. They were happy because I represented the victims from my town and told of the suffering that every single household experienced.²⁴

The programme

While in English the Commission was called the Commission for Reception, Truth and Reconciliation, it is the view of the Commission that the word “reception” does not adequately reflect all that we mean by “*acolhimento*”. For that reason, “*acolhimento*” rather than “reception” will be used throughout this section.

National Commissioners did not try to reduce *acolhimento* to a single concept. It was both part of the spirit of the Commission’s approach to its work and the spirit it hoped to foster in the community. *Acolhimento* involved people embracing each other as East Timorese, of coming back to our selves, living under one roof, after many years of division and violence.

The Commission’s *Acolhimento* and Victim Support worked to fulfil two central, but quite different, functions of the Commission. Both functions cut across all aspects of the Commission’s mandate in that both *acolhimento* and the support of the victims of human rights violations were core principles of all the Commission’s programmes.

Acolhimento was the spirit that informed all aspects of the Commission’s work. It became the centrepiece of the Commission’s work out of recognition of the importance of East Timorese people accepting each other after so many years of division and conflict. Most immediately it was a response to the situation of East Timorese people who had gone to West Timor in 1999, those who had returned to Timor-Leste as well as those who remained in camps and settlements in West Timor. Two specific programmes were developed in response to their needs:

- A monitoring and information programme for recent returnees
- An outreach programme, implemented with NGOs in West Timor, to those East Timorese people still living across the border.

Victim support, by contrast, was an objective of the Commission that was specifically spelt out in Regulation 10/2001. Section 3 of the Regulation provided that the Commission was to “help restore the dignity of victims of human rights violations”.

The *Acolhimento* and Victim Support Division also carried out specific programmes. These included:

- Public Hearings at both the national and sub-district level
- A series of Healing Workshops at the Commission's national headquarters
- An Urgent Reparations scheme for victims with urgent needs
- Village-level participatory workshops, called Community Profile workshops, to discuss and record the impact of the conflict on communities.

A monitoring and information programme for recent returnees

Under its monitoring programme, Commission staff met recent returnees to monitor their situation, provide information about the CRP, and bring matters raised by returnees to the attention of local authorities, Regional Commissioners and Commission staff in the districts, as well as UN agencies, such as UNHCR and the IOM (International Organisation of Migration).

During 2003, staff made 20 visits to returnee transit centres run by UNHCR and IOM: 19 to the centre at Batugade in Bobonaro, and one to the Ambeno centre in Oecusse. Commission staff also visited 33 villages in seven districts where returnees had recently arrived from West Timor.

Many returnees came back with mixed feelings of alienation, disempowerment and trauma, as well as uncertainty about their economic survival and social status. When they arrived, they found a Timor-Leste that was strange to them in many respects, whose legal, government and economic systems, for example, were unfamiliar.

The Commission noted that most returnees were well-received by their communities. In some villages the community helped the returnees to build temporary shelters, or provided accommodation to those in need. Returnees enjoyed access to communal resources such as water, health clinics and schools. Returnees could also compete for jobs in the districts, as teachers, nurses or police officers.

In some cases returning ex-militia leaders were received with harsh words from the young people in their communities. However, in most cases local police were quick to take control of the situation and regularly patrolled areas where there were recent returnees to prevent violence. Often conflict between returnees and the local population arose not because of recent political differences but due to long-standing family or clan disputes over land or other supposed breaches of traditional law.

The greatest challenge facing the returnees was that of making a living. Many had lost assets during the violence in 1999 and were not able to recoup their losses during the years they spent in the refugee camps. Disputes over land and property were often a major issue. Some returnees had been civil servants during the Indonesian occupation and had received a monthly wage. On their return to Timor-Leste they found that others had already taken up most of the limited employment opportunities in the districts. They and their families frequently had to relearn the skills of subsistence

agriculture. Consequently, many returnees chose to rebuild their lives away from their home village, moving to Dili or other urban centres in search of other ways to meet their daily needs.

For single women and their children, daily survival was more difficult. In some cases, women and children returned to Timor-Leste in poor health caused by long-term malnourishment in the camps. On their return they had to plant and wait for the next harvest in order to feed themselves. Although local authorities, UN agencies and NGOs gave special attention to these families, there were some who slipped through the net of support.

The Commission is aware of a small number of returnees who eventually chose to go back to West Timor. This occurred, for example, in the villages of Lauala (Ermera, Ermera), Leimea (Hatulia, Ermera), Maubara (Maubara, Liquiça) and Balibo (Balibo, Bobonaro). The Commission visited these villages and found that returnees had decided to go back to West Timor for different reasons. In some cases, the returnee still had immediate family members living in West Timor. In other cases, the returnees were ex-militia leaders who had not yet had an opportunity to be part of a community reconciliation process and had experienced intimidation or minor assault by the local population.

An outreach programme, implemented with NGOs in West Timor, to those East Timorese still living across the border

If the pro-autonomy and pro-independence leaders are united we will definitely return, because the things we did in the past were ordered and we little people just carried them out, and it is precisely us who have suffered the most as a result.²⁵

In late 2002 the Commission conceived and designed its West Timor programme. It began to implement it in early 2003, working with Indonesian NGOs that were already engaged with the refugee communities in West Timor.

The two primary methods used to inform refugees about the Commission's work were direct discussions with refugees and their leaders and dissemination of information through the press, radio and videos. To build relationships and trust, the Coalition teams made private visits to refugee leaders and camp coordinators before holding community meetings. National and Regional Commissioners and CAVR staff also visited camps and met former militia commanders and pro-autonomy political leaders.

Fifteen episodes of the Commission's radio programme, *Dalan ba Dame* (The Road to Peace) were broadcast by a Kupang station. West Timor radio also broadcast dialogues featuring Commissioners and various figures known to the refugees, such as members of the West Timorese NGO Coalition, a West Timorese priest and refugee leaders. Films made by the Commission, including an introduction to the Commission entitled *Dalan Ba Dame* (The Road to Peace), video recordings of community-based reconciliation meetings and several of the Commission's National Public Hearings, provided an appealing way for refugees to learn about the Commission's work. For example, the

films of local village reconciliation hearings gave the refugees the chance to see scenes of their home districts or even their villages. The videos showed how communities were working to achieve reconciliation. Film and radio were especially important in reaching the refugee audience, given the generally limited level of literacy.

The six-month West Timor programme in partnership with Indonesian NGOs was an important part of the Commission's work. Within its limited mandate, time and resources the Commission sought to reach out in a practical and meaningful way to East Timorese people living in West Timor. The partnerships formed with the West Timorese government and institutions and the goodwill they often demonstrated provide the basis for future work, which should remain a priority for the governments of Timor-Leste and Indonesia, civil society and communities in both countries.

The Commission recognises the complexities and sensitivities surrounding the implementation of an outreach programme in West Timor. The caution with which most refugees regarded the Commission's work meant that it was not able to reach its target number of statements. Nevertheless, in the circumstances it was an achievement that many refugees were given an opportunity to tell their story and learn about the Commission's reconciliation programmes and life in the newly independent Timor-Leste.

The Commission's experience in this area shows that achieving reconciliation with refugees in West Timor will require commitment and creative thinking. The complexities of the issues mean that the commitment will have to be over the long term, involving the government of Timor-Leste and non-governmental institutions and organisations, as well as the support of the international community. The Lessons Learned section at the end of this section proposes some principles that should guide this work, and the Commission's recommendations will address these issues in more detail.

Public hearings at both the national and sub-district level

The first national hearing of the Commission was held on 11-12 November 2002. This hearing was called a Victims' Hearing, and was given the title "Hear Our Voices" (*Rona Ami-nia Lian*, in Tetum). Six women and eight men from all 13 districts of Timor-Leste gave testimony. They ranged in age from their early 20s to late 60s, and told of violations that occurred throughout the 25-year period of the Commission's mandate. They told of violence during the internal conflict of 1975 by East Timorese political parties and of the years of violations at the hands the Indonesian military and its agents.

The other seven national hearings had a different character. Each had a thematic focus, based on areas of the Commission's truth-seeking work. These themes were:

- Political Imprisonment (February 2003)
- Women and Conflict (April 2003)
- Forced Displacement and Famine (July 2003)
- Massacres (November 2003)
- The Internal Political Conflict of 1974-1976 (December 2003)
- Self-Determination and the International Community (March 2004)
- Children and Conflict (March 2004).

District teams worked in each sub-district within their district for about three months. During this time they took statements as part of the truth-seeking work, facilitated community reconciliation hearings, conducted Community Profile workshops and provided support to victims of human rights violations.

At the end of the three-month period the team organised a public hearing in each sub-district. These were called Sub-district Victims' Hearings. Local civil administration officials, and traditional and community leaders from the sub-district and district were invited to attend the hearings, together with Commissioners and staff from the national office. At the hearings the district team reported back to the community about its activities in the previous three months. The community then heard testimonies from selected community members who had given statements to the district team. Usually between four and six victims gave testimonies.

Sub-district Victims' Hearings were inspired by the powerful impact of the national hearings and the expressed wish of so many victims to testify. The hearings were a commemoration of people who did not survive, and a celebration of the survival of communities and their commitment to healing past divisions in a spirit of reconciliation. They were also an opportunity to share the results of the previous three months' work, to re-emphasise that the Commission's role included helping to restore the dignity of victims within their community, and to close the Commission's activities within the sub-district on a ceremonial note.

A total of 52 Sub-district Victims' Hearings were conducted. Sixty-five women, and 149 men gave testimony, and an estimated 6,500 community members attended the hearings.

Impact of the hearings

Victims' Hearings were a shared national experience of listening to the voices of victims and confronting the truth and impact of past human rights violations. They have built a basis for further national and community-level dialogue on dealing with past violence in a spirit of reconciliation. Sub-district Hearings were particularly important in taking this process out of Dili and into local communities.

National Public Hearings were a new experience for victims and the nation. Most victims came from rural communities and had never spoken at any kind of national public event. Shown on television in Dili and broadcast across the country by radio, victims' words reached into communities and homes throughout Timor-Leste. The hearings gave victims a unique opportunity to speak directly to national leaders when National Commissioners asked them if they would like to give a message to the nation. The hearings therefore placed ordinary people at the centre of the national debate on healing, reconciliation and justice.

The Commission raised sensitive issues at public hearings, especially National Hearings. For the first time the community heard direct testimony about terrible violations committed by members of East Timorese political parties in 1974-1976. Victims told of violence committed by East Timorese people in the Indonesian military and its auxiliaries. The family and community dimensions of this sort of violence are profound. Women spoke openly of the sexual violence committed against them,

challenging the widely-held view that East Timorese culture forbade discussion of this subject. Hearings brought home the personal dimension of the massive and prolonged violence of the Indonesian military over the period of the Commission's mandate. The way that this process of public truth-telling gained the respect of the wider population augurs well for future peace-building initiatives.

The Commission also sought to defuse long-standing tensions at the national level. In the public hearing on the Internal Political Conflict of 1974-1976, for example, "agents of the process", including political leaders who had led the political parties at the time of the internal conflict, as well as the present-day representatives of those parties, spoke to the nation. They publicly accepted responsibility for their actions, expressed regret for the harmful acts they or the institutions they represented had done, and at the end of the four-day hearing affirmed their solidarity in a moving closing ceremony. At this extraordinary event, held before a packed audience and broadcast across the nation, Timor-Leste's political elite gave a public demonstration of how past differences can be put aside in order to strengthen the new nation.

A series of Healing Workshops at the Commission's national headquarters

Six workshops were held at the Commission's national headquarters in Dili. Five brought together mixed groups of men and women, and one was for women only. Participants came from all districts of Timor-Leste, and efforts were made to involve survivors from some of the most remote parts of the country.

All participants had initially given statements to District Truth-Seeking teams. District Victim Support teams then identified them as meeting the criteria for the Urgent Reparations Scheme. While only a small number of Urgent Reparations Scheme recipients participated in Healing Workshops, the workshops were a part of this Scheme.

In total 156 people participated in the six workshops, 82 women (52%) and 74 men (47%).

An Urgent Reparations Scheme for victims with pressing needs

As district teams began working in villages across the country, it quickly became clear to them that many victims of human rights violations had pressing needs directly related to the violations they had suffered. Victims looked to the Commission as perhaps the only national institution that could help them. It did not seem enough to tell survivors to wait until the recommendations of the Commission's Final Report had been acted on for help to come. Therefore the Commission developed an interim means of addressing some of the urgent needs of victims, the Urgent Reparations Scheme.

The foundation of the scheme was the principle of international human rights law that the victims of wrongful acts have the right to reparations. The body of international law suggests that the core elements of reparation are:

- Restitution
- Compensation
- Rehabilitation
- Satisfaction, and
- Guarantees of non-repetition.

As the new nation of Timor-Leste seeks to establish a democracy founded on the equality of its citizens, it has a moral duty to ensure that those citizens who currently suffer disadvantage due to past violations are able to take up their position as fully participating citizens of Timor-Leste. The state should take whatever action it can to assist the achievement of this goal. The social imperative for the state to make reparations also derives from both its peace-building and development objectives. Helping the victims of violence repair their lives is an essential step towards healing the rifts that exist after years of conflict. Without such repair, disadvantage and isolation may create an underclass whose disaffection could fuel social unrest. Equally, the national priorities of development and poverty reduction require that all citizens are able to play an active and constructive role in building the new nation. Victims of past violations are among those at greatest risk of being left behind in this process of development.

The Commission itself had no funds to develop a reparations scheme. It was assisted through a partnership with the Community Empowerment and Local Governance Project (CEP), a project managed by the Ministry of the Interior and funded through the Trust Fund for East Timor (TFET) administered by the World Bank. The CEP had a programme for helping “vulnerable groups” and its support of the Urgent Reparations Scheme was managed through that programme.

District teams identified potential beneficiaries of the programme from among those whom the teams had come into contact with through their truth-seeking and reconciliation work. Primary beneficiaries were direct survivors of human rights violations such as rape, imprisonment and torture, as well as those who suffered indirectly through the abduction, disappearance or killing of family members. Potential beneficiaries had to meet the following eligibility criteria.

- The need had to be severe, immediate and related directly to a human rights violation that had occurred within the mandate period of 1974-1999. For example, a person still suffering from an injury sustained during torture or a widow with inadequate income due to the killing of her husband would meet this criterion.
- The person had to be clearly vulnerable — for example, a widow, orphan, person with a physical disability, or someone isolated within her or his community. Those who were vulnerable were considered to be persons whose daily life continued to be stunted by the physical, psychological or economic consequences of the human rights violations committed against them.
- Other resources to meet the need either did not exist or were not easily accessible.

- The assistance would help the recipient in a sustainable way. For example, it would facilitate the restoration of the person's dignity, prevent further abuse or would contribute to empowerment or healing that would improve the long-term quality of the person's life.

The types of reparation that the Commission could offer included:

- An emergency grant of US\$200
- Urgent medical and/or psycho-social care
- Equipment and/or training for the disabled
- Setting up of survivors' self-help groups that might engage in any of a range of activities, from theatre work to small business, that would help restore their dignity
- Commemoration of an event, with the aim of providing recognition and the restoration of dignity to victims
- The provision of tombstones or monuments to promote community recognition of victims who had disappeared, thereby helping to provide a sense of emotional closure for victims' families
- Contracts with local organisations such as churches or counselling groups that could provide sustained help to survivors.

In May 2003, the Commission established a Working Group for Victim Support to devise and oversee policies around victim support, including reparations. It consisted of two National Commissioners, the Commission's Victim Support Division Coordinator, the CAVR Programme Manager, a representative from each of the East Timorese human rights NGOs Fokupers and Assosiasi HAK (The Rights Association), and a sister from the Carmelite nuns.

The Commission also contracted other organisations to provide support to victims. In ten districts, the Commission contracted NGOs or religious groups involved in providing health services to offer support to identified victims over a six-month period. The ten organisations were SATILOS (*Fundação Saude Timor-Leste*, East Timor Health Foundation) in Dili, the Canossian Sisters in Ainaro, Manatuto and Lautém, the Catholic Peace and Justice Commission in Maliana, the *Centro Feto Enclave Oecusse* (Oecusse Enclave Women's Centre) the Congregation of the Infant Jesus Sisters in Manufahi and Baucau, the Franciscan Sisters in Viqueque, and the PRR Sisters (*Putri Renha Rosario*, Daughters of the Virgin Mary) in Liquiça.

The cash grant component of the Urgent Reparations Scheme was distributed between September 2003 and March 2004. In this period, 516 men (73% of the recipients) and 196 women (27%) each received US\$200 for a total of \$142,400 to 712 survivors of human rights abuses.

All 156 participants in the healing workshops at the national headquarters of the Commission received the Urgent Reparations grant. Staff accompanied two of the recipients to Yogyakarta, Indonesia, where each was fitted with and trained in the use of a prosthetic limb.

In ten districts, 417 survivors — 322 men (77%) and 95 women (23%) — received the continuing support and assistance offered by local NGOs and church groups. This support included medicines, referral to district hospitals, and basic counselling and

support, including home visits. The Commission hoped that once such links to local support mechanisms had been established, they would continue to provide assistance to the victim, although it recognised that the scarcity of resources at the local level might prevent this from happening.

The three NGOs which the Commission contracted to provide support services after it left the districts, concentrated their efforts on particular groups or communities. Assosiasi HAK focused its work on the Kraras-Lalerik Mutin community of Viqueque. The Kraras community had suffered a series of massacres in 1983, and survivors were relocated to nearby Lalerik Mutin. Most of those who survived were women, and Lalerik Mutin is frequently called the “village of widows.” In the six-month programme, Assosiasi HAK worked with the community to identify its particular needs, and established a community education centre.

Fokupers and ET-Wave offered follow-up support to the women who had given statements and participated in hearings or the Urgent Reparations Scheme. Fokupers worked in five districts: Dili, Liquiça, Bobonaro, Ermera and Covalima. ET-Wave worked in Lautém. In addition to following-up with individual women, the organisations worked with communities to address the isolation that many victims, especially rural women, suffer.

Village-level participatory workshops, called Community Profile workshops, to discuss and record the impact of the conflict on communities

Community Profile workshops added a group dimension to the District team victim support and truth-seeking work. Small groups from village communities discussed the impact of human rights abuses at the community level. The workshops were facilitated and recorded by the Victim Support members of the District team. Communities were thus able to examine the history of conflict from their own local perspective. The communal focus of the workshops also acknowledged the fact that communities, just as much as individuals, were victims in the years of conflict and needed support.

In most areas District teams used Community Profile workshops to introduce their programme to a community. As well as discussing the Commission’s mandate and programmes, they engaged the community in a practical exercise, which was community-based and therefore accessible. By choosing the workshops as the entry point into the broader programme, the Commission wanted to show its respect for and gain an understanding of the distinctiveness of each community. Teams also had the opportunity to ask questions about particular groups in the community who might need extra support and whether community reconciliation activities might be appropriate.

Community Profile workshops were an important and enriching part of the Commission’s work for a number of reasons.

- In rural Timor-Leste activities focused on the community rather than the individual were often a more culturally appropriate and effective way to discuss important issues. They were also a way of tapping into the rich oral traditions of rural communities.
- They were an opportunity to seek community views about what victims could do to help their recovery from past human rights abuses. Even in communities where there was not much discussion of community healing needs, the reflection on past experience could itself be a healing process.
- From a truth-seeking perspective, Community Profile workshops complemented the taking of statement from individuals. They were particularly useful in identifying broad social, economic and political patterns and the profound impact of human rights violations on communities over the 25 years of the mandate period.
- The accounts that emerged from the Community Profile workshops revealed how different communities and regions suffered in different ways and at different times throughout the conflicts. The national perspective does not offer such fine discriminations between areas, while individual statements do not give the broader community perspective.
- These stories bring us closer to an understanding of the situations of local communities today and in planning how to prevent conflict in the future.

Of the 297 Community Profile workshops compiled, three did not include a list of attendees. In the remaining 294 an average of 16 people were recorded as having attended each meeting, meaning that more than 4,700 people participated in the workshops across the country

Lessons Learned on Reception, Returnees and West Timor

State and non-state actors in Timor-Leste need to continue to work with East Timorese people in West Timor. This work needs to focus on building trust and mutual understanding, sharing information, and helping those who decide to return to Timor-Leste. This work can be carried out only if there is cooperation between East Timorese and Indonesian state and non-state institutions. One essential element of building trust among East Timorese people in West Timor is that the engagement between East Timorese on both sides of the border should not be fitful, but should display a continuing commitment to their needs.

The work of the Commission with East Timorese people in West Timor represents a contribution to a process that began before the Commission came into existence, and will continue after its mandate has expired. While the support of the international community will be vital to achieving this continuity, that support will not be forthcoming without a clear, high-level commitment from the Government of Timor-Leste to this work.

Any future work in this area will have to address a number of difficult issues. They include:

- Finding ways to talk to refugees about reconciliation in a constructive manner. One obstacle to constructive discussion is the gap between those who see reconciliation as a political issue linked to amnesty for past crimes,

and those who see it as a social issue of healing divisions between people and communities. The fact that the hierarchy of power in West Timor has solidified these differences of perspective makes them particularly difficult to remove.

- Continuing to seek ways to overcome obstacles to women participating fully in decision-making about their and their families' futures.
- Building on the partnerships, experience and good-will developed with individual Indonesians and Indonesian government and non-government institutions.

There needs to be continuing support to reintegrate those who return to their communities and to the communities that receive them. Reintegration is not an instant process, but one that requires constant attention and support over a period of time. Mutual trust and confidence will return only gradually. While much of the work of reintegration is essentially for individuals, families and communities to undertake, with help from locally-based institutions such as the Church and traditional leaders, the Commission's experience in this area is that the latter can benefit from the support of a legitimate and respected national institution.

Urgent Reparations

The Commission's Urgent Reparations Programme helped a number of the most disadvantaged victims to meet their pressing needs. The scheme offered both financial and non-financial assistance to individuals and communities. Through this work the Commission was able to develop a clearer understanding of the strengths and weaknesses of different types of reparations schemes in the East Timorese context, and thereby develop recommendations for a more comprehensive approach.

The Commission understands that its Urgent Reparations Scheme was a stop-gap measure that could in no way be regarded as a substitute for a comprehensive, long-term programme.

The Commission is convinced that there is a pressing need for a comprehensive and multi-faceted reparations programme to be established beyond the life of the Commission. This programme should address the needs of victims by offering formal recognition of victims by preserving and honouring their memory, and the provision of social services and economic assistance. It should be targeted at individual and community levels.

The Commission has learned that it is hard to attract financial support for a reparations scheme, from national and international sources. Politicians, policy makers and others in a position to provide funding too often subsume reparations programmes within the domain of general national development. Reparations should not be treated in this way: they play a complementary role to national development, but are also quite distinct in that they are fundamental to delivering justice and human rights protection in our post conflict society.

Victims

In its work with victims over the three years of its existence, the Commission learned much. The quiet strength and resilience of many survivors, their dignity and generosity towards others, and their wish to participate in shaping their new nation are inspiring. Families, communities and the values of East Timorese culture have sometimes been able to help sustain and heal victims. At other times they have been an obstacle to healing. We have also learned that many people's lives are difficult today because of the violence they have suffered. Once they have attained a certain level of security, whether physical, mental or economic, individuals, families and communities can do much to effect their own healing. But they also often need outside help, in the form of physical and mental health services, education and training, the means to restore economic sustainability, recognition and a sense that the State cares for their well-being.

Health, including mental health, is evidently an area for future victim support work. The experience of violence and loss can have profound consequences for victims' mental health and well-being. The Healing Workshops were an opportunity to learn more about victims' needs in this area, to provide support, and to refer people to specialised services when they were available. The Commission also worked with a combined community and mental health team from the University of New South Wales to develop a preliminary assessment of the needs of victims of human rights violations in light of the Commission's findings in this area.

The Commission found that many victims of serious human rights violations continue to suffer health problems as a result of their abuse. The Commission has encountered victims who have bullets lodged in their bodies, wounds that have not healed, bones that have not been properly set, gynaecological problems resulting from rape, and a variety of physical disabilities caused by prolonged or repeated torture. Without attention to their health needs, these victims will not be able to take up their rightful place as active citizens of Timor-Leste.

These findings highlight the need for a thorough assessment that can form the basis of a health support programme that would be part of the proposed reparations scheme.

The Commission has identified certain specific groups in the community that seem to be particularly vulnerable to mental health problems. These groups' problems are not confined to mental illnesses requiring clinical treatment, but cover the whole spectrum of mental well-being that allows a person to thrive and live a full life. Justice, compassion and the quest for a fair and inclusive society all demand measures to restore mental and physical well-being to victims who have lost them as a result of an act of abuse. The groups that the Commission identified as high-risk and which should therefore be the focus of any future programme are set out below.

Rape survivors

Through the healing workshops and other activities, it became clear that women who had been raped were more likely to suffer symptoms of trauma than other victims of violations. This may partly be because many women raped or forced into situations of sexual slavery by the Indonesian military reported that they were shunned by their family and community, and thereby lost the support necessary for healing and mental well-being. The plight of women who had children as a result of rape, or being in a

situation of sexual slavery, was even worse. There are communities, such as Suai, where women were subjected to mass rape after the Popular Consultation in 1999, where large numbers of women are in need of support.

The Commission found that in general young women raped during the violence of 1998-99 suffered more severe and more persistent symptoms of trauma than their older counterparts who had suffered rape in earlier periods of the conflict. The explanation for this difference may be that the older women were more often able to rely on support deriving from their established roles as family and community members, whereas the violation seemed to have prevented many of the younger women from developing these roles. At the same time, the older group were generally less forthcoming about their experiences and so, if in need of support, less likely to obtain it.

Young men, especially in urban areas

In the political conflicts in Timor-Leste young men constituted a group that frequently suffered and perpetrated violence. The emergence of the clandestine movement in the 1980s resulted in many young people becoming engaged in resistance activities. Others were involved in groups formed by the Indonesian military to respond to the resistance. The education of many of these young men was disrupted by their involvement in clandestine activities, periods of imprisonment and serious injuries suffered as a result of torture and ill treatment.

Many of these young people were teenagers in the 1990s, and are now in their twenties or early thirties. Lacking education and training, many today feel excluded from opportunity in the new Timor-Leste that they see themselves as having helped create. Unlike young women, who often have a social role maintaining household and family, many young men live on the margins of society. The Commission observed anger and frustration among many young male survivors. Their isolation is exacerbated by the cultural constraints that inhibit males from seeking assistance or speaking about emotionally difficult matters. Lack of work or educational opportunities intensify their problems.

These issues place many young men at risk of mental health problems. Coupled with their intense experience of violence in their younger years, this also raises issues of domestic and social stability. Such young men should be a high priority for future support.

Disabled middle-aged men

The Commission has observed that many middle-aged male victims had “broken bodies” as a result of torture or severe, often repeated, beatings. Especially for rural men, whose livelihood depends on being able to farm their land, these disabilities have serious economic consequences. Many expressed anxiety and showed signs of stress because they were not able to provide for their families, and the impact this would have on their children’s education and future opportunities. Unable to fulfil their social role of family provider, many of these men are vulnerable to mental health problems.

Ex-political prisoners and torture survivors

The Commission heard repeatedly how the Indonesian security forces routinely tortured those they detained. It also heard of torture and ill-treatment perpetrated in the early years of the conflict by East Timorese political parties. The psycho-social consequences of torture are well documented. The Commission worked closely with many ex-political prisoners and survivors of torture. In some cases, political prisoners showed themselves able to cope well with post-traumatic stress. However, the Commission also heard from many ex-political prisoners that they hold their suffering deep inside themselves. While they appear to cope in their day-to-day lives, they continue to suffer. Some victims told the Commission that their deep-seated feelings sometimes erupt in violence within the family. Former detainees are a high-risk group that should be supported in future programmes.

Victims and families of victims of violence by Fretilin/Falintil

The Commission heard about the silence that has surrounded violence committed by East Timorese political parties, especially in the 1975 internal conflict and then between 1976 and 1979 when Fretilin still controlled and administered territory in the interior. Many victims or families of those killed or disappeared have expressed their desire to clear the names of family members and friends. The lack of recognition of both the violence, the losses suffered by families and the injustice of their treatment has caused the deep suppression of feelings and the isolation of people in this category. Without public recognition that these events occurred, it is difficult for those affected to come forward to seek the support they may need.

The future

The identification of groups most in need of support is not intended to minimise the needs of individual victims or of communities whose experience does not fit into these categories. It does underline the fact that there are specific groups in need of support within the East Timorese community, and that support programmes tailored to their needs should be developed. It is also vital that the Government, East Timorese NGOs and other civil society groups and religious organisations, as well as international agencies and donors, continue to provide support and step up their efforts to alleviate the suffering of so many victims of human rights violations. Based on the lessons we have learned from working with victims of human rights violations, the Commission has developed a Reparations Scheme which is outlined in the sections on Recommendations.

THE FINDINGS OF THE COMMISSION

Profile of Human Rights Violations

Overview

In order to achieve the core objectives of its truth-seeking mandate, the Commission developed a number of programmes, including both qualitative empirical research and quantitative statistical analysis. This section summarises the programmes and findings of the quantitative statistical analysis of the Commission. In this section, findings are divided into those on fatal violations, displacements and non-fatal violations.

Fatal violations

The Commission estimates that the minimum figure for the number of conflict-related deaths during the Commission's reference period, 1974-1999, is 102,800 (+/- 12,000). This estimate is derived from (i) an estimated 18,600 total killings (+/-1000) using multiple systems estimation (MSE) techniques and (ii) an estimate of 84,200 (+/- 11,000) deaths due to hunger and illness which exceed the total that would be expected if the death rate due to hunger and illness had continued as it was in the pre-invasion peacetime period.

The estimated pattern of fatal violations over time shows a high concentration of killings and deaths due to hunger and illness during the initial post-invasion period between 1975 and 1980. The number of deaths attributed by respondents to "hunger or illness" rose to its highest level during the immediate post-invasion period, 1975-1980. However, 1999 marked a high point for estimated killings 2,634 (+/-626).

The pattern and trend of deaths due to hunger and illness and to killing are positively correlated over time, suggesting that both phenomena have the same underlying cause during the first phase of the conflict. Of the killings and disappearances reported during the Commission's statement-taking process, 57.6% (2,947/5,120) of the perpetrator involvement in fatal violations was attributed to the Indonesian military and police, and 32.3% (1,654/5,120) to East Timorese auxiliaries of the Indonesian military (such as the militias, civil defence forces and local officials who worked under the Indonesian administration).

Displacements

Displacement was widespread: 55.5% of surveyed households reported one or more displacement events, for a total of 2,011 reported displacement events between 1974 and 1999.*

* At the time of the 1990 census there were approximately 4.5 people per household. The 2004 census recorded an increase to about 4.75 people per household (924,642/194,943). The nominal confidence interval is 51.8%-59.2% of households.

Most displacements occurred between 1975 and 1980. The maximum years are 1975 and 1976, with 61,400 (+/- 13,300) and 59,800 (+/- 7,200) displacement events respectively. The number of displacement events reported for 1999 were substantially fewer, with approximately 28,100 (+/- 5,600) events.

Most displacements were local. Of all displacement events, 54.3% were within a sub-district, 15.6% were within a district, 17.4% were within a region, 9.3% were within Timor-Leste, and 2.4% were outside of Timor-Leste.* This finding may be limited by the restriction that people in refugee camps in West Timor were not interviewed as part of the household survey process. Many displacements occurred in rapid succession: 22.2% of displacement events lasted one month or less, and 50.1% lasted one year or less. However, other displacements were very long, so that the mean displacement period lasted 46.7 months.†

The institution that respondents reported most frequently as the group telling them to move was the Indonesian military (46.4%), followed by Falintil (15.0%) and militia groups (8.8%).‡ Respondents reported that “conflict” motivated 52.3% of all their displacements, with “forced by Indonesian military” contributing an additional 16.3%.

Non-fatal violations

The temporal pattern of reported non-fatal violations was similar to that for fatal violations: massive non-fatal violations during the initial invasion and occupation years were followed by relatively low-level violence during the years of so-called “consolidation and normalisation” and an increase of violations in 1999. Non-fatal violations around the time of the Indonesian invasion in 1975 were most intense in the western and central regions; after 1976 the focus of non-fatal violations shifted to the eastern region.

The observed statistical pattern of reported detention and torture suggests that over time (and particularly after 1984) the practice of arbitrary detention became more targeted and was used more regularly in combination with acts of torture. In the early invasion years there are approximately three reported cases of detention for each reported case of torture. After 1985 the two violations appear to be more closely linked, with approximately the same number of reported detentions and reported acts of torture each year.

Overall the Commission’s quantitative findings are consistent with the hypothesis that individuals who were held in detention during the Commission’s reference period were subject to increased vulnerability to torture or ill-treatment. Torture and ill-treatment were reported much more frequently among victims who were held in detention during the Commission’s reference period: of the torture violations documented by the Commission, 83.6% (9,303/11,123) were suffered by victims who had experienced

* The nominal margin of error is +/- 10.4% for displacement within a sub-district, and 4.6% or less for the other estimates.

† The nominal confidence interval is 41-52 months.

‡ The nominal margin of error is +/- 4.2%.

detention during the conflict. The abuses which were most often committed during known periods of detention were torture (46.9%, 4,267/9,094), ill-treatment (30.8%, 2,798/9,094) and threats (7.0%, 634/9,094).

The demographics of victims varied for different violation types. Relative to the overall East Timorese population middle-aged males experienced the highest rates of non-fatal violations such as detention, torture and ill-treatment. By contrast sexually-based violations were almost exclusively targeted against women, with 90.2% (769/853) of reported sexually-based violations being experienced by women.

The Commission's quantitative data suggest a notable difference in the pattern of responsibility for non-fatal violations between 1975 and 1998 relative to non-fatal violations in 1999. In particular, between 1975 and 1998, 51.7% (11,658/22,547) of acts of arbitrary detention are attributed to the Indonesian military acting alone relative to 8.4% (1,897/22,457) of acts of detention which were solely attributed to East Timorese auxiliaries or jointly to both the Indonesian occupying force and their East Timorese auxiliaries. However, of the acts of arbitrary detention in 1999 documented by the Commission, 75.7% (2,104/2,779) were attributed to either the East Timorese auxiliaries acting alone or in collaboration with the Indonesian military and police. 19.2% (534/2,779) of documented acts of detention which occurred in 1999 were attributed to the Indonesian military alone.

Self-Determination

Overview

The right to self-determination is a fundamental and inalienable human right. It forms Article 1 of the two major human rights instruments (the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) because of its importance to the international order and the protection of individual rights. The International Court of Justice has recognised the right to self-determination as one of the most important human rights and as “the concern of all states”.²⁶

Self-determination is fundamental because it is a collective right of a people to be itself. The struggle to enjoy this right above all others was the central defining issue of the CAVR mandate period. This period began with the decision of the colonial power in 1974 to recognise this right after 14 years of denial and ended with the decision of the occupying power to recognise it in 1999 after 24 years of denial. In the interim, the people of Timor-Leste made extraordinary sacrifices to realise this right. It was essential to the survival, identity and destiny of Timor-Leste.

This chapter examines the record of key international institutions and governments in meeting internationally agreed obligations to protect and promote the right to self-determination of the people of Timor-Leste. These comprise the three main external stakeholders in the issue – Portugal, Indonesia and Australia — plus the United Nations Security Council and its five Permanent Members, namely China, France, Russia, the United Kingdom and the United States. Japan is also examined because it was an elected member of the Security Council in the crucial years 1975 and 1976 and was Indonesia’s principal regional economic partner. The chapter also reports on the important role of the Vatican and on the decisive contribution to the realisation of self-determination by Timor-Leste’s diplomats and diaspora carried out in partnership with international civil society.

The right of the people of Timor-Leste to self-determination

The right of the people of Timor-Leste to self-determination was clear-cut and formally acknowledged by the international community. The United Nations Security Council and General Assembly affirmed the existence of this right and the responsibility of all states to respect it on many occasions from 1960 on.²⁷ The acknowledgment of this right established the legitimacy of the East Timorese cause in international law and sharply distinguished it from disputed claims to self-determination by some other peoples.

Self-determination is a collective right that “all peoples” have to determine their destinies. This right entitled the people of Timor-Leste to three things: a) to freely decide their political status; b) to freely pursue their economic, social and cultural development; and c) to freely dispose of their natural wealth and resources.²⁸

The international context

The international community was agreed on the principles and procedures that should govern the decolonisation of Portuguese Timor but many key governments took a different approach to the issue in the 1970s than they did in the late 1990s.

A number of external factors worked against Timor's interests and due process in the 1970s. These included preoccupation with unprecedented ideological conflict at the international level and domestic crises of varying degrees of significance within the countries most closely involved with Timor-Leste. These issues were immensely important in their own right and affected countless human lives. However, they also impacted on Timor-Leste by diverting attention from the issue and colouring, if not distorting, official attitudes.

The dominant issue of the day was the Cold War. This was the open, yet restricted, rivalry that developed after the Second World War between the US and its Western allies and the Soviet Union and its allies, until the collapse of the Soviet Union (USSR) in 1991. This East-West rivalry was an ideological contest between the capitalist and communist systems, but was also commercial and military. It divided Europe, symbolised most vividly by the Berlin Wall that isolated West Berlin from communist-controlled East Berlin and East Germany. It also divided the Third World, after it became an arena of superpower competition following the establishment of a balance of power in Europe. The Soviet Union championed decolonisation. The competition did not result in direct military conflict between the US and the USSR, but it did involve military action or proxy wars in a number of countries, including in the Asian region. The rivalry generated great tension that was felt at every level of society in many countries and influenced public opinion on many questions. It also led to massive military expenditure and an arms race which included a build up of missiles and nuclear weapons that threatened the future of the world. The international community divided into Eastern, Western and Non-Aligned blocs around the issue and voted on many questions at the UN in line with geopolitical dictates rather than the merits of the issue under consideration.

Against this background, communist gains in Asia, which peaked in 1975 with the defeat of the US in Vietnam and communist victories in Laos and Cambodia, alarmed the US and its allies and worked against Timor-Leste's interests. Indonesia and other strongly anti-communist governments in the region, including Australia, New Zealand and members of ASEAN, were determined to work together to contain further advances. Left-wing developments in Portugal and Portuguese Timor were viewed with varying degrees of apprehension, particularly in Indonesia. But they also worked in favour of Indonesia which was able to exploit the issue against Fretilin, to maximise Indonesia's importance to the West as a bulwark against communism and to gain strong political, military and commercial backing from the US and the West.

The political ferment of the 1960s and 1970s also indirectly benefited Timor-Leste. The period witnessed the emergence of new political and civil society movements for peace, human rights, disarmament, development and social justice – due in large part to disillusionment with the Soviet Union and Cold-War related tragedies such as US involvement in the Vietnam War. They demanded a say or participatory democracy and were motivated by concern for the future of the planet if decision making was left to the superpowers and big government and business. This search for alternatives

was also felt in faith communities across the world, including in the Catholic Church following the Second Vatican Council in the 1960s. These movements became the backbone of international civil society support for Timor-Leste.

Lack of official enthusiasm for Timorese independence was compounded by a sense that mainstream decolonisation had run its course. Most of the large colonies of the European powers – Britain, France, the Netherlands, Germany, Italy and Belgium – were already independent or, in the case of Portugal, in the process of becoming independent. Decolonisation started in the Middle East in the 1920s and was followed by a second wave in Asia in the 1940s and 1950s when India gained independence from Britain and Indonesia from the Netherlands. The process peaked in the 1960s with the third wave of emancipation when no less than 42 countries, mostly in Africa, gained independence and membership of the United Nations. In this context, issues like Timor and Macau were seen in some quarters as vestiges of colonialism that were unsustainable as independent states and best dealt with through incorporation into a larger entity, in some cases former colonies, with which they shared a border and other features. Goa's absorption into India was often referred to in this connection. From this perspective, Timor's future was historically inevitable and only conceivable as part of Indonesia even though, in reality, the territory was larger than some of Portugal's African colonies and many newly independent states.

At the level of national politics, the three key stakeholders – Portugal, Indonesia and Australia – experienced varying degrees of internal challenge and instability during this critical 1974-75 period. These domestic issues added to the preoccupations of key policy-makers and, at least in the case of Portugal, were demonstrably harmful to Timor-Leste.

During this period, Portugal experienced a left-wing military coup, attempted counter-coups and several changes of government. In addition to being deeply preoccupied with its own fate, it was also very engaged with the decolonisation of its major colonies in Africa. Indonesia was threatened with economic collapse due to the *Pertamina* crisis over many months at this time. This occurred when *Pertamina*, Indonesia's state-owned oil company headed by Lieutenant General Ibnu Sutowo, had trouble repaying substantial foreign borrowings. The crisis threatened the oil dependent Indonesian economy and foreign investor confidence. Rising oil prices had brought Indonesia from poverty to modest prosperity and were crucial to President Soeharto's political programme. Presidential advisors said that Timor was of relatively minor importance compared to the *Pertamina* crisis and that the latter absorbed 90% of the President's time in the months before the Indonesian invasion.²⁹ President Soeharto's health, always an issue in a highly centralised government, was also problematic towards the end of 1975 when he had a gall bladder removed. Australia too experienced some uncharacteristic political instability during this period. The Labor Government of Gough Whitlam was dismissed in November 1975 following a constitutional crisis leaving a caretaker government in power at the time of the Indonesian invasion. Foreign policy was a marginal issue in the bitter general election held on 13 December 1975.

The international community

The Commission finds that:

- ✳ Recognition by the United Nations that Timor-Leste was a non-self-governing territory with the right of self-determination was fundamental to Timor-Leste's fate as a small and vulnerable people. This gave the issue an international legal basis which became the principal asset of the people of Timor-Leste in their unequal struggle for independence.
- ✳ The respect of member states for the international legal system and the role of the United Nations is essential to good international relations and the upholding of peace and justice, particularly for minorities. The people of Timor-Leste know from experience that the failure of member states to respect international principles has the most bitter of consequences, but also that the proper functioning of the United Nations works to the benefit of all.
- ✳ Most members of the United Nations failed to support Timor-Leste in the General Assembly from 1976 to 1982 by either voting against resolutions on Timor-Leste or abstaining. Until it was delegated to the Secretary-General in 1982, the question of Timor-Leste was kept alive at the United Nations by about only one-third of the world community. Most of these countries were Third World or socialist states. Only four Western nations supported Timor-Leste at the United Nations throughout this period: Cyprus, Greece, Iceland and Portugal.
- ✳ Most Western countries failed to strike the right balance between support for the principle of self-determination and their strategic and economic interests in relation to Indonesia. In 1975 they gave over-riding weight to the latter and paid only obeisance to self-determination.
- ✳ Civil society played a critical role by upholding international principles in many countries, including Portugal and Indonesia. Civil society promoted the right of the people of Timor-Leste to self-determination, provided moral, political and financial assistance to the East Timorese struggle, and challenged the indifference or hostility of governments towards Timor-Leste. Respect for civil and political rights and the functioning of a robust civil society are critical to the proper functioning of individual societies and the international system.
- ✳ Timor-Leste benefited from the work of key UN officials and bodies including secretaries-general and the special or personal representatives they appointed, staff in the secretariat responsible for the issue, the Special Committee on Decolonisation, Special Rapporteurs on Human Rights, and the Sub-committee on the Protection of Minorities.
- ✳ The Security Council recognised the right of the people of Timor-Leste to self-determination in 1975 and 1976, but failed to effectively uphold this right until 1999. It did not intervene to halt the Indonesian invasion although at least two of its members knew of Indonesia's intentions; it expressed concern at the loss of life and the need to avoid further bloodshed, but did not provide for emergency humanitarian assistance; it did not sanction Indonesia for non-compliance with

its wishes; it did not follow-up Resolution 389 and it shelved the question until 1999. This failure to uphold Timor-Leste's right to self-determination was the responsibility of the Permanent Members of the Security Council each of whom, with the exception of China, was dismissive of the Timor question and chose to shield Indonesia from international reaction at Timor's expense.

- * The United States acknowledged that the people of Timor-Leste had the right of self-determination but did not support any General Assembly resolutions on the issue between 1975 and 1982 or provide any assistance to the East Timorese struggle for self-determination until 1998. As a Permanent Member of the Security Council and superpower, the United States had the power and influence to prevent Indonesia's military intervention but declined to do so. It consented to the invasion and allowed Indonesia to use its military equipment in the knowledge that this violated US law and would be used to suppress the right of self-determination. It continued to provide military, economic and political support to Indonesia despite Security Council resolutions calling for Indonesia to withdraw and to allow the free exercise of self-determination.
- * France and the United Kingdom both acknowledged the right of the people of Timor-Leste to self-determination but, although Permanent Members of the Security Council, chose to stay silent on the issue. Both nations abstained from supporting all General Assembly resolutions between 1975 and 1982 and failed to promote the right or to provide assistance to the struggle of the East Timorese until 1998. Both countries increased their aid, trade and military cooperation with Indonesia during the occupation. Some French and British military equipment was used by the Indonesian forces in Timor-Leste.
- * China and the Soviet Union supported Security Council resolutions and General Assembly resolutions on the issue between 1975 and 1982 (with the exception of 1979 for China). Indonesia falsely claimed that both countries were allied to Fretilin and had a strategic interest in Timor-Leste and used this to justify military intervention. In reality, both countries gave over-riding priority to Indonesia and took only marginal interest in Timor's fate apart from some early backing by China.
- * Japan supported the right of the people of Timor-Leste to self-determination and did not recognise the Indonesian takeover or provide military assistance to Indonesia. However, it voted in support of only one Security Council resolution and against all General Assembly resolutions between 1975 and 1982. Japan was Indonesia's major investor and aid donor and had more capacity than other Asian nations to influence policymaking in Jakarta, but it did not use this leverage on behalf of Timor-Leste.
- * The Vatican supported the right of the people of Timor-Leste to self-determination and, consistent with this policy, did not integrate the local Catholic Church into the Indonesian Church despite pressure from Indonesia to do so. Pope John Paul II was the only world leader to visit the territory during the occupation. Leaders of the Catholic Church in Timor-Leste regularly requested the Vatican to support their appeals for self-determination, but the Vatican, concerned to protect the Catholic Church in Muslim Indonesia, maintained public silence on the matter and discouraged others in the Church from promoting the issue.

The key stakeholders

The Commission finds that:

- * The diplomacy of the East Timorese resistance was the most important factor in achieving self-determination. The Resistance maintained its commitment in the face of extraordinary challenges including significant disunity, resource constraints, isolation and overwhelming odds, both inside and outside Timor-Leste. The diplomacy of the Resistance was ultimately successful because it focused on internationally agreed principles, eschewed ideology and violence, was open to the contribution of all East Timorese, and made maximum use of the international system, media and civil society networks. As a human rights and moral (rather than ideological) issue, the question of Timor-Leste gained international legitimacy and support at the expense of Indonesia whose case rested on force and had no basis in international law or morality.
- * The Republic of Indonesia under President Soeharto violated the right of the people of Timor-Leste to self-determination. The responsibility for this violation rests primarily with President Soeharto, but is shared by the Indonesian armed forces, intelligence agencies and the Centre for Strategic and International Studies which were principally responsible for its planning and implementation.
- * President Soeharto and his advisors decided to incorporate Portuguese Timor in 1974 and used a variety of means to achieve this objective. These included propaganda, intimidation, subversion, interference in Portuguese Timor's internal affairs, and ultimately force and military occupation.
- * The Popular Representative Assembly held in Dili on 31 May 1976 did not meet international requirements for a genuine act of self-determination. The Assembly was not representative and did not constitute an informed and democratic process. Timor was in the grip of military occupation and armed conflict and had not attained an advanced stage of self-government with free political institutions that would have given its people the capacity to make a real choice. The process offered only one choice and was rejected by the United Nations.
- * The Indonesian military forcibly suppressed advocacy of self-determination within Timor-Leste and Indonesian government agencies sought to neutralise East Timorese, Indonesian and international civil society advocates of self-determination.
- * The Indonesian people bear no responsibility for these violations. Indonesian civil society showed rare courage by actively supporting the right of the people of Timor-Leste to self-determination.
- * Following the change of Indonesian policy by President Habibie, a genuine act of self-determination was held in Timor-Leste in 1999 despite violent attempts by the Indonesian military to subvert it.

- ✳ The Republic of Portugal under the Salazar-Caetano regimes violated the right of the people of Timor-Leste to self-determination by not recognising the non-self-governing status of the territory and by not preparing the East Timorese people for self-government in accordance with United Nations requirements. These failures undermined the right of the people of Timor-Leste to self-determination by contributing to the belief that an independent Timor-Leste was not economically or politically viable and could only subsist through incorporation into Indonesia.
- ✳ The decision by Portugal in 1974 to recognise the right of the people of Timor-Leste to self-determination was historic and changed Timor-Leste's destiny. However, Portugal failed to discharge its responsibilities adequately during this critical time and left Timor-Leste relatively defenceless both on the ground and internationally in the face of Indonesian plans to incorporate the territory.
- ✳ As the administering power, Portugal adhered to the principle of self-determination throughout the Indonesian occupation and provided financial and political assistance to the people of Timor-Leste in their struggle for self-determination. However, Portuguese diplomacy did not match that of Indonesia and it did not promote self-determination strongly or consistently for much of the occupation.
- ✳ Portuguese civil society actively supported the right of the people of Timor-Leste to self-determination particularly through advocacy at home and abroad and the sustained dissemination of information.
- ✳ Australia was well-placed to influence policymaking on the issue because the people of Timor-Leste, President Soeharto and the international community regarded its views on the question as important. Australia cautioned against force in 1975 but led Indonesia to believe it would not oppose incorporation. It did not use its international influence to try to block the invasion and spare Timor-Leste its predictable humanitarian consequences. Australia acknowledged the right of self-determination, but undermined it in practice by accommodating Indonesia's designs on the territory, opposing independence and Fretilin, and giving *de jure* recognition to Indonesia's takeover. Australia supported only one General Assembly resolution on the question between 1975 and 1982, provided economic and military assistance to Indonesia and worked hard to win over Australian public opinion and the international community to support for Indonesia's position.
- ✳ The United Nations and its member states strongly supported the act of self-determination conducted in 1999.

Unlawful Killings and Enforced Disappearances

We must speak objectively. That a war took place is part of our history. UDT started it, then Fretilin avenged the killings during the “counter-coup”. At the time, there was little respect for humanity or justice.³⁰

I saw and know of the [execution] of 160 people in Aitana on September 1981. They were not only from Falintil forces, but included women and children. We were [told by ABRI to] bring the bodies and collect them in one location on the Waidada river. Bodies that were far away were beheaded and only the heads brought. Then they took pictures. About 25 people were captured alive but wounded. They were treated, but later executed. I saw with my own eyes how they were made to stand in lines of four and then executed.³¹

Overview

The Commission estimates that about 18,600 unlawful killings and disappearances occurred during the period of its mandate. The vast majority of them were perpetrated by the Indonesian security forces. The proportion of the total number of killings and disappearances which were attributed to the Indonesian security forces increased steadily over the years of the occupation, although from the mid-1980s their absolute number declined in most years until 1999.

The arbitrary deprivation of human life is prohibited under international human rights law.^{*} Even where an emergency threatens the life of a nation, obligations in respect of the right to life may not be limited in any way (“derogated from”).[†] The right not to be arbitrarily deprived of life also applies during an armed conflict. During such a conflict the question of whether a deprivation of life is arbitrary is to be determined by applying the rules of international humanitarian law.[‡] The most important of these rules for the purposes of this section are the following.

- The intentional killing of civilians is always prohibited
- It is prohibited to intentionally kill combatants who are no longer taking part in combat because they are wounded or sick, have been captured, or have laid down their arms.

^{*} Universal Declaration of Human Rights, Article 3; International Covenant on Civil and Political Rights, Article 6; and customary law: see Human Rights Committee General Comment 24, para 8.

[†] International Covenant on Civil and Political Rights, Article 4(2); Human Rights Committee, General Comment 6, para.1.

[‡] Advisory Opinion on the Threat or Use of Nuclear Weapons, (1996) ICJ Reports 226 at 240.

Quantitative overview

On the basis of its quantitative analysis the Commission found that of the approximately 18,600 unlawful killings and enforced disappearances of East Timorese non-combatants perpetrated between 1974 and 1999, the overwhelming majority, 70%, were committed by the Indonesian security forces, including East Timorese auxiliaries.* Unlawful killings and enforced disappearances were perpetrated by the Resistance as well as by Indonesian security forces. The temporal profile of the killings and disappearances attributed to the Resistance is very different from that of those attributed to the Indonesian security forces. Killings and disappearances reported to have been committed by members of the Resistance are heavily concentrated in the early years of the conflict, primarily during and after the inter-party conflict known as “the civil war” and during the Fretilin intra-party purges of 1976 and 1977-78. While 49.0% (561/1,145) of all documented killings and disappearances in 1975 were attributed to Fretilin/Falintil, the percentage (although in 1976-84 not the absolute number of killings and disappearances) falls sharply in each succeeding period, decreasing to 16.6% (563/3,398) of documented killings and disappearances in 1976-84, to 3.7% (18/488) in 1985-1998 and to 0.6% (5/898) in 1999. There is a corresponding increase in the percentage of killings and disappearances attributed to the Indonesian security forces and their East Timorese auxiliaries.

Internal conflict, 1974-1976

The Commission finds that a multitude of unfavourable factors conspired to generate the uncontrolled violence during the period of internal conflict. They included:

- Portugal’s tardiness in producing a broadly acceptable timetable for decolonisation
- Indonesia’s increasingly overt interference in the territory’s affairs
- The failure of all the international actors who might have restrained Indonesia to affirm unequivocally that a forcible Indonesian takeover of Portuguese Timor would be an unacceptable violation of the principle of the right to self-determination
- The lack of political experience of the newly formed political parties, including their tolerance of violence
- The formation and arming of militia affiliated with political parties
- The abandonment by East Timorese and Portuguese members of the colonial army and police of political neutrality
- The failure of the organs of law enforcement of the Portuguese Government to redress outbreaks of violence during the build-up of tension before 11 August 1975 and after this date.

The Commission notes that the few institutions in the territory that might have played a mediating role and promoted dialogue, including the Catholic Church, failed to do so. Instead they took sides and fanned the flames of conflict.

The Commission finds that deep-seated communal differences, often based on personalities and economic interests, heavily influenced the shape of politics in the months leading up to the internal armed conflict. As political parties fought each

* Auxiliaries comprise “civil defence” groups (including Hansip, Ratih, Wanra and Kamra), members of the local administration acting in a “security” role, paramilitary groups (such as Tonsus and the various “Teams” that were forerunners of the militia groups formed in 1998-99), and the militia groups themselves.

other for local dominance, through intimidation, violent rhetoric and actual violence, the climate was created for the killings and revenge killings that were a feature of the armed internal conflict of August-September 1975. While political life throughout the territory was disfigured in this way, the districts of Liquiça, Ermera, Manatuto, Aileu and Manufahi were the most affected.

The Commission finds that Indonesia's actions from 1974 were a major contributor to the deterioration of an already volatile situation. These actions culminated in the incursions of September-November 1975 and the full-scale invasion of 7 December 1975 during which Indonesia exploited and exacerbated East Timorese divisions by mobilising anti-Fretilin forces to join its aggression against the territory. Executions of detainees, which had already become a feature of the conflict between August and October 1975, occurred on an unprecedented scale in December 1975-January 1976, as Fretilin executed detainees in response to the advance of Indonesian forces.

UDT

The Commission finds that:

- * UDT members and supporters carried out unlawful killings and enforced disappearances of civilians in Dili, Ainaro, Liquiça, Ermera and other districts after it launched its armed movement on 11 August 1975. Most of the victims were Fretilin members and supporters. Some victims were innocent bystanders killed in place of a Fretilin member who managed to escape and people who had the misfortune to encounter a group of armed UDT supporters.
- * UDT members and supporters committed unlawful killings between August and October 1975, targeting suspected members of Fretilin in Liquiça, Dili, Ermera, Manatuto, Manufahi, Bobonaro, Oecusse and other districts. This sharp increase in number of fatal violations by UDT took place under the pressure of the advances of Fretilin.
- * UDT leaders, members and supporters killed persons identified as being affiliated with Fretilin in a variety of circumstances. In the immediate aftermath of launching of the armed movement, Fretilin supporters were captured, killed and often beheaded in Manufahi, Liquiça and Ermera, sometimes by UDT mobs acting on the orders of their leaders. Prison guards killed individual detainees in UDT detention centres, sometimes, as in Palapaço (Dili), on their own initiative, and sometimes as in Aifu, Ermera on the orders of party leaders. In late August and early September 1975, persons who had been detained in the days after UDT launched its armed movement were executed in Manufahi and Ermera as Fretilin forces advanced on these areas.
- * The victims of these unlawful killings by UDT were predominantly military-aged men with real or suspected association with Fretilin. However, the Commission also received reports of children among groups of executed detainees.
- * Methods of unlawful killing included:
 - Armed groups of UDT members shooting unarmed civilians in groups

- The execution of civilians using traditional weapons, such as machetes, spears and knives
 - The holding of ritual ceremonies before and after killing
 - Beheadings, and display of the decapitated heads as trophies
 - The severing of body parts, such as hands, and disembowelment
 - The display of corpses in front of homes of Fretilin members
 - The disposal of dead or fatally wounded bodies in gorges and rivers
 - The execution of detainees in detention centres, and in isolated places in the countryside, including coffee plantations. Some detainees had their hands tied with wire at the time of execution. Others were brought out of detention centres in small groups and then executed.
 - Beating before execution
 - Disappearance
- ✳ The Commission does not believe that the UDT Central Committee ordered the killing of civilians, including the execution of detainees. However, it contributed to a climate in which such killings were likely to occur by inciting its followers over the radio to arrest political opponents as part of a purge of “communists”. However, the Commission learned that individual members of the UDT Central Committee played a direct role in inciting violence at district level. Other members of the UDT Central Committee would have been aware that UDT commanders, members and UDT forces were conducting unlawful killings, as is evident by the sporadic efforts of some of them to stop them occurring.

Fretilin

The Commission finds that:

- ✳ Before UDT’s armed action of 11 August both Fretilin and UDT members and supporters conducted sporadic attacks on rival villages, in which civilians were killed. These attacks occurred with greatest regularity in the area of Laclubar (Manatuto), Turiscai (Manufahi) and Maubisse (Ainaro). The most serious of these attacks was a Fretilin assault on the village of Maulau (Maubisse, Ainaro) in which around 40 people, mainly UDT supporters, were killed.
- ✳ Fretilin’s response to UDT’s armed action of 11 August was an armed “general insurrection”, in which its members unlawfully killed leaders, members and supporters of UDT and other opposition parties. Between August and October 1975 Fretilin members and supporters carried out reprisal unlawful killings in numbers which surpassed the victims of the killings by UDT.
- ✳ The victims of these unlawful killings by Fretilin were predominantly military-aged men with real or suspected association with UDT. To a lesser extent, in some parts of the country, leaders, members and supporters of Apodeti were also targeted.
- ✳ Fretilin members and supporters conducted sporadic execution of detainees, both individuals and in groups, in Aileu and Liquiça Districts, within a week of the

armed action by UDT. Among those executed were surrendered combatants and civilians. There were instances, including in the districts of Liquiça and Manufahi, where local Fretilin leaders halted the execution of detainees.

- ✳ Fretilin leaders ordered the evacuation of detainees from Dili and other areas to Aileu in September, October and December 1975. As Indonesian troops advanced, the security situation deteriorated further, leading to an atmosphere of uncontrolled fear and vicious resentment towards those regarded as actual or potential collaborators with the invaders. Hundreds of detainees were executed by Fretilin forces in Aileu, Maubisse (Ainaro) and Same (Manufahi) in December 1975-January 1976. The Commission believes that these executions, several of which were mass executions, resulted in a number of fatalities that was far higher than in the earlier period of the internal conflict.

- ✳ Method of unlawful killings included:
 - Deadly assault as part of attack against a community perceived to support opposing party
 - Beating prior to execution
 - Shooting using Mauser, G-3, and other firearms
 - Discarding of bodies by throwing them into burning house
 - Lack of treatment for wounded detainees
 - Beheading
 - Tying to a flag-pole, lining-up, or being tied-up for execution
 - Deadly assault using traditional weapons, such as machetes, spears and knives
 - Throwing grenades into enclosed spaces where detainees were being held
 - Although the unlawful killings committed by Fretilin members and supporters were in retaliation for acts of violence perpetrated earlier by UDT, Fretilin leaders failed to control its forces in order to prevent excess fatal violations throughout the country.

ABRI/TNI

The Commission finds that:

- ✳ Covert Indonesian intelligence operations, high-level contacts with leaders of the East Timorese political parties, and the military training of East Timorese in West Timor exacerbated the rising tensions between the political parties, and were probably decisive in UDT's decision to launch its armed action.

- ✳ Indonesian covert military operations were directly responsible for unlawful killings of dozens of civilians in the districts of Bobonaro, Covalima and Ermera in August-November 1975. The training given by Indonesian military personnel in West Timor to Apodeti and UDT members and the deployment of these "Partisans" with Indonesian troops in the incursions of August-November 1975 and during and after the full-scale invasion of 7 December 1975 aggravated the hostility between Fretilin and those parties, and thereby played a part in Fretilin killings of persons associated with UDT and Apodeti before and after the invasion.

ABRI, UDT and Apodeti

The Commission finds that:

- ✳ ABRI used members of UDT, Apodeti and other parties in a variety of roles during and after the invasion, including as auxiliaries, translators, informants and administrators. Members and supporters of UDT and Apodeti recruited and trained by the Indonesian military aided and abetted ABRI in the commission of unlawful killings and enforced disappearances during and after the invasion.

Indonesian Occupation 1975-1999

The Resistance

The Commission finds that:

- ✳ The Resistance also committed unlawful killings and disappearances over the whole period between the Indonesian invasion and during the whole period of the conflict. During this period less than one-third, 29%, of all unlawful killings and disappearances reported to the Commission through its statement-taking process were committed by forces affiliated with the Resistance movement. Moreover, these violations were heavily concentrated in the early years of the conflict. While 49% (561/1,145) of documented killings and disappearances in 1975 were attributed to Fretilin/Falintil, its share of the total fell to 16.6% (563/3,398) in the period 1976-84 and kept on falling during the remaining years of the conflict, to 3.7% (18/488) of killings and disappearances in 1985-98 and to 0.6% (5/898) in 1999.

The Commission heard extensive testimony about the killing of non-combatants perpetrated by Fretilin and Falintil during the period February 1976-79. During this period leaders and members of both organisations were implicated in fatal violations in most districts across the territory. Senior Fretilin leaders and Falintil commanders ordered many of the killings reported to the Commission, and in some instances themselves perpetrated them. Although some of those killed were civilians previously associated with UDT and Apodeti, who were collaborating with the Indonesians, most of those who were killed, disappeared or died of deprivation or other kinds of ill-treatment during this period were themselves members of Fretilin or Falintil or members of the civilian population living in Fretilin bases.

Between 1980 and 1999 not only was the scale of reported killings by Falintil far lower than in 1976-79; the pattern was also very different from in the earlier period. The victims tended not to be persons who were associated with the Resistance, but individuals who were working with the Indonesians (sometimes against their will) and the random casualties of Falintil attacks.

The Commission heard of a number of killings committed by Fretilin after February 1976 through to 1979 against persons who were associated with other parties, most of the victims known to the Commission being associated with UDT. The killings tended to occur in areas such as the districts of Ermera, Baucau and Manatuto, where support for both UDT and Fretilin had been strong and the level of violence during the “civil war” had been particularly intense.

In some instances UDT members were killed by ordinary Fretilin members motivated by feelings of revenge. In other cases, such as the killing of at least nine people in Venilale (Baucau) between 1 and 12 February 1976, there is evidence of higher-level involvement. The Commission also received reports of the killing of former UDT members who were suspected of spying for the Indonesians and of persons who were executed because they had allegedly been in contact with UDT-affiliated relatives in the Indonesian-controlled areas.

- ✱ In 1976-77 around 60 people were executed or died in detention, as a result of conflicts within the Resistance. They included:
 - Aquiles Freitas, commander of the Bero-Quero Command in Quelicai (Baucau), and several of his chief associates, including Ponciano dos Santos, Antonio Freitas and João Teodoso de Lima were executed at Lobito (Vemasse, Baucau) and in Bagueia (Bagueia, Baucau) in December 1976-January 1977
 - Francisco Ruas Hornay and at least 14 of his followers, who were executed in Iliomar (Lautém) in November 1976
 - The former Falintil Deputy Chief of Staff, José da Silva, and possibly 40 of his followers, who were executed or died in detention between October 1976 and August 1977 after being arrested in Ermera District in October 1976.

In the Fretilin internal conflict that erupted in 1977 several hundred followers and suspected followers of the Fretilin President, Francisco Xavier do Amaral, were executed or died as a result of torture and ill-treatment in detention. The purge was concentrated in Aileu and Manufahi in the North Central and South Central Sectors, and to a lesser extent in Quelicai in Baucau District and Uatu-Carbau and Uatu-Lari in Viqueque District in the Central Eastern Sector and Covalima and Ermera in the South Frontier and North Frontier Sectors. Those targeted included members of the Fretilin Central Committee, senior military commanders and middle-level cadres of Fretilin and its affiliate organisations as well ordinary Fretilin members, Falintil troops and members of the civilian population living in the Fretilin bases.

Many of the victims of these purges died in horrific circumstances, including:

- In public mass executions conducted with the utmost brutality
 - As a result of severe deprivation in extremely primitive detention centres, including *Renals* (National Rehabilitation Centres), where the food, shelter, sanitation and medical treatment that prisoners were given were grossly inadequate
 - As a result of severe torture in detention, involving such methods as burning with hot irons, repeated heavy beatings, hanging the victim from a tree and the cutting of the victim's body.
- ✱ The Commission finds that senior Fretilin leaders not only knew of and approved these practices, which generally occurred at or near places where the Fretilin Central Committee and the Sectoral and Zone administrations had their bases, but in many instances were themselves direct perpetrators.

- ✳ In addition to the killings and deaths related to political conflict within Fretilin there were other circumstances in which Fretilin/Falintil committed these violations. Among the categories of victims reported to the Commission to have been executed or to have died of deprivation or other kinds of ill-treatment while in detention were the following:
- Civilians who were suspected of planning to surrender, were in the process of surrendering, or who had actually surrendered
 - Local Fretilin or Falintil leaders or members who had encouraged the civilian population to surrender
 - People who broke away from the main population concentrations and were captured
 - Detainees killed as Indonesian forces closed on the areas where they were detained
 - Villagers suspected of or actually belonging to “pro-integration” parties killed as Indonesian forces advanced on an area
 - Persons holding dissenting ideological views
 - People who after surrender were ordered by ABRI, Hansip or members of the civil administration to return to the mountains or forest to try to persuade people still holding out to surrender
 - Persons who rejoined the Resistance after previously surrendering or being captured by the Indonesians
 - The relatives of collaborators, as well as collaborators themselves
 - Persons blamed for failed Falintil attacks on Indonesian bases and successful Indonesian attacks on Fretilin and Falintil bases
 - People living in Fretilin bases who had been in contact with relatives or others in Indonesian-controlled areas
 - People living in the Resistance bases, under Indonesian control or in areas not fully under the control of either side who were found looking for food or going about their daily activities.

While acknowledging the intense pressure created by indiscriminate Indonesian offensives against their bases, particularly in the later years of the 1976-79 period, the Commission holds the Fretilin/Falintil leadership of the time responsible for creating an atmosphere of violence and ideologically-based intolerance which provided the preconditions in which this wide range of killings could occur. In addition the Commission finds that Fretilin/Falintil leaders and commanders were responsible for ordering or directly perpetrating many of these killings.

1980-99

Between 1980 and 1999 there was a sharp drop in the number of killings attributed to Fretilin/Falintil. Because East Timorese society became so heavily militarised during this period, the status of many of the civilians who were killed by Fretilin/Falintil was often ambiguous. They included people who were forcibly put in harm’s way, whether as Hansip, as persons forcibly recruited as TBOs (*tenaga bantuan operasi*, operations assistants) or to take part in the various *Operasi Kikis*, persons required to perform night-guard duties or as unwilling recruits to the militia groups. The Commission believes that responsibility for deaths in these circumstances should rest primarily

with those who put the victim in harm's way, namely the Indonesian security forces. In addition many of the victims of Falintil killings were Hansip, village chiefs and other members of the civil administration, holding positions that, unlike in most of Indonesia, had become highly militarised in occupied Timor-Leste.

Because the dividing line between combatants and non-combatants was often blurred and because it is not always clear from the available information that a particular victim was a specific target, it has not always been possible for the Commission on the basis of the information available to it to judge whether a violation has in fact occurred, and if it has, where responsibility for it lies.

The downward trend in unlawful killings by the Resistance, which was particularly marked during the final decade of the Indonesian occupation, is explained by several related developments. A new policy was adopted shifting the focus of the struggle to urban protest. Although Falintil remained alive and militarily capable, this policy shift gave greater prominence to public protests in the towns than to Falintil's previously favoured tactic of demonstrating that it was a force still to be reckoned with through shows of force in the countryside. This trend was accelerated by the Indonesian decision in late 1988 to "open" the territory partially to outsiders. At the same time the decision to pursue the National Unity strategy and to build as broad a base of support for the Resistance, including by winning over East Timorese who were collaborating with the Indonesians, probably also contributed to the decline in violence in these years. As a part of this strategy, in 1987 the armed Resistance, Falintil, was formally separated from Fretilin.

During the period 1980-98 Falintil killed civilians in the following circumstances:

- During attacks on military-controlled settlements in early 1980s, which were apparently intended to demonstrate to the population now under Indonesian control that Falintil had survived
- During Indonesian military operations for which East Timorese had been recruited, usually forcibly
- During attacks on villages in the mid-1980s, which were apparently in response to major Indonesian operations and intended to show that Falintil still retained a military capacity to launch such attacks; village guards and Hansip were particularly vulnerable to be killed during such incidents
- During attacks launched at particular times, including anniversaries (such as Indonesian Independence Day and the anniversary of the founding of Falintil) and during national elections (in 1987 and 1997), when they could be expected to attract attention internationally and in Indonesia and Timor-Leste

These killings occurred in the context of military operations and as noted above, the Commission often found it difficult to establish whether civilians killed in these circumstances were specifically targeted.

There were instances of targeted killings reported during this period, where, for example, Falintil killed civilians who had been ordered by ABRI/TNI to search for relatives in the forest on their own, when it assassinated members of Hansip and other collaborators and before and after the Popular Consultation in 1999. In several of these cases the Commission received credible information that the Falintil High Command did not institutionally condone these violations.

Indonesian security forces and its auxiliaries

The Commission finds that:

- * Members of the Indonesian security forces and their auxiliaries committed and condoned widespread and systematic extra-judicial executions and enforced disappearances during the period of the Indonesian occupation of Timor-Leste.
- * Of all unlawful killings and disappearances reported to the Commission through its statement-taking process, just over 70% (4,174/5,944) were attributed to the Indonesian military and police and East Timorese auxiliaries, acting alone or jointly.
- * Indonesian security forces, acting without its East Timorese auxiliaries, were responsible for the majority of civilian killings during the period of the occupation, during the years of 1975, 1979 and 1983. These peaks coincide with periods of large-scale military operations, where thousands of people experienced detention, displacement and food shortages.
- * East Timorese auxiliaries acting without members of the Indonesian security forces were responsible for lesser number of civilian killings during the period of occupation, during the years of 1975, 1979, 1983. However, East Timorese auxiliaries acting without members of the Indonesian security forces were responsible a majority of civilian killings in 1999, during the time of the Popular Consultation. This shows a shift in the strategy of the Indonesian security forces who armed, trained and directed local militias to carry out unlawful killings and enforced disappearances on their behalf.
- * Unlawful killings and enforced disappearances by Indonesian security forces and their auxiliaries took place in all 13 districts, with the highest number being recorded in the eastern districts.
- * Victims of unlawful killings and enforced disappearances were predominantly men of military age with a real or suspected association to groups resisting the occupation, including Fretilin/Falintil, clandestine networks, or other pro-independence groups. Women and children who were thought to be family members of those mentioned above were also victims of these fatal violations to a lesser degree. Typically, women and children were killed during massacres, when indiscriminate shooting and attacks led to large number of fatal casualties.
- * Indonesian security forces and their auxiliaries used enforced disappearances as a strategy to control counter-insurgency activities, particularly in the eastern and central regions. The strategy was particularly effective in instilling fear in the general community, disrupting the lives of the families of the victim.

1975-84

- * Indonesian forces were responsible for unlawful killings and enforced disappearances of civilians during the invasion of Timor-Leste. In Dili hundreds of civilians were executed, apparently in revenge for deaths of Indonesian soldiers. Most of these killings took place on 7-9 December in areas such as Colmera, Vila Verde, Matadouro, and along the Maloa River to Ailok Laran, where Fretilin forces actively resisted the invading forces. Dozens of ethnic Chinese, who lived around Colmera, were executed near the harbour, as were captured leaders and members of Fretilin and their relatives, including Isabel Barreto, the wife of Nicolau Lobato, the Fretilin Vice-President and RDTL Prime Minister.
- * The Commission received many reports of Indonesian forces killing civilians as they advanced into other parts of the territory. Sometimes those killed had been denounced as members of Fretilin, but many of the victims of these killings were randomly targeted members of the civilian population. Ordinary civilians were targeted in a variety of other circumstances: while looking for food or going about their daily activities, after encountering Indonesian security forces on operations, in retaliation for Falintil attacks, and on suspicion of working with or having knowledge about Fretilin/Falintil.
- * Throughout the early years of the occupation, but in particular between 1978 and 1979, ABRI/TNI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of surrendered civilians and combatants.

In addition to the executions of individuals and small groups, the Indonesian security forces and their auxiliaries carried out a widespread and systematic campaign of killings and disappearances directed at surrendered and captured members of Fretilin and Falintil. The Commission finds that these killings and disappearances were carried out as part of a systematic plan, devised at the highest levels of the military command structure and coordinated by newly-created Korem under the command of then Colonel Adolf Sahala Rajagukguk, whose purpose was to eliminate surviving leaders of the Resistance movement. It reaches this conclusion on the basis of the following considerations:

- The campaign occurred in a number of different places at around the same time, and resulted in the execution or disappearance of at least 600 people between March and September 1979.
- Its targets were mainly people who before their surrender or capture had been Fretilin activists, often though not exclusively ones holding senior positions in the organisation, or members of Falintil, again often though not exclusively commanders.
- The particular time during which these killings and disappearances occurred was a period of transition when *Operasi Seroja* Joint Task Command was being dismantled and replaced by the East Timor Sub-Regional Command (Korem), a change that was intended to mark the normalisation of the situation in Timor-Leste.
- Many of those who fell victim to the campaign had been captured or had surrendered well before they were executed or disappeared, and had in some cases been integrated into Indonesian auxiliary units, such as Tonsus and Hansip, or the civil administration.

- In several of the districts where the executions and disappearances took place the Commission learned that lists of targeted individuals had been drawn up.
- The treatment of the victims was uniform: most of the victims were held in specific detention centres from which they were taken to specific places of execution where they were killed by specific military or auxiliary units.
- The Commission also found that a detainee who was eventually executed might be transferred from one place of detention to another, often in a different district, before being executed, one indication of overall coordination.
- Another indication of coordination was the wide range of institutions which were involved in the execution and disappearance of detainees, including the units of the territorial structure from the Korem down to the Koramil, combat battalions and the regional combat regiments (Resimen Tim Pertempuran) which commanded them, Hansip, paramilitary teams such as Team Nuklir and Tonsus, and the civil administration.
- The killings were widely known about at the time both by detainees and by the wider population and were perceived by both to constitute a coordinated campaign.
- The language used by perpetrators in different districts to account for the disappearance of the victims was frequently uniform, with detainees who had been taken away for execution being described as “having gone for a bath” or “gone to school”.
- Throughout the occupation ABRI commanders, troops and members of the civil administration forcibly recruited tens of thousands of civilians to participate in military operations, known as *Operasi Kikis*, to search for and destroy remaining armed Resistance in the mountains. The largest of these operations took place in but in June-September 1981, when as many as 60,000 East Timorese were recruited to converge on Falintil positions.

The Commission has found that in September 1981, at the conclusion of the *Operasi Kikis* of June-September 1981, Battalions 321, 744 and/or 745, Marine Units, and Hansip Falintil forces gathered in the area of Mount Aitana on the Manatuto-Viqueque border and subsequently executed more than one hundred and, possibly several hundred, Falintil troops and civilians, including women and children, who were accompanying them. At the time that they were killed these victims were either at the mercy of Indonesian forces or in their custody after surrender or capture.

Throughout the occupation, but in particular in the early 1980s, ABRI/TNI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of civilians to punish communities collectively that were suspected of supporting Falintil forces. The indiscriminate punishment of persons known to have previously been involved with the Resistance movement and the collective punishment of communities were particularly severe in the aftermath of Falintil attacks on military targets. For example:

- After the Resistance mounted attacks on military targets in Marabia and Becora in Dili on 10 June 1980, hundreds were detained. The Commission compiled the names of 121 people who disappeared, were executed (sometimes in public) or died in detention as a result of severe torture and deprivation of food and medical treatment in the weeks after the attack.

This figure does not include people who were selected for transportation to the island of Ataúro between July 1980 and August 1981 for their alleged involvement in the attacks. For these people, who constituted the first groups of people to be sent to Ataúro since the invasion, conditions were particularly harsh and it is known that many of them died on the island.

- After Falintil attacks on Mauchiga (Hato Builico, Ainaro) and Rotuto (Same, Manufahi), in the area of Mount Kablaki on 20 August 1982, troops and commanders from the Ainaro Kodim, the Dare Koramil and the 5th Combat Engineering Battalion (Zipur 5), and Hansip, detained hundreds of men and women from Mauchiga and the surrounding communities. A special project undertaken by the Commission recorded that more than 50 people from the village of Mauchiga alone were executed or disappeared in the following months. Many of them were killed in the most brutal fashion, both publicly and at an execution site, called Jakarta 2, at Builo, near the town of Ainaro, where victims were hurled into a deep ravine. Others were raped, and some 600 people from the area were forcibly displaced to Ataúro Island and other locations where many of them died of deprivation.
- After the joint attack by Falintil and East Timorese Ratih (civil defence) in Kraras (Viqueque) on 8 August 1983, troops and commanders of Kopassandha, Kodim Viqueque, Battalions 328, 501, 745 and Hansip, carried out a series of executions, in which more than 200 civilians, mostly men, who had fled from the village were hiding in various locations around Kraras, in the months of September-October 1983.
- After the defection of more than 30 armed members of Hansip, with their families and members of a clandestine youth group, in Mehara (Lautém) on 9 August 1983, smaller-scale defections in Lore in Lospalos Sub-district (Lautém) and Serelau in Moro Sub-district (Lautém), and the discovery of a plan for a similar action in Iliomar, Indonesian military forces detained hundreds of men and women throughout the district. Between August 1983 and March 1984 around 100 civilians, mostly men, were executed in various locations throughout the district.
- The “uprisings” in Viqueque and Lautém marked the end of a ceasefire that had been agreed between Indonesian forces and the Resistance in March 1983 and the start of a an operation, *Operasi Persatuan* (Operation Unity), which the recently-appointed commander –in chief of the Indonesian armed forces, General Benny Moerdani, said was aimed at the total eradication of the Resistance. One of the chief targets of this operation was civilians involved in clandestine activity. The Commission received testimonies about the execution and disappearance of more than 250 civilians in the districts of Lautém, Viqueque, Baucau, Dili, Aileu, Manufahi, Ainaro, Bobonaro and Covalima between August 1983 and mid-1984 (excluding those killed in Viqueque in the immediate of the attack on Kraras), as well as the arrest, detention and torture and ill-treatment of many others, including their long-term detention either without trial on Ataúro and elsewhere or after blatantly unfair trials. The systematic nature of these executions is evident to the Commission from the remarks of the commander –in chief of the Indonesian armed forces, from their scale and also from documentary evidence received by the Commission that village chiefs and members of the civil defence forces were ordered to draw up lists of people who had been active in the Resistance in the past, which formed the basis for the violations that

followed. In addition, as with the executions and disappearances of 1978-79, the operation of 1983-84 involved the mobilisation of a wide range of institutions within the security apparatus and the civil administration, including the Special Forces (Kopassus), all levels of the territorial structure, combat battalions, the civil defence forces, paramilitary teams, the civilian and military police and local government officials.

1985-98

In the period 1985-1998 the number of killings and disappearances committed by ABRI and its auxiliaries declined relative to the earlier years of the occupation. However, the Indonesian security forces continued to kill and cause the disappearance of civilians with real and suspected association to groups resisting the occupation, including members of Fretilin/Falintil, the clandestine networks and other pro-independence groups.

Although the number of fatal violations decreased, those that occurred could not be regarded as the exceptional acts of “rogue elements”. Impunity created a climate in which the following institutional practices were tolerated and condoned:

- The execution of civilians who were forcibly recruited to partake in military operations or exercises during military action
- The execution of civilians in place of escaped combatants
- Opening fire on a group of unsuspecting people or individuals carrying out daily activities, for no apparent reason
- Opening fire into a crowd of unarmed demonstrators

These practices are illustrated by the following cases:

- On 12 November 1991, Indonesian security forces opened fire on a group of demonstrators who were carrying pro-independence banners and flags at the Santa Cruz Cemetery in Dili. The demonstrators had proceeded to the cemetery to commemorate the death of Sebastião Gomes Rangel, a clandestine activist killed during a raid of the Motael Church on 28 October 1991. At least 75 civilians, and almost certainly many more, were killed at the cemetery and afterwards.
- On 12 January 1995, in Gariana (Maubara, Liquiça), in response to a failed attempt to capture a suspected Falintil combatant, Indonesian security forces dragged six civilians into a ditch and executed them.
- In retaliation for the execution of suspected informants and an attack on military targets by Falintil in Alas (Manufahi), in October and November 1998, Indonesian security forces and auxiliaries detained hundreds of civilians, and 20 people were executed or disappeared in the following weeks.

Responding to international and domestic pressure, the Indonesian military conducted internal investigations and brought judicial proceedings against relatively junior personnel in at least two instances cases, following the Santa Cruz Massacre in Dili in 1991 and the killing of six civilians in Gariana (Maubara, Liquiça) in 1995. In both cases court martial proceedings resulted in the low-ranking soldiers receiving light

sentences, of between eight months and four years. The proceedings were not conducted in such a way as to establish the truth of what happened during these incidents or command responsibility for those atrocities.

The institutional practice of the Indonesian security forces shifted in the 1990s, resulting in a further decline in the number of unlawful killings and enforced disappearances, particularly after the Santa Cruz Massacre of November 1991. The shift was influenced by a number of factors, including an increasingly bold and sophisticated clandestine movement which made use of international media and human rights mechanisms and diplomacy, heightened international scrutiny after the Santa Cruz Massacre, the establishment of the Indonesian Human Rights Commission, the emergence of a human-rights focused Indonesian and East Timorese civil society, and finally, *Reformasi* (Reformation) in Indonesia. At the end of the 1990s, in response to the growing outspokenness of the pro-independence movement, the number of unlawful killings and enforced disappearances rose again. However the majority of these acts were no longer directly committed by members of the Indonesian security forces, but by their auxiliaries.

1999

- ✱ In 1999 Indonesian security forces and their auxiliaries conducted a coordinated and sustained campaign of violence, designed to intimidate the pro-independence movement and then to ensure a pro-Indonesian result in the Popular Consultation, organised by the United Nations. Thousands of civilians were detained, hundreds of thousands were forcibly displaced, and between 1,400 and 1,500 were killed or disappeared during the course of the year. The majority of fatal violations took place in April, before the signing of the May 5 Agreements, and in September-October, after the announcement of the result of the ballot.

Impunity created a context where the unlawful killing or enforced disappearance of civilians was tolerated, supported and condoned. As in earlier years when ABRI/TNI launched operations against the civilian population, it mobilised all branches of security apparatus, including auxiliaries, and much of the civil administration in pursuit of its goals. Throughout this period ABRI/TNI, the police and militia groups acted in a coordinated manner. Military bases were openly used as militia headquarters, and military equipment, including firearms, were distributed to militia groups. Some ABRI/TNI personnel were also militia commanders or members. ABRI/TNI intelligence officers provided lists of the names of people to be targeted, and coordinated attacks. Civilian authorities openly provided state funding for militia groups and participated in militia rallies and other activities.

The extent of this collusion is illustrated by the following cases:

- On 6 April 1999, approximately 2,000 civilians who had sought refuge in the Liquiça Church were attacked by Besi Merah Putih militia, together with soldiers from the Liquiça Kodim, Brimob (police mobile brigade). At least 30-60 civilians were killed, their bodies transported in military trucks and discarded in secret locations.
- On 12 April 1999, in retaliation for an alleged Falintil killing of an ABRI/TNI soldier and a pro-autonomy leader, hundreds of civilians in the villages in Cailaco Sub-district (Bobonaro) were rounded up and required to attend the funeral of the pro-autonomy leader. At least seven suspected

pro-independence supporters were executed by TNI soldiers and Halilintar militia at the Koramil, 100 metres away from the mourners. Another 13 were executed in the following weeks.

- On 17 April 1999, at the end of a pro-autonomy rally in front of the Governor's Office in Dili attended by Governor of East Timor, the District Administrator of Dili, the Mayor of Dili, the provincial military commander, Colonel Tono Suratman, the Assistant for Operations to the Army Chief of Staff, Major General Kiki Syahnakri, the Regional Military Commander (Udayana), Adam Damiri, and two other senior military officers, Aitarak militia conducted a violent rampage, culminating with the attack on the house of Manuel Carrascalão where hundreds of displaced persons had sought refuge.
- On 6 September 1999, Laksaur militia, together with members of Indonesian security forces, attacked thousands of refugees who had sought safety in the Suai Church (Covalima). At least 27 people were killed, including three priests, possibly more. The bodies were burned, and some were transported across the border to be buried in a secret location in West Timor (Indonesia).
- On 5-6 September 1999, Aitarak militia, together with members of Indonesian security forces, attacked hundreds of refugees who had sought safety in church-related places, such as the diocesan office complex, the Bishop of Dili's house, convents, and the ICRC office. At least 19 civilians were killed or disappeared. The previous day, on 4 September, the militia attacked the pro-independence stronghold of Becora in Dili, killing at least seven men.
- On 8 September 1999, Dadurus Merah Putih and other militias, under the command of Indonesian security forces, attacked thousands of refugees who had sought safety in the Maliana police station, hunting down and killing those who escaped the following day. Before the attack CNRT leaders urged members of the Indonesian police to give them protection, but their pleas were ignored. At least 26 civilians were killed or disappeared, mostly local CNRT leaders and suspected pro-independence supporters, including one 12-year-old boy. The bodies were disposed of at a secret location.
- On 12 September 1999, Laksaur militia and Indonesian security forces, during an attempt to forcibly deport villagers from the village of Laktos, Fohorem (Covalima) killed 14 men who resisted being moved to West Timor.
- On 21 September 1999, ABRI/TNI soldiers from Battalion 745 randomly shot civilians during their retreat from Lospalos (Lautém) to Dili, and eventually to Kupang (West Timor, Indonesia). At least eight people, including a foreign journalist, were killed or disappeared during their journey from Lospalos to Dili.
- On 20 October 1999 Sakunar and Aitarak militia and Indonesian security forces, while rounding up villagers from Maquelab (Pante Makassar, Oecusse) for deportation to West Timor, executed six men in the Maquelab market. Another six were killed later during an attack on the village.

In 1999 victims of unlawful killings and enforced disappearances were predominantly men of military age with a real or suspected association to pro-independence groups, including CNRT, the clandestine movement and student and youth organisations. However, since the objective of the military and its allies was to intimidate the general population into voting for “integration” with Indonesia, their target was broad and their methods indiscriminate. Thus, women and children seeking refuge with their families were also killed during massacres. Other groups perceived to support pro-independence groups, such as the clergy, students, and local UNAMET staff were also targeted, particularly after the announcement of the ballot results.

Throughout the period of occupation (1975-1999), methods and circumstances in which unlawful killings were carried out included:

- Indiscriminate shooting of unarmed groups of civilians
- Dividing groups of unarmed civilians by gender, then indiscriminate shooting of the men
- Ordering of victims to dig their own grave before execution
- Ordering of victims to line up in formation before line by line execution
- Execution of unarmed individuals by close-range shooting
- Discarding of bodies by burning, by speedy secret burials without any attempt in identifying the victim and next of kin, by dumping into a well, lake, or ocean
- Throwing of grenades at unarmed group of civilians
- Death in custody by beating and torture
- Immediate execution after capture during military operations
- Public beheading
- Public staged or real acts of cannibalism
- Public cutting of body parts
- Public display of decapitated head, or severed limbs or body parts
- Forcing of civilian to kill another civilian under duress
- Tying to a moving vehicle to be dragged to death
- Immolation
- Tying up on a cross before execution
- Throwing down a cliff, sometimes after being wounded
- Burying alive wounded victims
- Public execution where a married couple was stripped naked, hit on the back of the neck so that they fell into a prepared grave
- Public fatal beating
- Parading of corpse
- Deadly assault using traditional weapons, such as machetes, spears and knives
- Death by acts of torture
- Abduction followed by disappearance, in some cases blind-folded and tied-up
- Targeted killing by militia from lists drawn up by military personnel

- Execution of detainees in detention centres, and in isolated places in the countryside, including in lakes and from rural bridges
- Displaying of human ears and genitals to family members of the disappeared
- Rape before the killing of female victims.

Among this litany of atrocities, there were a small number of brave individuals who balked at the command to execute unarmed civilians and sought to prevent these crimes.

- A member of Battalion 745 from Bobonaro refused to execute a group of civilians, which included women and children, preventing a massacre in Rotuto (Manufahi), in 1982.
- An Indonesian member of Brimob smuggled a female CNRT leader to safety the day after the ballot in Gleno, Ermera, in 1999. Although she was initially safe, she was eventually raped and killed by militia when she attempted to return home a week later.
- An East Timorese police officer was shot and killed by militia and ABRI/TNI when he attempted to prevent militia members from looting and burning a village in Maubisse (Ainaro).

Throughout the occupation Indonesian military commanders ordered, supported and condoned systematic and widespread unlawful killings and enforced disappearances of thousands of civilians in Timor-Leste. The sheer number of these fatalities, the evidence that many of them occurred during coordinated operations conducted across the territory, and the efforts of domestic and international non-government and domestic effort to inform the military and civilian authorities in Jakarta that these atrocities were happening rules out the possibility that the highest reaches of the Indonesian military, police and civil administration were ignorant of what was going on. The systematic failure of the Indonesian military and civilian leadership to prevent and stop these acts which they must have known about, and to punish the direct perpetrators of these crimes, is itself evidence of complicity.

Without full disclosure, the Indonesian military continue to perpetuate and support acts of enforced disappearances. Acts constituting enforced disappearances should be considered as a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of persons who have disappeared.

Forced Displacement and Famine

When we evacuated from Uaimori, people began to die. From starvation or from illness. As we walked, death stalked us. Death was behind us as we walked, and people died. Not only old people, but children, through lack of food. The old people walked, their strength all gone, carrying just one maek [a species of tuber], or a kumbili [sweet yam]. And a little water in a bamboo container on their backs. This is how many of us died. The dead were scattered all along the way, [from Uamori to Natarbora]. Others died from the mortars. Eighty to a hundred a day. We wanted to bury them, but the enemy kept shooting, so how could we bury them? We ran on. An old woman said: "Please my son, dig a hole to bury my child's body." We dug a hole, but less than half a metre deep. Before lowering the little angel into the hole we wrapped it in a mat to the sound of continuing gunfire. How could we bury it? We bent our heads and buried it with our hands.

Those we could, we buried. Otherwise they were left behind. How can we now find their bones? They rotted just as they were. We saw seven or eight people who were sitting while leaning against a tree. They leaned against the tree and died like that. Flies and dogs were around them. In our hearts we were terrified.³²

Overview

As part of its mandate to establish the truth regarding past human rights violations, the Commission conducted an inquiry into displacement and famine in Timor-Leste during 1974-1999. This inquiry was critical to understanding the story of human suffering and human rights violations associated with the conflict because displacement was a defining feature of the years of conflict in Timor-Leste. Almost every East Timorese person who lived through those years suffered some form of displacement, and many were displaced several times.

The consequences of displacement were far-reaching. One of the most frequent ways in which armed conflicts have disrupted the everyday lives of civilians is by causing them to be displaced. Even where it is voluntary, by uprooting civilians from the settings in which they have supported themselves, displacement commonly results in deprivation of various kinds, including hunger, disease and the loss of adequate shelter. Often displacement is in effect a form of arbitrary collective punishment, and as such is associated with violations of a range of human rights, civil and political as well as economic, social and cultural.

The reason why mortality was far higher between 1975 and 1999 than would have been expected in normal peacetime conditions was the large number of deaths from hunger and illness that were directly related to displacement. The Commission has concluded that a minimum of 84,200 people died from displacement-related hunger and illness during the whole period.

In Timor-Leste displacement was also closely correlated with the whole range of human rights violations. It is noteworthy that during the years when deaths from hunger and illness were at their highest, namely 1975-79, displacement, killings and disappearances, and many non-fatal violations, including detention and torture and ill-treatment, also reached peaks. Indeed, over the whole period 1975-99, fluctuations in all of these phenomena tend to be closely correlated, strongly suggesting that they had a common underlying cause, most plausibly the intensity of Indonesian military operations. The period of 1999 provides a partial exception to this finding: although displacements and both fatal and non-fatal violations rose to very high levels in that year and deaths by deprivation did increase, the number of deaths from hunger and illness did not increase as sharply as the level of displacements and violations of all kinds did, perhaps because the timeframe of displacements in that year was relatively brief.

The Commission finds that:

- ✳ The people of Timor-Leste experienced repeated periods of displacement, often in massive numbers, between 1975 and 1999. Most individual East Timorese alive today have experienced at least one period of displacement. Many have experienced several. All displacements caused major disruption to the lives of those affected. Some directly caused major loss of life.
- ✳ At a minimum, during the period 1975-1999, 84,200 people died due to hunger and illness in excess of the peacetime baseline for these causes of death, and the figure could be as high as 183,000. The overwhelming number of these deaths occurred in the years 1977-1978 and during the period of large-scale Indonesian military attacks on Fretilin bases in the interior where large numbers of civilians were living and in 1979 during the subsequent period of Indonesian military detention camps, and ABRI/TNI-controlled resettlement areas.
- ✳ These displacements took many forms, occurred in a complex variety of circumstances and lasted for periods that could extend from days to years. For example:
 - In the period before and during the civil war of August-September 1975 displacement commonly took the form of flight to escape coming under the control of or being subjected to violence by one of the parties to the conflict.
 - After the Indonesian invasion in December 1975 some people fled spontaneously either in response to perceived threats or to escape a very real and present threat. At the same time Fretilin organised the evacuation of communities, sometimes resorting to coercive methods.
 - When the Indonesian military stepped up its attacks on Fretilin/Falintil and the population under its control from 1977 onwards, some groups scattered, others were forced to keep constantly on the move to evade capture, and yet others moved in an orderly fashion to new locations.
 - The massive Indonesian assaults on the population concentrations still under Fretilin/Falintil control that lasted from late 1977 until the end of 1978 ended with tens of thousands of people being forced into resettlement camps under the strict control of the Indonesian military. In these and subsequent displacements by the Indonesian military, such as those to the

island of Ataúro in the early 1980s, the displaced found themselves being subjected to a rigorous form of detention intended to further Indonesian military objectives.

- The large-scale movements that took place in the period surrounding the Popular Consultation of 30 August 1999 involved both flight from TNI and militia violence and forced deportations to West Timor.
- ✧ Whatever form it took, displacement invariably had a seriously damaging impact on those affected, including by ending in the deaths of tens of thousands of people.
- ✧ Death was caused by famine, famine-related diseases, vulnerability to sickness due to hunger, fear or exhaustion and a lack of access to medical care. It is likely that more people died from the effects of displacement than from any other violation.
- ✧ For the survivors, displacement was the direct cause of a deep and abiding anguish at the loss of family members in horrific circumstances, which they were powerless to control or change. Displacement also meant vulnerability to other violations, including arbitrary detention, torture and ill-treatment, extrajudicial killings, sexual violence, forced labour and forced recruitment. It also regularly entailed hunger and deprivation of the means of making a livelihood through the destruction of or loss of access to food crops, livestock, housing, agricultural implements and land.
- ✧ Displacement also disrupted the fragile subsistence economy on which the majority of the population depended. One indication of this disruption was the dramatic fall between 1973 and 1980 in the number of livestock, which are crucial as means of production, transportation and sources of wealth in East Timorese agricultural communities. The devastation of Timor-Leste's livestock was closely related to the wider disruption created by displacements, resulting as it did from their abandonment by fleeing communities, their intentional destruction by Indonesian forces, their consumption by a population desperate for any form of sustenance, and their deaths due to starvation and bombardment.
- ✧ In Timor-Leste displacement was a violation that primarily affected communities. Its affect on communities was often long-lasting and utterly destructive of their integrity. Displacement was often used indiscriminately by the Indonesian military against communities or groups within communities as form of collective punishment and sometimes as a form of hostage taking.
- ✧ Displacement was a persistent theme running throughout the period of the Commission's mandate. This was so not just because 1974-99 were years of conflict in Timor-Leste. The Commission believes that some of the most harmful impacts of displacement were the direct result of poor policy decisions. The Commission believes, for example, that the Indonesian military displaced people from their homes repeatedly in order to control them, used food as a weapon of war, refused for reasons of military strategy to allow international humanitarian agencies access to Timor-Leste until famine had reached catastrophic proportions, and forcibly displaced East Timorese to West Timor for purely political ends.

The internal conflict August-September 1975

The Commission finds that:

- * In the period after the formation of political parties but before the outbreak of the internal armed conflict there were instances where communities fled to escape violence at the hands of their political opponents. The scale of these displacements was relatively small and the length of time for which people were displaced relatively short.
- * The internal armed conflict in August and September 1975 resulted in population displacements. Fearing persecution from opposing parties, many fled their homes to safety. Fretilin supporters were forced to leave their homes which were burnt by UDT supporters. After 20 August 1975, UDT supporters who felt threatened by Fretilin spontaneously crossed the border into Indonesian West Timor. Others were forced across the border by UDT members. Smaller numbers went to Australia, Portugal and other countries, either at this time or later after a period spent in the camps in West Timor.
- * The Commission was unable to determine with any certainty the number of refugees in West Timor. The international aid agencies operating in West Timor at the time seem to have relied on figures received directly from the Indonesian authorities, who claimed that 40,000 East Timorese had taken refuge in West Timor. A wide range of informed East Timorese who were in West Timor at the time have contested these figures. These latter sources say that the actual number of refugees in West Timor was significantly lower than the Indonesian figure. These sources have said that the Indonesian authorities inflated the figures both in order to receive larger quantities of relief aid than were justified by the true number of refugees in need of assistance and to create the impression that the scale of the fighting was greater than it actually was, that large numbers of East Timorese were unwilling to accept a Fretilin administration and that Fretilin's victory in the civil war posed a threat to regional stability.
- * The Commission is uncertain of the number of people who were internally displaced at this time. It has no way, for example, of verifying the ICRC's estimate that more than 50% of the population was displaced during this period. Whatever the number, most had spontaneously returned to their homes within weeks of having fled them.
- * A small number of the people displaced within Timor-Leste and of people who fled over the border into West Timor died as a result of the deprivation they suffered while displaced. In the camps in West Timor there were also cases of people being killed. Usually these people were Fretilin supporters who had been coerced into crossing the border.
- * International humanitarian agencies were able to provide emergency food and medical aid inside Timor-Leste and in the camps in West Timor.
- * The *de facto* Fretilin administration in principle allowed aid agencies access to all areas of Timor-Leste. In practice the main agency providing food aid to the

population, the ICRC, chose to restrict its relief activities to a small area around Dili, with supplies provided by the Australian Council for Overseas Aid (ACFOA) distributed by Fretilin in Fretilin-controlled areas. All aid programmes had only just got underway when they had to be abandoned in early December 1975 because of the impending Indonesian invasion.

- * Aid flows to refugees in West Timor after the invasion also diminished. The testimony of people who were in the camps, including Church people, indicates that the food was used as both a political tool and as a means to recruit East Timorese to fight as auxiliaries with the Indonesian army. There is also evidence that food and other assistance was withdrawn in April 1976 when East Timorese people in West Timor refused to endorse Indonesia's political goals in Timor-Leste. Thereafter the refugees suffered severe hardship, and some died.

The invasion

The Commission finds that:

- * Large numbers of people fled their homes in anticipation of and following the Indonesian invasion. Large numbers of people fled major population centres as Indonesian forces moved to control them from December 1975 onwards. Most who fled did so in fear for their lives.
- * Many people living in areas outside Indonesian control and in areas where fighting was not going on still fled their homes as soon as they heard that Indonesian forces had invaded. They fled for a number of different reasons: in fear for their lives; in response to Indonesian claims that they would achieve a quick victory; on learning of Indonesian atrocities in the early days of the invasion; and because Fretilin ordered them to do so.
- * The evacuation of the population took place in a variety of circumstances. Some evacuations from towns and villages were unorganised; others were coordinated by the Fretilin-led resistance.
- * The level of organisation of the evacuations varied according to the extent to which Fretilin itself had developed its own organisation during the period of its *de facto* administration and whether it had taken measures to prepare for the evacuation of the population.
- * Fretilin had a declared policy of evacuating the civilian population to safety and of organising a national liberation movement in the mountains. The Commission learned of instances where, to achieve that objective, it forced communities to evacuate, including people who were reluctant to leave their homes.
- * The Commission has been unable to calculate the number of people who were displaced during the first two years of the occupation. The eventual movement of around 300,000 people into Indonesian-controlled centres by 1978-79 is the best indicator of the massive scale of the displacement, which began in late 1975.

In view of the fact that a large number of people died in the mountains, and therefore never became part of the Indonesian-controlled population, the actual number of people who were displaced after the invasion is likely to be higher than 300,000.

- * The mass evacuation to the mountains, including Fretilin's decision to take large numbers of people with it, was made without sufficient thought about the problems of housing, feeding and protecting such a large population. In many Fretilin-controlled areas living conditions in the months after the initial flight were extremely difficult. Their difficulty was somewhat alleviated once structures had been set up to mobilise the population for such tasks as communal farming and to provide for the needs of the most vulnerable. However, even where such organisation was in place, the Commission learned, the death rate continued to be abnormally high.
- * The Commission received evidence suggesting that in the years 1976-78 the desire to surrender was geographically widespread and persistent among the population under Fretilin control. It is impossible to gauge how many people wanted to surrender, particularly as those expressing their feelings on this matter were liable to severe punishment, including death. The Commission did receive testimony supporting the conclusion that some communities understandably concealed their true feelings on this matter. At the same time it also heard of instances where civilians given the opportunity to surrender refused to take it and where, when people were finally ordered to surrender, they did so with great reluctance.
- * For most people who stayed in the mountains until the end of Operation Seroja in late 1978-79, the pattern of their lives was that after a period of relative calm and adequate living conditions, they were constantly on the move until the final stages of the military campaign when they were hemmed in with thousands of others in an isolated location where they came under terrifying attack by Indonesian forces using all the means at their disposal to force them into submission, including starvation. The incessant bombardments to which they were subjected made it impossible for them to look for food, much less grow or harvest it. In these final stages of resistance the number of people who died increased sharply.
- * Some communities either did not flee the invading forces or surrendered early to them. However, Indonesian forces also confined these communities in designated areas where they suffered from lack of food, restricted movement and harsh repression. The Commission was told that conditions in the camps where people who had surrendered to or had been captured by Indonesian forces in the first two years of the occupation were so inimical to survival that many deaths by deprivation occurred. All the elements that led to deaths by deprivation on a massive scale in later years were already present during this early period: the refusal to grant direct access to international aid agencies, minimal provision of food and medicines, the concentration of the population in camps, tight restrictions on freedom of movement which made it difficult to grow food crops, the use of intimidation and terror to punish and ensure the compliance of camp inmates.

Food crops and livestock destroyed

The Commission finds that:

- ✳ From 1976 to 1978 the Indonesian armed forces systematically destroyed or removed food crops, food stores, agricultural implements, gardens and fields, and livestock belonging to East Timorese people who had fled from their homes and villages.
- ✳ The Commission has not been able to obtain any documentary material which explains the thinking underlying this strategy. However, it can only conclude that the aim of these Indonesian military operations was to starve the civilian population under Fretilin control into surrendering, and to deny Fretilin/Falintil access to food sources.
- ✳ The impact of the destruction of farmers' capital embodied in their gardens, agricultural implements and livestock was that when they did return to their home villages, they found it difficult to resume agricultural activity.
- ✳ As large numbers of East Timorese civilians came under direct Indonesian control, the Indonesian military conducted special operations to destroy cultivated and wild food sources to deny food to the Resistance. This practice also resulted in long-term damage to food sources for all East Timorese people.
- ✳ The Indonesian military also regularly burned and destroyed the crops and livestock of people already under their control, either as a form of punishment, as a means of ensuring that they did not stray beyond the limits of the camp to farm their plots, or to force them to move to a new place and to deter them from returning to their original homes once they had moved.
- ✳ The Commission also received some reports of Falintil forces destroying agricultural plots of the local population. These were reports were of isolated incidents, and did not point to a systematic or widespread pattern.

Life and death in the mountains

The Commission finds that:

- ✳ For many East Timorese, life in the rural areas and mountains was relatively peaceful and stable for the first year or two after the invasion. This changed when Indonesian military operations began in their area.
- ✳ During this “normal” time, in many areas of Timor-Leste under their direct control, the Fretilin leadership took steps to organise food production and distribution, and to provide basic healthcare. In the *zonas libertadas* it pursued this policy, which relied heavily on the support of the civilian population. In many of the cases of which the Commission has learned, attaining the level of organisation needed to

meet the needs of the population under its control took time. In the period before minimal self-sufficiency was achieved, the evacuated population suffered severe deprivation that caused some to die.

- * The Fretilin/Falintil leadership imprisoned people under its control for allegedly wanting to surrender. Preventing surrenders may have been a justifiable action to protect the security of Resistance bases and the civilian population in them. However, the persecution of people suspected of wanting to surrender became indistinguishable from the political conflict within the Resistance.
- * Reported torture or other inhumane treatment and extended time in primitive prison pens for civilians attempting surrender or suspected of spying was cruel and excessive, and led to the deaths of many detainees. Fretilin/Falintil also executed persons suspected of wanting to surrender, often on the flimsiest of evidence and without following judicial proceedings.
- * Fretilin policy preventing surrenders changed only in late 1978 when it was forced on the leadership by the critical situation of the civilian population. If the Fretilin leadership had allowed civilians to surrender earlier, fewer East Timorese civilians would have been killed by Indonesian military attacks, and fewer may have been in such a poor state of health when they did surrender.
- * The Commission is unable to determine how many people did want to surrender. It has, however, received testimony both that ordinary civilians who were offered the option of surrender before late 1978 refused to take it and that when finally ordered to surrender, some were reluctant to do so. In some cases this reluctance appears to have been driven by a determination to continue the struggle against the invading forces at all costs. However, the Commission also received testimony indicating that well-grounded fears of ill-treatment by Indonesian forces was also a reason for their reluctance. In the final stages of their displacement under Fretilin/Falintil control the civilian population faced an agonising choice between death in the mountains and the possibility of a similar fate if they surrendered to Indonesian forces. In fact the conditions after surrender were not sufficient to sustain life.
- * Large numbers of people died of hunger and hunger-related disease while under Fretilin/Falintil control. Although people were dying throughout the period when they were fleeing the Indonesian military or living under Fretilin/Falintil control, the largest number of deaths in this period occurred in the final months before surrender, both as a result of Indonesian bombardment and of hunger and hunger-related disease.
- * Between mid-1977 and late 1978 the Indonesian military launched a military campaign to crush the Resistance, conquer the extensive areas still outside its control and force the population living in those areas to surrender. Before launching this “encirclement and annihilation” campaign Indonesian forces constantly harried the population, forcing them to make repeated flights. These flights typically ended with many thousands of people being concentrated in particular areas, such as Mount Matebian, the Natarbora Plain, Fatubessi in

Ermera, Mount Ilimanu in Manatuto and the coastal areas of Alas in Manufahi and Beco and Halic in Covalima, where they then came under intense bombardment from the land, sea and air.

- * As the intensity of Indonesian military operations increased in particular areas, many displaced people were continually on the move to avoid death, injury or capture. While on the run from Indonesian attacks, many East Timorese people died from deprivation due to hunger, exhaustion, sickness and lack of access to medical services. Life on the run meant that food cultivation was virtually impossible
- * In their attacks on Resistance bases or Fretilin-led population groups on the run, Indonesian forces did not discriminate between civilians and combatants. Many civilians were killed in these attacks.
- * As large concentrations of people came under attack, the wild foods and natural water sources that were their only means of sustenance often became contaminated. In most cases where witnesses reported the occurrence of such contamination it appears to have been the result of routine bombing attacks. However it was alleged that in an attack on Lesemau in Ermera in mid-1978 the Indonesian forces used toxic bombs which contaminated food and water supplies in the area.
- * Famine conditions began to emerge in Timor-Leste some time between late 1977 and late 1978 — that is, death from hunger and associated weakness began to occur on a large scale. These conditions were increasingly present among people on the run and among those driven in large numbers into circumscribed areas where encirclement by Indonesian forces effectively prohibited further movements, even in search of food. During this phase famine was the direct result of military operations; it was not caused by drought.

Camps and settlements under Indonesian military control

The Commission finds that:

- * People who surrendered or were captured by the Indonesian military had to live in camps for up to several years. The camps were supervised and monitored closely by the military. They were created for security reasons, not for the welfare of the population in them.
- * Civilians who surrendered or were captured were first moved to transit camps for registration and interrogation before being relocated to internment and resettlement camps and later to resettlement villages. While security controls eased at each of these stages, a defining characteristic of all such camps or villages was restricted or no access to gardens located further than a specified distance from these settlements.

- ✳ The Indonesian military gave a higher priority to the attainment of military objectives than to meeting its humanitarian obligations to the inmates of these camps. From the time of their creation, provision for basic food and survival needs in the camps was inadequate.
- ✳ The camps became the sites for a fully-fledged famine in which unknown numbers died. Already in a weakened state when they entered the camps, internees endured extended periods without access to food gardens or emergency humanitarian aid. The food that they received from the military was utterly inadequate to keep them alive. It was also often inappropriate for people already suffering severe malnutrition. Even the meagre rations that the military made available to camp inmates were distributed in a discriminatory way. The Commission has learned that in exchange for food the military and their auxiliaries extorted money, family heirlooms and other valuables (for example gold and traditional beads), and sexual favours.
- ✳ Although the military campaign waged by the Indonesian military in 1977-78 had aimed precisely at the outcome it achieved — namely the mass surrender of the population under Fretilin/Falintil control into areas under Indonesian control — the Indonesian authorities made little or no preparation for meeting the barest needs of this population for shelter, food and medicines. In the early stages of this campaign it must have become apparent to the Indonesian military that the surrendering population was seriously debilitated and in dire need of these essentials for their survival. However, rather than creating conditions that might avert famine, it both neglected the basic needs of the surrendering population and imposed restrictions and sanctions on them that were bound to make their already dire circumstances even worse.
- ✳ The scale of the famine in mid- to late 1979 and the fact that it was rapidly worsening can be seen in international aid agency reports of the time. For example, as a result of its survey in April 1979 US Catholic Relief Services estimated that 200,000 people were in a “serious or critically malnourished condition”. By September 1979 it found that the number of people in this condition was closer to 300,000. The International Red Cross described 60,000 out of the 75,000 people it surveyed in July 1979 as being “in a state of alarming malnutrition” including “20,000 dying from hunger”.³³

Humanitarian aid

The Commission finds that:

- ✳ The Indonesian Government refused permission for any international humanitarian aid agencies to operate inside Timor-Leste from the day of its invasion on 7 December 1975 until late 1979. There can be no doubt that the Indonesian military authorities in Timor-Leste were aware of the rising death toll due to famine in the camps under its control.
- ✳ From at least late 1976, the Indonesian Government allowed food aid to reach the people and camps under its control through the Indonesian Red Cross and the

Catholic Church. All reports to the Commission show this aid was far too little or too late to prevent famine in the camps between 1977 and 1979. The efforts of the Catholic Church to provide more aid and to handle or monitor its distribution were systematically frustrated.

- * Reports of death from protein shock after receiving food aid and the near universal observation of former inmates that the rice and corn they received were mouldy demonstrated the lack of capacity or willingness of the Indonesian authorities to handle famine relief.
- * Reports of famine began to reach international aid agencies as early as April 1977, prompting requests to the Indonesian Government for aid agencies to enter the territory. A high-level visit by nine foreign ambassadors in September 1978 to resettlement camps in Timor-Leste increased international awareness of the need for a major humanitarian aid programme. Yet the Indonesian Government did not permit international agencies to operate in Timor-Leste for another 12 months.
- * The Indonesian Government's refusal to admit international aid programmes, even when the need for them was widely known internationally, was almost certainly because the Indonesian military did not want any witnesses or impediments to its military campaign to bring the population under its control and weaken the Resistance. The Commission believes that the timing of the decisions to permit CRS and the ICRC to carry out surveys in Timor-Leste, in April and July 1979, and then to allow the agencies' operations to begin only in September 1979 is highly suggestive. What had changed by that time was not that the scale of the famine had reached massive proportions — that had already been known many months earlier — but that the Indonesian military believed that the campaign to destroy the Resistance was essentially over.
- * Once admitted, international aid organisations were still restricted in their operations. They were permitted few non-Indonesian personnel on the ground in Timor-Leste. They faced frequent impediments to their work in what was already a difficult operational setting. They were not permitted to deliver aid to areas outside Indonesian military control.
- * The international aid operation that began in late 1979 reached most of the population in the camps and others in need. It greatly relieved the famine conditions prevailing across Timor-Leste.
- * The Commission received evidence from East Timorese who had worked with the international aid agencies, from Church people and from the intended recipients of the aid that relief aid was routinely diverted from its supposed target, either to be sold for personal gain or to be used for personal consumption by members of the Indonesian military and some staff members of the aid agencies in question.

Strategic relocation villages and internment

The Commission finds that:

- ✳ From the early 1980s the Indonesian authorities introduced new forms of displacement. These were related to two separate developments. The first was the decision to dismantle or scale down the resettlement camps that had been established to accommodate the population that had surrendered in the late 1970s. The second was the reorganisation of the resistance as a guerrilla force capable of launching localised attacks on ABRI.
- ✳ For many the decision to move them out of resettlement camps did not lead to a marked improvement in their living conditions. There were some positive aspects, in particular the provision of schools, clinics, markets and easier transportation. However, the Commission found overwhelming evidence that at least during the first half of the 1980s, this phase of displacement was often managed in such a way as to ensure that those displaced did not enjoy the supposed benefits of the programme. Yet again it was a programme that served military objectives, but did not guarantee survival. For many of those moved, their transfer from resettlement camps to strategic villages, new villages and even back to their own villages did not substantially improve their lot. Restrictions on freedom of movement continued to have a serious impact on food production and thus on people's well-being.
- ✳ Moreover, even after the resettlement camps were dismantled, settlement patterns in Timor-Leste remained radically different from their pre-invasion form. Even today there are many signs of the legacy of this displacement. Many people were forced to live in towns and along major roads. Many fertile areas of the country were abandoned.
- ✳ The displacements carried out in response to signs that the Resistance had survived the destruction of its bases were heavily punitive. These displacements took place following guerrilla attacks, defections to the Resistance by East Timorese who had been enlisted into Indonesian civil defence units, and the establishment of clandestine support networks. They involved the collective punishment of whole communities and the proxy punishment of relatives of people still fighting in forest and interior.
- ✳ A cumulative total of more than 6,000 people were forcibly displaced to the island of Ataúro between mid-1980 and 1984. At its peak in late 1982 the displaced population exceeded 4,000. The majority of people sent to the island were not political activists or Resistance fighters, but people from the 12 districts (excluding Oecusse) who were relatives of or were suspected of having contact with Resistance fighters still in the interior. They consisted predominantly of women and children, and found it extremely difficult to fend for themselves in an environment which was extremely barren. They were kept on the island for periods ranging from a few months to six years. Those who arrived in the first wave of forced displacement were not given adequate food or other support. The Indonesian military was also negligent in its provision of basic medical care, clean water, sanitation and shelter. About 5% of the people displaced to Ataúro died there. Some were able to survive because they received help from the local population, even though an

influx of people in numbers that were not far short of the island's total indigenous population put a severe strain on its meagre resources. Conditions improved when International Red Cross was permitted entry in 1982. When people were released from Ataúro, some were merely transferred to other areas for a further period of internment.

- * Some of those detained after attacks by members of the Resistance on military posts and units were also sent to Ataúro. Others were displaced from their home villages and sent to areas where they had to rebuild their lives virtually unaided in extremely inhospitable environments. This was the fate of many of the inhabitants of the villages in Ainaro and Manufahi that took part in the Kablaki uprising of August 1982 and of the mainly women survivors of the mass executions that followed the Kraras (Viqueque) uprising in August 1983. The latter group were sent to the previously uninhabited area of Lalerek Mutin where they were left to fend for themselves under tight military surveillance. The population of Lalerek Mutin suffered sexual violations, disappearances, hunger, disease and death there. Their treatment was strikingly similar to that of the people from Ainaro who had been moved to the villages of Raifusa and Dotik the previous year.

Displacement before and after the Popular Consultation in 1999

The Commission finds that:

- * There was a direct connection between the creation of anti-independence militias in Timor-Leste from late 1998 and an upsurge in violence which caused fear, displacement, deprivation and death.
- * This fear was compounded by a widespread understanding that despite the obligation of the Indonesian Government under the 5 May Agreements to create and maintain a secure environment for the Popular Consultation, the militia groups had the support of the TNI and the wider governmental apparatus, and on that basis enjoyed impunity for their actions. Most of the violence and intimidation in Timor-Leste in 1999 was conducted by militia members rather than Indonesian military personnel. Much of this violence did however occur in the presence of armed Indonesian military or police who took no action to prevent it. People seeking police protection from militia violence were denied assistance.
- * There is strong evidence that the militia groups forcibly recruited members into their ranks. One reason why people fled their homes was to avoid recruitment into the militias.
- * Militia violence before the Popular Consultation reached a peak in April 1999 with attacks in many places, the massacre at the Liquiça Church and spontaneous flight of many people. They sought refuge in the remote locations in the countryside, with relatives in other areas and in church compounds. Some, from the western districts and Oecusse, crossed the border into West Timor, Indonesia.

- * The objective of militia violence was to win a majority for the autonomy option in the ballot of 30 August. In the lead-up to the Popular Consultation the militia and TNI used violence indiscriminately to secure that outcome. Thus, while it also targeted those who were prominently identified as pro-independence, such as leaders of CNRT and members of pro-independence student organisations, ordinary civilians and whole communities and those who offered them protection, including the Church, also became its victims. One reflection of these priorities is that the militias (and the TNI) did not engage militarily against Falintil forces.
- * Under threat of this indiscriminate violence from militia groups, large numbers of people stayed away from their normal places of residence. One authoritative source estimated as many as 60,000 were displaced.³⁴ Many returned only to register or vote before again returning to places of refuge.
- * As the number of displaced persons grew and settled in large concentrations in places where they thought they would find safety, their living conditions deteriorated, in some cases becoming acute.
- * The Indonesian authorities and their militia allies resorted to a variety of means, including bureaucratic obstructionism and violence, to thwart attempts by local NGOs, supported by UNAMET and UN agencies, to give humanitarian assistance to the displaced.
- * Poor security conditions and the associated flight of large numbers of people during 1998 and 1999 disrupted the planting of food crops. This compounded food shortages caused by a poor harvest in 1998 due to low rainfall.
- * The comprehensive “scorched earth” tactics employed by the TNI and the militia groups after the Popular Consultation, marked by threats of violence, killings, mass forced deportations and the destruction of public and private buildings throughout Timor-Leste, caused the bulk of the population to become displaced, either internally or externally.
- * About 250,000 people were displaced to West Timor after the ballot. Detailed plans for the evacuation of a large proportion of the population, involving several Indonesian Government ministries, had been drawn up well before the ballot. Most of these people were forcibly displaced, that is, violence or the threat of violence was used to ensure that the civilian population complied with the wish of the Indonesian authorities that they should leave Timor-Leste.
- * East Timorese in camps and other places in West Timor where people had settled continued to be subject to the control, intimidation and violence of militia members. Many who wanted to return to Timor-Leste were prevented from doing so by a combination of threats and misinformation from militia members.
- * While international aid organisations were able to distribute humanitarian assistance to the forcibly displaced, they were also subject to control, intimidation, attacks and killings by militia members.

Detention, Torture and Ill-Treatment

At 10.00am on 10 November 1990, a soldier from the Liquiça Kodim [district military command] and [members of] the SGI [intelligence task force] arrested me at the residence of the Liquiça parish priest. They took me to the Liquiça Kodim for interrogation. During interrogation they kicked me until I fell to the floor, then they stepped on me and hit my back with a rock until I was flat on my back and lost consciousness. Then the head of the intelligence section at the Liquiça Kodim, crushed my toes under a table leg while another soldier sat on [the table]. As the interrogation went on, they hit me with a rock until, for the second time, I lost consciousness.

When I woke up a police officer cuffed me and took me to the Liquiça police station. They treated my wounds there with a compress of betadine and herbals. Then they stripped me and put me in a cell. At 5.00pm Gadapaksi, a militia group, and SGI from Dili came and took me to SGI headquarters in Colmera, Dili. There, an SGI member punched my face until I fell to the floor. I got up slowly and the SGI interrogated me. They beat me, kicked and slapped me until my body was swollen.

Then they transferred me to Kolakops Farol [SGI Investigation Office]. There, an SGI member stripped my clothes off one by one and tied me to a chair. He electrocuted me, at both the tips of my feet and in my ears.³⁵

Overview

Arbitrary detention, otherwise known as the arbitrary deprivation of liberty, was suffered by East Timorese people more than any other violation recorded by the Commission. It occurred throughout the entire period of conflict in Timor-Leste, during both the internal armed conflict and the conflict with Indonesia, and it occurred in all districts. Although all sides to the conflict arbitrarily detained people, members of the Indonesian security forces were responsible for the vast majority of cases documented by the Commission.

Arbitrary detention is important to consider not only because it is a violation in itself but also because it exposed victims to many other violations. Ill-treatment and torture, the third and fourth most frequent violations respectively, occurred overwhelmingly while victims were in detention. Other chapters in this report also find that sexual violence, executions and disappearances, forced recruitment, forced labour, looting of belongings, deprivation of food and forced displacement all often occurred while victims were in detention and therefore in the power of the perpetrators.

The extent to which the people of Timor-Leste suffered being locked up and physically abused reveals a 24-year period of brutality and the repeated use of violence to crush political opposition, which eventually culminated in violence and destruction of 1999. The UN Special Rapporteur on torture concluded in his January 1992 report that

torture was commonplace in East Timor.^{*} As this chapter sets out, the occurrence of these violations was too often condoned, ignored or even perpetrated by those in command in each stage of the conflict. Impunity for the perpetration of arbitrary detention, torture and ill-treatment was standard.

Detention, torture and ill-treatment were among the most frequently reported violations across the entire mandate period. Of all the non-fatal violations reported to the Commission, 42.3% (25,347/59,972) were detentions, 18.5% (11,123/59,972) were acts of torture and 14.1% (8,436/59,972) were acts of ill-treatment.[†] Nearly 67%, or two-thirds, of victims of non-fatal violations reported being detained at some point. Most torture and ill-treatment occurred while in detention.

Reported incidences of detention, torture and ill-treatment followed similar patterns. The Commission found that there were two peaks in the levels of such violations: in 1975 during the period of the internal armed conflict and the Indonesian invasion of the territory, and in 1999 when the population of Timor-Leste voted for independence and the Indonesian military departed. During the entire period 1976-84, however, when large-scale Indonesian military operations to conquer Timor-Leste and destroy the Resistance were conducted, there were high levels of detention, torture and ill-treatment. During the 14-year period 1985-98, when Timor-Leste was supposedly a normal province of Indonesia, arbitrary detention and torture was still reported to have occurred every year and took the form of sporadic low-level violence.

Patterns over space also were not consistent throughout the years of conflict. In the first years of the mandate period, the highest numbers of detentions and cases of ill-treatment and torture were in the western districts. By 1980 this had swung sharply to the eastern districts, where the Resistance was based and most resistance activity occurred, and this continued until 1984. Between 1985 and 1998, there was sporadic violence at similar levels in all regions of the territory but not in all districts in all years. In 1999 districts close to the border, Bobonaro, Covalima and Liquiça again saw most of the violence.

Overall, the highest number of people detained over the mandate period (18% of total reports) were detained in Dili, followed by the districts of Lautém, Viqueque and Baucau (the eastern region). The least number of documented cases came from Oecusse (0.8%),[‡] followed by the districts of Covalima and Liquiça. Torture and ill-treatment however, while highest in Dili (12% and 13% of total reported cases respectively) occurred most frequently in the districts of Ermera and Manufahi.

^{*} The UN Special Rapporteur put forward 11 recommendations to be implemented by the Indonesian authorities to put a stop to torture. Only two of those recommendations were implemented, namely the establishment of a National Human Rights Commission and accession to the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment. The latter was not carried out until 1998.

[†] These numbers do not by any means represent the total number of cases of arbitrary detention, torture and ill-treatment to have occurred in Timor-Leste over this period. They are the result of statements from only around 1% of the population who gave statements to the Commission.

[‡] Until 1999 there were almost no cases of detention, torture and ill-treatment in the enclave of Oecusse, apart from in 1975. This changed in 1999 when militia violence targeted the area.

Victims

The Commission's statement-taking process identified 17,169 victims of arbitrary detention, 8,508 victims of torture and 6,872 victims of ill-treatment. From these cases it is clear that young men of military age involved in Fretilin/Falintil or other groups resistant to the Indonesian occupation suffered the majority of violations.

Overall, women comprised 13.9% of victims in cases of arbitrary detention, 12.3% in cases of torture and 7.7% in cases of ill-treatment. This strong gender bias reflects both that men were at the forefront of the conflict, fighting in the internal armed conflict and taking part in the armed Resistance or the clandestine networks during the occupation, and also that less women came forward to give statements than men. Only 21% of statements in the Commission's statement-taking process were given by women.

Victims of detentions and torture and ill-treatment were mainly members of the Resistance and the clandestine movement, as well as students and other real or suspected supporters of independence. Many people only indirectly involved in the struggle were also detained and tortured. Family members and friends of alleged insurgents and clandestine members were detained, often in an effort to isolate alleged members of the armed or clandestine Resistance from their support networks and so force them to surrender. Relatives and associates were also detained, tortured and ill-treated to extract information from them on the whereabouts and activities of their suspected family member or associate. An example of this is the hundreds of families that the Indonesian authorities sent to Ataúro in the early 1980s because they had family members in the Resistance or were from areas where the Resistance was strong. That is to say, very few of the detentions, or cases of torture and ill-treatment, reported to the Commission were random attacks on civilians with no political motivation. Only a very small number of victims were East Timorese people who collaborated with Indonesia.

Institutional perpetrators

By far the most frequent perpetrators of arbitrary detention, ill-treatment and torture were the Indonesian military and police together with their auxiliaries. Together they were named as directly involved in 82.2% (20,867/25383) of arbitrary detentions and 82.4% (16,135/19,578) cases of torture and ill-treatment.

If this figure is broken down, it is clear that members of the Indonesian military and police acting on their own were still the largest group of perpetrators. Victims attributed 48.1% (12,212/25,383) arbitrary detentions and 45.5% (8,890/19,578) of torture and ill-treatment incidents to members of the Indonesian armed forces acting alone. Different agencies of the Indonesian armed forces were attributed responsibility at different times. In the early years battalions and their commanders were named in most detention, ill-treatment and torture because they were carried out during military operations. By the late 1970s, units which formed part of the territorial structure such as District and Sub-district Military Commands (Kodims and Koramils) were most frequently named. Police became more active in the latter part of the occupation, when the detention procedures in the province were normalised. Reflecting the fact that the chief target of the security apparatus during the occupation was members of the armed and clandestine Resistance, throughout the occupation the various intelligence agencies and the Special Forces (Kopasandha/Kopassus) frequently perpetrated arrests,

detention, torture and ill-treatment. They perpetrated these violations both directly and indirectly, for example by ordering or encouraging East Timorese auxiliaries such as Hansip or militia groups to perpetrate violations.

East Timorese who worked with the Indonesian security forces (such as civil defence, local administrators, “village guidance” officers, and paramilitary and militia groups) acting alone were named in only 12.3% (3,126/25,383) of cases of detention and 22.4% (4,380/19,578) of cases of torture and ill-treatment. It is clear that the Indonesian military is the chief institutional perpetrator in all years except for 1999.

The Resistance movement was identified as the institutional perpetrator in 13% of detention cases, 11% of torture cases and 13% of ill-treatment cases. Most of these cases occurred in 1975 during the period of the internal armed conflict, and between 1976 and 1979 when internal divisions within Fretilin were at their height.

Detention, torture and ill-treatment by UDT

Detention

The Commission finds that:

- * Members and supporters of UDT and UDT forces carried out widespread detentions during the period of the armed movement in August 1975. These acts were clearly directed towards leaders, members and supporters of Fretilin. The Commission bases this finding on interviews with and first-hand testimony of hundreds of people who were detained by UDT or who witnessed UDT detaining people as well as historical profiles prepared by communities.
- * UDT members and UDT forces detained victims in every district of Timor-Leste except Oecusse, but the largest numbers of people were detained in Ermera, Dili, Manufahi, Bobonaro and Liquiça. Most detentions occurred on the first day of the UDT armed movement, 11 August 1975, but more people were detained over the following ten days.
- * These detentions were a central strategy of the UDT action. However, UDT had no legal authority to arrest civilians, and these arrests and detentions arose from the legitimate exercise by Fretilin supporters of their rights to freedom of political opinion and freedom of association.
- * Victims of arbitrary detention were held in improvised prisons, usually large buildings in the area where the arrests were made. They included warehouses, schools, private houses, a former Portuguese prison, military barracks and pens which resembled chicken coops. It also established main detention centres, including Palapaço in Dili and the *Descascadeira* in Baucau, to which detainees arrested in other districts were brought.
- * Periods of detention were short because the UDT movement which began on 11 August was short-lived. Most detainees were released within two weeks but some were held for longer than one month. While in detention detainees were regularly forced to perform such work as cooking for other detainees and cleaning detention

centres, building roads or carrying rocks and wood. UDT released some detainees of its own accord but most were abandoned when Fretilin forces attacked the areas where detainees were being held and UDT forces fled.

- * The victims of arbitrary detention known to the Commission were predominantly male, of military age and believed by the perpetrator to have an association with Fretilin. Sometimes family members of these victims, including their wives, parents and children, were arbitrarily detained.
- * The perpetrators of arbitrary detention were predominantly UDT leaders at the district level or people under their command. These leaders knew the population in each district and were able to effectively target members or supporters of Fretilin.

Ill-treatment and torture

- * Members and supporters of UDT and individuals mobilised by UDT leaders carried out widespread cruel, inhumane and degrading treatment of detainees during the armed action in 1975. In some cases detainees were tortured but this was not widespread. These acts occurred between 11 August 1975 and the end of August and in every district of Timor-Leste except Oecusse, but were concentrated in Ermera, Dili and Bobonaro.

The Commission bases these findings on interviews with and the first-hand testimony of hundreds of people who were ill-treated and tortured by UDT or witnessed UDT detaining people.

- * Forms of physical abuse suffered by victims included:
 - Heavy beatings by hand or with a rifle, by one perpetrator or sometimes by a group of perpetrators
 - Whipping
 - Being tied up for long periods, sometimes for more than one week
 - Death threats
 - Cutting the victim with a machete or razor blades
 - Slapping and kicking
 - One victim reported being burned with cigarettes.
- * Individual UDT leaders held prisoners in buildings or structures that were not equipped to hold large groups of people for long periods of time. Sanitation and ventilation were grossly inadequate and little or no effort was made to improve conditions by UDT members in charge of detention centres. Many detention centres were severely overcrowded. Further UDT made no provision for feeding the hundreds of people whom it detained. Detainees from the main UDT detention centres reported being deprived of food; some received no food for up to nine days. At least two people died of starvation while in detention. The severity of these conditions amounted to cruel, inhumane and degrading treatment.

- ✳ Physical abuse of detainees was not carried out for the purpose of extracting information or to coerce the victim. Rather, victims suffered the violent acts listed above in the process of arrest, transportation to the prison and while in detention as punishment or as a manifestation of the wider unrestrained violence that was unleashed in this period.
- ✳ The victims of ill-treatment and torture by UDT were primarily detainees or people under arrest. They were therefore predominantly military-aged men with a real or suspected association with Fretilin. Leaders of Fretilin were treated with particular brutality.
- ✳ Ill-treatment and torture were not necessarily ordered by the UDT Political Committee, but the tensions of the time, the incitements to arrest broadcast over the radio and the general call to “purge communists” created an atmosphere in which abuse of detainees was highly likely to occur. Further, members of the UDT Political Committee would have been aware that individual UDT leaders, members and UDT forces were ill-treating and in some cases torturing prisoners. The most extreme forms of abuse occurred in the UDT headquarters in Dili and in UDT’s strongholds in the districts of Ermera and Liquiça and senior UDT leaders were sighted in these places.
- ✳ Only minimal efforts were made by the UDT leadership collectively to prevent abuse occurring or to stop the abuse of prisoners once the leadership became aware of what was happening.

Detention, torture and ill-treatment by Fretilin

During the internal political conflict

Detention

The Commission finds that:

- ✳ Fretilin responded to the armed movement by UDT with an armed insurrection which included the widespread and systematic capture and detention of leaders, members and supporters of UDT. Although this was partly motivated by a desire to halt violence against members of Fretilin, it was also motivated by revenge for the violations that members of UDT and its forces had perpetrated. Detentions were carried out in all districts of Timor-Leste except Oecusse and Lautém, but numbers were highest in Aileu, Manufahi, Ainaro and Dili. More than a thousand people were detained around the territory.
- ✳ Fretilin detained most members or supporters of UDT in the first week of the armed general insurrection, 20-27 August 1975, after which UDT leaders and members fled the territory into West Timor, Indonesia. Isolated cases of detention of UDT members who remained behind continued until the Indonesian invasion. Fretilin also detained leaders, members and supporters of Apodeti who were involved in the UDT movement of 11 August, through August and September. On 4 October the Fretilin Central Committee ordered the widespread detention of members of Apodeti in response to rumours of a planned Apodeti coup and

ABRI infiltration of Timor-Leste's borders. Fretilin then detained the senior leaders of Apodeti as well as other members and supporters of the party. Fretilin also detained members of the Portuguese administration including Portuguese chief of police Lieutenant Colonel Maggiolo Gouveia.

- * Victims of arbitrary detention were held in improvised prisons, usually large buildings in the local area. Some of these UDT had used during the armed movement. They included warehouses, schools, private houses, former Portuguese prisons, the Dili museum, military barracks, pens resembling chicken coops and holes in the ground. The largest detention centres were in the Fretilin headquarters of Aisirimou in the district of Aileu.
- * After Fretilin had control of the territory it concentrated detainees from the districts of Ermera and Manufahi with detainees from Aisirimou and on 7 December, when Indonesia launched a large-scale invasion, detainees from Dili were also moved to Aisirimou. By 9 December prisoners detained in Aisirimou numbered close to 1,000.
- * The victims of arbitrary detention by Fretilin members and supporters known to the Commission were predominantly male, of military age and believed by the perpetrator to have an association with UDT or Apodeti. Leaders of the KOTA and Trabalhista political parties were also detained. Sometimes family members of these victims were also arbitrarily detained.
- * The perpetrators of arbitrary detention were predominantly Fretilin commanders at the district level or people under their command. These commanders knew the population in each district and were able to effectively target members or supporters of UDT and Apodeti.
- * After the end of the internal armed conflict by late September 1975, Fretilin made efforts to accord due process to detainees. It established a commission of investigation (comisao de inqueri) to decide on the guilt or innocence of detainees held after the UDT armed movement. This process involved people providing testimony. This process of investigation operated at the district level but in the atmosphere of recent conflict, were no better than mob justice. The accused was not presumed innocent before being found guilty by the populace and had no right of reply. The form of punishment decided on by the people was often harsh and disproportionate to the crime alleged.
- * Victims were held in detention for up to five months, until the advance of Indonesian forces made holding prisoners untenable and they were abandoned, released or in some cases executed.
- * Detainees were regularly forced to perform such tasks as cooking for other detainees and cleaning detention centres, building roads and carrying rocks and wood. Some of the detainees were also recruited into Fretilin/Falintil forces after the large-scale invasion by Indonesia. In order to feed prisoners labour camps were established in which they were forced to work in rice-fields and coffee plantations.

- * Fretilin held onto its prisoners in Dili and Aileu after the Indonesian invasion for fear that they would fall into the hands of the Indonesian military. It moved the prisoners away from the invading forces, first taking those held in Dili to Aileu and then moving all prisoners from Aileu through Maubisse to Same Town and finally to Hola Rua in the sub-district of Same in Manufahi District. The majority of UDT detainees were taken to Ainaro. In Same the majority of remaining detainees who were UDT were released and a small number of remaining Apodeti prisoners were released with conditions. Chapter 7.2: Unlawful Killings and Enforced Disappearances deals with the killing of prisoners.

Torture and ill-treatment

- * Members and supporters of Fretilin and Fretilin forces carried out widespread cruel, inhumane and degrading treatment of detainees during the internal armed conflict in 1975. The severity of the treatment suffered by detainees in some cases verged on torture and a number of people died as a result of the abuse they suffered. This abuse occurred in an atmosphere of unrestrained violence and in the spirit of revenge for the violations perpetrated by UDT. Members of Apodeti were also caught up in the violence and suffered ill-treatment and torture, particularly as the Indonesian incursions grew in intensity.
- * The brutality with which members of Fretilin treated detainees or allowed detainees to be treated is apparent from the following partial list of what took place:
 - Heavy beatings by hand or with an implement including a rifle, an iron bar, wooden sticks, bamboo, rattan, car-brake cords, a helmet, a pestle, nails and a barbed whip; some detainees were beaten to death or until they were unconscious, blind or deaf
 - Prisoners were ordered to beat each other, including prisoners who were related to each other
 - Stabbing
 - Tying detainees up before beating them so that they could not defend themselves
 - Dragging detainees along the ground until they were injured and bleeding
 - Stripping detainees and forcing them to sleep naked on the rough ground
- * These acts began to occur on 20 August 1975 in every district of Timor-Leste except Oecusse but were concentrated in Ermera, Dili, Baucau, Manufahi and Aileu.
- * The treatment of detainees varied between detention centres but the Comarca and the Museum in Dili were the only locations in which violence against detainees was not reported. In other detention centres guards beat prisoners frequently and, in at least one Fretilin prison, a particular guard was appointed to be in charge of abusing prisoners.
- * Few detainees were interrogated by Fretilin and the violence was, in most cases, for no other reason than to punish the detainee or as a manifestation of the general atmosphere of conflict and violence.

- ✳ Like UDT had done previously, Fretilin commanders and members used buildings or structures to hold prisoners that were not equipped to hold large groups of people for long periods of time. Conditions of sanitation and ventilation were deplorable and little or no effort was made to improve conditions by Fretilin members in charge of detention centres. Detention centres were often severely overcrowded, particularly those in Aileu. These conditions were so deplorable as to amount to cruel, inhuman and degrading treatment.
- ✳ The amount of food received by Fretilin's detainees varied. In Baucau and in the Comarca in Dili detainees reported receiving three meals a day from August to October. In other detention centres detainees reported receiving insufficient food. By November, as Indonesian incursions along the border continued, there were severe food shortages in all detention centres. The Fretilin leadership was aware of the food shortages and set up labour camps in Aileu, but this failed to feed the detainees largely due to the Indonesian attacks. Fretilin did not release detainees after it realised that it could not feed them. This amounted to cruel, inhuman and degrading treatment.
- ✳ Although the violence occurred in the context of armed conflict, it was clear that senior members of the Fretilin Central Committee were aware of the abuse of prisoners. The most brutal treatment of detainees occurred in the Fretilin headquarters in Taibessi and in Aisirimou, Aileu. The treatment of detainees varied between districts, as did the level of responsibility for ill-treating and torturing prisoners. In Baucau, prisoners said that they were beaten regularly but only by the guards after their superiors had left. In Manufahi and Aileu however, Fretilin leaders were present at the torture of UDT leaders and not only allowed it but incited the community to attack members of UDT. Several members of the Fretilin Central Committee spoke of their knowledge of the abuse of prisoners, but stated that they were not able to control it.
- ✳ Insufficient efforts were made by the Fretilin leadership to prevent abuse occurring or to stop the abuse of prisoners after the leadership became aware of what was happening.

1976-79

The Commission finds that:

Detention

- ✳ After the Indonesian invasion Fretilin continued to detain people across the territory within the Fretilin controlled "liberated zones" (zonas libertadas) until the destruction of the Resistance bases. The Fretilin Central Committee routinely used detention to maintain discipline and control and to resolve political differences.
- ✳ Because detentions were a recognised element in the administration of the zonas libertadas, there were members of the Fretilin Central Committee who either personally carried out or who ordered arrests to be made. Arbitrarily arresting and detaining suspects was procedurally within the authority of Falintil commanders and investigations were overseen by political commissars. Arbitrary detention was therefore clearly condoned by the Central Committee.

- * Fretilin detained people for violations of Fretilin rules established by the Central Committee. This included being a traitor to Fretilin's political position, to the nation or to the party, or for disciplinary breaches. Because there were no guidelines, these rules were applied inconsistently and therefore in practice any act or suspected act of which the Central Committee disapproved could be denounced as treason or as a breach of Fretilin rules.
- * The victims of detention were all of those under Fretilin control including members of Fretilin and Falintil and ordinary civilians. People considered to be "reactionaries" and "traitors" were targeted. Often people associated with a particular Fretilin/Falintil leader were detained.
- * Fretilin made efforts to accord due process to detainees through justice practices (*justiça popular*) for trying and sentencing detainees but sentences of imprisonment resulting from these processes were arbitrary. There was no opportunity for accused persons to defend themselves or to appeal the decision or sentence. Further, many people were detained for months before being "tried" or not informed of the charges against them, or were never tried at all.
- * Detainees were held in unsuitable structures such as "pig-pens", chicken coops, bamboo huts or holes in the ground. In the beginning these were simply places in which people were detained, but in late 1977 many were turned into national rehabilitation camps, or *Renals*). Other *Renals* were purpose built and included these kinds of conditions. *Renals* were identical to prisons in the conditions in which detainees were kept, except that they were established on the principle that wrong-doers could be "rehabilitated". Detainees received political education and sometimes literacy training. They were also made to work in communal fields in a supposed ethos of equality.
- * Sentences of imprisonment were theoretically indefinite and these periods of detention lasted until the bases de apoio were destroyed. Even at that point, the Central Committee released few detainees of its own accord but detainees either escaped when Indonesian forces arrived in the area or Fretilin released them when further detention became practically untenable.

Torture and ill-treatment

- * Members and supporters of Fretilin and Fretilin forces carried out widespread cruel, inhumane and degrading treatment as well as torture of detainees in detention centres and *Renals* between 1976 and 1978. Torture and ill-treatment were perpetrated more cruelly than in the period of internal conflict, as they became a routine part of Fretilin-administered justice practices. Torture and ill-treatment were used not only to control detainees but also were used during interrogation and to punish political opponents. Many people died in detention.

* The "pig-pen" prisons were not structures formerly used to hold pigs. Rather they were usually improvised detention structures, sometimes similar in shape and size to a pig-pen, to hold detainees. The name "pig-pen" was adopted to refer to the fact that the detainees ate, slept and toileted in the cell like a pig in a pen.

- ✳ Methods of torture and ill-treatment commonly suffered by victims included:
 - Heavy beatings by hand, with a rifle, with thorny branches or other pieces of wood
 - Whipping
 - Burning the victim's flesh with heated iron rods, cigarettes, or burning pieces of wood
 - Tying victims to a tree or pole and leaving them in the sun for long periods
 - Tying victims in a way that their movement was highly restricted and they could not feed themselves or relieve themselves
 - Urinating on victims
 - Placing victims in a hole filled with ants
 - Threatening victims with death
 - Kicking with military boots

- ✳ Members of the Fretilin Central Committee were often directly involved in or witnessed the torture of prisoners and took no action to halt it.

- ✳ In some places prisoners were held in overcrowded and poorly ventilated conditions and in all places sanitation was extremely poor. Some detainees were left to urinate and defecate where they sat. In many cases the conditions of detention constituted cruel, inhumane and degrading treatment.

- ✳ Fretilin frequently deprived detainees of food or were unable to provide sufficient food. Detainees died of starvation and illness related to starvation. A group of 50 children held in a "crèche" in Aileu died because they received insufficient food and became ill. Detainees who were ill were still required to work. This amounted to cruel, inhuman and degrading treatment. This treatment partly can be explained by the difficult circumstances of the time: as Indonesian forces advanced, they burned Fretilin food crops and thus forced Fretilin to move. But Fretilin did not release detainees after it knew that it could not feed them. Further, in many cases Fretilin deprived detainees of food intentionally to punish the victims, including withholding food brought to detainees by members of their family.

Detentions, torture and ill-treatment by the Indonesian military, police and agents

Arrest and detention

The Commission finds that:

- ✳ Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic arbitrary arrest and detention during the period of the Indonesian occupation of Timor-Leste.

The Commission bases this finding on around 150 interviews and thousands of statements containing first-hand testimony about arbitrary detention and on corroborating evidence contained in witness statements and other documents, including Indonesian military documents in the possession of the Commission.

- * Over the course of the occupation it is likely that tens of thousands of East Timorese were detained. The Commission bases this finding on the fact that its statement-taking process identified 18,518 victims of arbitrary detention by the Indonesian military and its auxiliaries in over 20,895 acts of detention. As the statement-taking process took statements from only around 1% of the population, the actual numbers of people detained is certain to be far greater.
- * Detentions increased during and after military operations. The number of people detained peaked in 1979 but was consistently high between 1975 and 1983, the period of major military operations. Detentions peaked again in 1999 during preparations for the Popular Consultation and after the announcement of the results of the ballot.
- * The Indonesian authorities arrested people in every district in Timor-Leste, although the highest numbers of detentions occurred in Dili, which had the largest state prisons and the main interrogation centres, followed by the eastern districts of Timor-Leste. Very few people were arrested in Oecusse after the initial invasion period until the militia violence of 1999. The Commission's data is consistent with the hypothesis that the Indonesian military, police and their East Timorese auxiliaries used arbitrary detention more in areas where the Resistance movement was perceived to be strong, and also in Dili where its administrative and logistical headquarters were located.
- * The victims of arbitrary arrest and detention were predominantly men of military age (20-39 years old) with a real or suspected association to groups resisting the occupation, including Fretilin/Falintil, clandestine networks or other pro-independence groups. Indonesian security forces and their auxiliaries also targeted family members, including wives, parents and children, of suspected members of the armed Resistance, clandestine networks or other pro-independence groups. These arrests were made in the name of national security and ridding Timor-Leste of members of the "Bands of Security Disruptors" (Gerombolan Pengacau Keamanan, GPK).
- * Seventy percent of reported detentions were carried out directly by the Indonesian security forces. This included members of combat battalions, members of the provincial, district and sub-district commands and their associated battalions and intelligence branches, members of the Joint Intelligence Unit (Satuan Gabungan Intelijen, SGI) or Indonesian Special Forces (Kopasandha/Kopassus) and members of police stations at the sub-district, district and provincial levels. In the beginning, the military made most arrests. Over the period of the occupation this changed and by the mid-1990s the police were responsible for most arrests.

- * Kopassandha/Kopassus was active from central to village level throughout the occupation. Its direct role in detaining people peaked between 1983 and 1986 after the uprisings in the eastern districts. Kopasandha/Kopassus later began to form, train and arm local militias.
- * After the Indonesian military and police, the next largest amount of detentions were attributed to East Timorese auxiliaries of the Indonesian military. Auxiliaries (including civilian defence or Hansip, public servants, paramilitaries and militias) were named as being directly involved in 34% of reported detentions, but in many cases the arrest was made on the orders of the Indonesian military or carried out together with the military. Some paramilitary and militia groups were established by the Indonesian military specifically to terrorise the local population in areas where the Resistance was strong, including detaining and torturing suspected clandestine members. East Timorese auxiliaries were also essential in providing intelligence information to the military.
- * During the Indonesian invasion and occupation, arrest and detention were used to crush the Resistance in Timor-Leste in the following ways:
 - By keeping members of the Resistance in detention, they were prevented from continuing their activities or communicating with their colleagues
 - Intelligence and other military personnel used the interrogation of prisoners to obtain information about Resistance structures and strategies, or the whereabouts of particular members of the Resistance
 - Arbitrary detention and the other violations that often occurred during a period of detention punished real or suspected members of Resistance groups, thereby warning others of the consequences of following their examples.
 - Detaining family members and associates of suspected members of the Resistance could provide the security forces with intelligence about a suspected member, and was also used to punish the family member or associate in the place of the suspected member of the Resistance
 - Where large groups were arrested, members of Fretilin and Falintil could be separated from ordinary civilians based on intelligence information and then detained.
- * The institutional practice of the Indonesian security forces was arbitrarily to arrest suspects without any regard for due process, particularly in the early years of the occupation. Persons arrested were not read their rights or told the charges against them. Excessive force was routinely used in the arrest of suspects.
- * This finding is based on strongly and widely corroborated evidence, which demonstrates that the practice of arrest without warrant and the use of excessive force were carried out by a wide range of military units, the police and Kopassandha/Kopassus in all districts of Timor-Leste in every year of the occupation
- * Throughout the occupation, but particularly between 1975 and 1984, the Indonesian authorities made regular mass arrests of groups of 98 people or more. These arrests were made during large-scale military operations in response to Resistance

attacks, or after intelligence information identified a specific village supporting the clandestine movement or hiding members of Falintil. Sometimes mass arrests were carried out as a collective punishment for the actions of a few.

- * From 1985 people were more commonly arrested individually than in large groups suggesting that detentions were made in a more targeted fashion than previously. Indonesian security forces used intelligence from East Timorese auxiliaries to identify members of Fretilin, Falintil and clandestine networks or their families, and targeted these people for arrest.
- * Sometimes intelligence was used to create “black lists” containing names of suspects, which were used to arrest people. The people on these lists were arrested repeatedly. They were often rounded up in anticipation of some Resistance event such as a demonstration.
- * In most cases people were arrested at their home or work place or were summoned to a police station or military post by an East Timorese auxiliary and then taken into custody. Others were detained during military operations. Only a few were “caught in an act” of resistance, such as attending a demonstration.
- * East Timorese people living in Indonesia, particularly students, were also subject to arrest and detention, especially in the 1990s, when many were detained for participation in demonstrations or clandestine activities.

Conditions of detention

The Commission finds that:

- * Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic detention of East Timorese in conditions that were below the internationally accepted minimum standards for the treatment of detainees. Hundreds of people died while in detention, of deliberate ill-treatment or of neglect, hunger and illness. Of the 18,518 individuals who were reported to have been detained by the Indonesian military and police, 378 were known to have died whilst in detention. Another 1,314 detainees died, but the exact date of their death was unknown and hence it is not certain whether they died while being held in-detention
- * The Indonesian security forces used a wide variety of detention centres to hold detainees, both official and unofficial. They included:
 - Large buildings commandeered by the military, such as shops, hotels, public buildings, like warehouses at the Dili Port, and private homes. Occupied public and private buildings were used to hold prisoners when there were large numbers of people detained and not enough space. For example after the invasion of Dili and when the military first moved into other areas, after the Resistance uprisings around Mount Kablaki in 1982, in the eastern districts in 1983 and in Alas (Manufahi) in 1998. Such buildings were also used by paramilitaries and militias when they detained victims. Examples are the detentions by Team Sukarelawan in Ainaro in 1991 and all militias in 1999.

- Military and police buildings including military commands and police stations at the sub-district, district and provincial levels, the SGI headquarters, military bases, the Korem, Mess, military barracks, military posts and Kopasandha/Kopassus bases. In most cases detainees were held in cells but sometimes they were locked in rooms in the headquarters or post, including in the toilet.
 - Government buildings such as village offices, village meeting halls or the offices of the sub-district or district administration. Such buildings were used with either the involvement or the acquiescence of the administrative officer in charge of the building.
 - State prisons: The Comarca in Balide, Dili, was used immediately after the invasion. Other state prisons in regional centres were opened in the second half of the 1980s.
 - Improvised structures such as holes in the ground or buildings made from branches and bamboo. This was most common during the period 1978-79 when masses of people surrendered or were captured in rural areas.
 - The detainee's home. Detainees were put under house arrest when there were large numbers of people in detention, such as during the invasion and during military crackdowns after the Resistance uprising in 1982 in Mauchiga (Hatu Bulico, Ainaro).
 - Ataúro Island. Between 1980 and 1983 around 3,500 East Timorese who were either real or suspected members of the clandestine networks or suspected of association with the Resistance in any way were sent to the arid island where they were held until 1983 and in some cases as late as 1987.
 - Transit camps. These camps, established around the territory, were used in the late 1970s after mass surrenders of people who had been under Fretilin control.
 - Prisons in Indonesia. According to reports received by the Commission, apart from a group of prisoners sent to Kupang, West Timor, in 1983, prisoners from Timor-Leste were sent to prisons on Java after they had been put on trial and convicted. They were usually high-profile members of the clandestine movement or Resistance.
- ✱ It was institutional practice to deprive prisoners of adequate food and clean water or to make completely inadequate provision for feeding and housing prisoners. Prisoners frequently died of starvation and illness in numerous detention locations up until the mid-1980s, when numbers of detainees declined and state prisons were constructed to house detainees. Even after this time there were frequent reports of detainees being deprived of food for several days at a time or being given food that was inedible.
- ✱ It was institutional practice to detain prisoners in unofficial detention centres far from their family and friends. In many cases families did not know what had happened to their relatives who had been arrested, and if they did find out they were prohibited from communicating by letter or from making visits. The presence of the ICRC improved this situation for some detainees, but only during the times it was permitted to operate in Timor-Leste and only in those prisons and detention centres to which ICRC representatives gained access.

- * It was institutional practice to move detainees between detention centres, sometimes between a number of places on the same night. This was to disorient the victims, to allow different military units or organisations to interrogate the victim, or to place victims in the custody of different units. Sometimes detainees were taken from one detention centre by a military unit for interrogation and then returned. These patterns occurred throughout the occupation, beginning from the first days of the invasion.
- * Other examples of the conditions in which detainees were commonly held include:
 - Providing food but making it inedible, for example by dropping it on the floor, mixing it with broken glass or other sharp objects or cat faeces, or giving prisoners food that was burned or rotten.
 - Stripping the victim of their clothes, leaving them naked or in only their underwear. Sometimes this was done before interrogation but in some places it was the practice for all detainees to be kept in this condition.
 - Placing detainees in solitary confinement, sometimes for up to a year.
 - Placing victims in cells known as “dark cells”, in which there was no light and extremely poor ventilation. All detention centres, including prisons, police stations and military commands, had dark cells.
 - Extremely poor sanitary conditions, including providing no toilet so that detainees were sitting in their own or each other’s excrement, or providing only a small toilet for a large group of people.
 - Restricting detainees’ access to activities while in detention. Permission to play sports, read books or papers and other forms of leisure activity was routinely denied. Some activities were forced on detainees, however, such as singing the Indonesian national anthem or honouring the Indonesian flag.
 - Restricting access to legal advice or representation until the 1990s, and even then the access granted was limited.
- * Before and after visits from the ICRC, lawyers or a foreign delegation to a detention centre, conditions tended to improve. However, some detainees were punished for having talked to the visitors.
- * Overall conditions sometimes improved when detainees were transferred to an official prison. This was particularly true of the Becora Prison in Dili after it was opened in 1986. Ill-treatment and torture, including beatings and abuse by prison guards, being kept in solitary confinement and restrictions on leisure activities, communication with the outside world or family visits still occurred in these institutions but much less frequently.
- * Before late 1983 the Indonesian authorities did not put detainees on trial. Detainees had no means to challenge their detention or to request a release date. Their detention was indefinite. Even when trials began in 1983, Indonesian authorities held many people for long periods before putting them on trial. By the 1990s those detainees who were tried were charged and put on trial relatively quickly. Nevertheless, even in the 1990s many detainees were never put on trial. In 1999 almost no detainees were put on trial.

Interrogation

The Commission finds that:

- * It was institutional practice to interrogate detainees. Interrogation was used to obtain information about the activities of the victim, to punish or to intimidate the victim, or to obtain information about the structures and strategies of the Resistance, the locations of weapons or documents, or the names of other members of the Resistance.
- * These patterns shifted over time. In the early years of the occupation the military used interrogation to increase its understanding of the Resistance.
- * When the police became more active in the detention and interrogation of suspects and detainees were put on trial, interrogations also focused on obtaining evidence, such as a confession, for use in a trial. Interrogators often prepared a written confession before the interrogation began which was then read to the detainee, who was then forced to sign it, or police would force the detainee to make a false confession. Many detainees signed the confession simply to put an end to the interrogation and torture.
- * In 1999, before the Popular Consultation, interrogation was used to intimidate the victim as well as to find out the movements of pro-independence groups.
- * It was institutional practice to use highly coercive practices during interrogation. Methods included the widespread use of torture, death threats against the victim or the victim's family, firing numerous or confusing questions at the detainee or twisting the detainees words, telling the detainee that a fellow detainee had already confessed to an alleged crime, and depriving detainees of food, drink, sanitary facilities and sleep, between interrogation sessions.
- * When there was international attention on particular detainees, the treatment of these detainees by Indonesian security forces during interrogation was markedly better.
- * Detainees were usually interrogated inside detention centres, in their cell or an interrogation room. A smaller number were interrogated at home before the arrest. Some detainees were taken to special interrogation centres to be questioned, such as the Sang Tai Hoo building in Dili. Some of these places became particularly notorious for the treatment of detainees. Some detainees were sent to Java or Bali for further interrogation.
- * The duration of interrogations varied. Sometimes detainees were subject to lengthy interrogations spanning several days in an effort to "break" the victim. Some detainees had an interrogation timetable whereby they were interrogated on the same day each week or at the same time on certain days. At other times interrogations were short and intense, particularly when the purpose of the interrogation was to intimidate the detainee.

- * Different agents of different institutions often interrogated detainees, either at the same time or consecutively. Usually intelligence officers were in charge of interrogations. In some cases high-ranking military officers from Jakarta would fly to Timor-Leste to interrogate victims.
- * Tactics used by clandestine members during interrogation include only mentioning the names of comrades who had already been arrested, only releasing information already in the hands of the interrogators and taking responsibility for the actions of others themselves.

Torture and ill-treatment

The Commission finds that:

- * Members of the Indonesian security forces and their auxiliaries committed, encouraged and condoned widespread and systematic torture and ill-treatment of victims during the period of Indonesian occupation of Timor-Leste. In some cases torture led to death, sometimes as a direct result of the torture applied to the victim and sometimes as a result of wounds sustained during torture being left untreated.
- * The victims of torture and ill-treatment were overwhelmingly male, of military age, and involved in Fretilin/Falintil or other pro-independence groups. Victims who identified themselves as civilians were the second largest group to be subjected to torture and ill-treatment. These people were usually suspected members of Resistance groups, civilians in villages that were targeted for supporting or hiding members of Fretilin/Falintil, or the family or associates of members of Fretilin/Falintil or other Resistance groups.
- * The Indonesian security forces were named as the direct perpetrator in 64% of reported torture cases and 55% of reported ill-treatment cases. Different institutions within the security apparatus played prominent roles at different times. Early in the occupation military battalions and officers were involved in most cases of torture, particularly intelligence officers. Between 1985 and 1987, Kopassandha/Kopassus was involved directly in many cases of torture. In the late 1990s the involvement of the police in torturing detainees increased and peaked in 1999.
- * East Timorese auxiliaries were also heavily involved in the torture of victims. They were named as responsible for 35% of reported torture cases and 40% of reported cases of ill-treatment. In many cases victims were tortured by auxiliaries on the orders of the military or carried out together with the military. Auxiliaries played a significantly less prominent role than the military in all years apart from 1999. In 1999 they were the main perpetrators of violence against victims.
- * The majority of acts of torture and ill-treatment were carried out during or after arrest or while in detention. Some victims were tortured and ill-treated outside of a place of detention including being assaulted in public, in their homes, in a field or on the journey to a place of detention.

- * The purpose of torture was to obtain information from the victim, to punish the victim, to threaten the victim, to humiliate the victim, to intimidate the victim or others sharing the victim's political allegiance or to force a change in a victim's loyalties.
- * Torture and other cruel, inhuman and degrading treatment usually took place when detainees first arrived in a detention centre, or during interrogation. It was perpetrated in the cells, sometimes in front of other detainees, and sometimes in specific interrogation rooms. In the early years of the occupation the Indonesian military used some buildings specifically for the torture of prisoners.
- * Public torture and ill-treatment occurred frequently over the course of the occupation, but particularly marked in 1999. Not only did it cause pain and humiliation to the victim, it was intended to terrorise those who witnessed it. Conversely much torture and ill-treatment was carried out in secret, away from the eyes of the victim's loved ones or the eyes of the international community.
- * Over the course of the occupation, the correlation between torture or ill-treatment and detention increased. During the period 1985-98, although there were fewer people detained, those detained had a much higher chance of being tortured than during the period 1975 to 1984 when there were frequent mass arrests.
- * The following acts of torture and other cruel, inhumane and degrading treatment were commonly used by the security forces:
 - Beating with fists or with implements such as a wooden club or a branch, an iron bar, a rifle butt, chains, a hammer, a belt, electric cables
 - Kicking, usually while wearing military or police boots, including around the head and face
 - Punching and slapping
 - Whipping
 - Cutting with a knife
 - Cutting with a razor blade
 - Placing the victim's toes under the leg of a chair or table and then having one or more people sit on it
 - Burning the victims flesh, including the victim's genitalia with cigarettes or a gas lighter.
 - Applying electric shocks to different parts of the victim's body, including the victim's genitalia
 - Firmly tying someone's hands and feet or tying the victim and hanging him or her from a tree or roof
 - Using water in various ways, including holding a person's head under water; keeping a victim in a water tank for a prolonged period, sometimes up to three days; soaking and softening a victim's skin in water before beating the victim; placing the victim in a drum filled with water and rolling it; pouring very hot or very cold water over the victim; pouring very dirty water or sewage over the victim
 - Sexual harassment, sexual forms of torture and ill-treatment or rape while in detention. Women were the main victims of this kind of abuse

- Cutting off a victim's ear to mark the victim
 - Tying the victim behind a car and forcing him or her to run behind it or be dragged across the ground
 - Placing lizards with sharp teeth and claws (lafaek rai maran) in the water tank with the victim and then goading it to bite the softened skin on different parts of the victim's body including the victim's genitalia
 - Pulling out of fingernails and toenails with pliers
 - Running over a victim with a motor-bike
 - Forcing a victim to drink a soldier's urine or eat non-food items such as live small lizards or a pair of socks
 - Leaving the victim in the hot sun for extended periods
 - Humiliating detainees in front of their communities, for example by making them stand or walk through the town naked
 - Threatening the victim or the victim's family with death or harming a member of the victim's family in front of them
- ✳ There are other examples of forms of torture and cruel and inhumane treatment that were not widely reported but nevertheless confirm the general pattern of widespread and systematic physical abuse of detainees. These include:
- Rubbing chillies in the victim's eyes
 - Forcing the victim to sweep the floor with his or her body
 - Forcing the victim to carry a decapitated head around the victim's village
 - Beating two male victims while their genitals were tied together
 - Cutting off of the victim's ear and forcing him to eat it
 - Tying the victim inside a sack filled with snakes
 - Dousing a group of prisoners with petrol and threatening to burn them alive
- ✳ As well as physical abuse, detainees were also subject to mental and emotional torture and cruel, inhuman and degrading treatment. Methods included:
- Keeping prisoners in detention indefinitely without access to family and friends
 - Keeping prisoners for extended periods in solitary confinement or in cells with no light and little ventilation
 - Taking a detainee to a place used for extra-judicial executions and pretending to the victim that they were going to be killed, even to the point of firing a shot in the victim's direction
 - Verbal abuse and insults
 - Forcing victims to beat each other
 - Torturing a family member in an adjoining room so that the victim could hear the screaming, or torturing or threatening to torture a family member in front of the victim
 - Blindfolding or placing a black cloth, helmet or bucket over a victim's head during interrogation and torture
 - Using symbolism to humiliate and break the spirit of the victim such as forcing the victim to drink water in which an Indonesian flag had been

soaked, writing “I am Fretilin” on detainees foreheads, making detainees sing well-known Fretilin or Portuguese songs or conversely the Indonesian national anthem, forcing detainees to sit on the Fretilin or Portuguese flag, beating a detainee with a Portuguese or Fretilin flag, or tying victims to the flag-pole of an Indonesian flag

- Insulting a victim’s religion such as by tearing off the victim’s crucifix or tying the victim to a cross
- Spitting on the victim
- Sleep deprivation by methods such as playing loud music throughout the night in detention centres.
- Stripping the detainees, both male and female, and touching their genitals.

Release

- * The Indonesian security forces rarely released political prisoners absolutely.
- * In some cases political detainees were forced to make some form of statement of allegiance to Indonesia including:
 - Signing a declaration (“clearing list”) in which they pledged allegiance to the Indonesian flag and promised no longer to engage in clandestine activities
 - Drinking water in which an Indonesian flag had been soaked
 - Participating in traditional blood oaths by drinking animal and human blood. This was a powerfully symbolic act in East Timorese culture that was co-opted by the military, and later the militias, for their own purposes.
- * A payment in cash or kind was often demanded on release. The incidence of extortion increased significantly in 1999.
- * The security forces also developed ways of monitoring detainees after they were released. These included using them as forced labour or recruiting them into the security forces, civil defence organisations or paramilitaries, or forcing them to find their relatives who had not yet surrendered. Others were given the status of “outside detainees” (tahanan luar) which meant that they were still under close supervision.
- * Most detainees were required to report to a military base, police stations or other agency regularly after their release, sometimes for several years (wajib lapor).

Violations of the Laws of War

During an operation in Kablaki in 1977, soldiers and Hansip came from two directions, Ainaro and Same, and formed a full circle to stop Falintil and civilians hiding in the mountain. The attack in Kablaki was simultaneous and the Kodim commander told us that whomever we encounter, whether civilians or Falintil, there should be no mercy, shoot on the spot or arrest them if necessary. When we arrived at the top of Mount Kablaki, we saw a group of five or six people and we shot them. We did not know whether they were civilians or Falintil. They fled, and we could only find abandoned items, such as bags of food supplies they left behind. Then we continued the operation back to Same via Rotuto.³⁶

Overview

The mandate of the Commission required it to report on human rights violations, including violations of international humanitarian law. These laws are also sometimes referred to as the laws of war, or the laws of armed conflict.³⁷

Many of the violations of international humanitarian law which occurred during the mandate period 1974-1999 were also violations of international human rights standards and have therefore been dealt with in other chapters of this Report. The primary purpose of this chapter is to report on violations of the laws of war which are not covered in other Chapters. This includes the failure of combatants to protect civilians, prisoners of war, the wounded and other classes of protected persons, the failure to distinguish between military and civilian targets during military operations, forced recruitment, intentional destruction of civilian property, the use of illegal weapons such as chemical weapons, and other violations of the rules regarding the conduct of military operations.

The evidence considered by the Commission provides a picture of widespread and systematic violations of the laws of war by the Indonesian security forces during the invasion of Timor-Leste and the subsequent years of occupation, including a programme of intimidation, violence and destruction related to the Popular Consultation in 1999.

Responsibility for violations cannot be equated between the Indonesian military (ABRI/TNI) and Fretilin/Falintil. Though the actions of both armed forces resulted in a wide array of violations, causing immense suffering to East Timorese civilian population, ABRI/TNI and their surrogate forces were clearly the primary perpetrator in this regard. Fretilin/Falintil caused suffering and deaths among civilians. Although they were in many cases extremely serious, the violations of Fretilin/Falintil constituted only a minor proportion of the total violations.

The general humanitarian obligations which apply to situations of internal armed conflict were violated by members of both Fretilin and UDT during the period of political conflict in 1975.

Findings concerning the Indonesian armed forces

The Commission finds that:

- ✳ During the invasion of Timor-Leste members of ABRI/TNI committed systematic violations of the Geneva Conventions by failing to discriminate between civilian and military targets. In addition, on the initial days of the invasion civilians were targeted by the Indonesian military in massacres and executions.
- ✳ In the large-scale military operations which followed the initial invasion, thousands of East Timorese civilians, including men, women and children who were unarmed and unable to protect themselves, were targeted or indiscriminately killed by the Indonesian military.
- ✳ During these military operations members of ABRI/TNI routinely tortured and killed civilians and prisoners of war who were captured. Prisoners who were executed included pregnant women and children.
- ✳ Members of ABRI/TNI routinely killed, detained and tortured individuals suspected of being supporters of Fretilin/Falintil. Punishment for those suspected of resisting the occupation also included burning of their houses, confiscation of land and property for redistribution to political supporters of the occupation, and rape of females suspected of collaboration with the Resistance.
- ✳ Members of ABRI/TNI systematically violated their international legal obligations through the use of collective punishment of civilians in pursuit of military objectives. This included the torture, rape, killing or forced displacement of civilians because they were family members of or belonged to the same communities as individuals who were suspected of being members of Fretilin/Falintil.
- ✳ Members of ABRI/TNI systematically destroyed property, including buildings and personal items belonging to civilians as a routine part of military operations. One of the purposes of this destruction was to punish East Timorese people who opposed the occupation, and to produce a climate of terror which it was believed would render the population easier to control, and to deter support for the pro-independence movement.
- ✳ Looting for the personal gain of ABRI/TNI officers routinely accompanied their activities during military operations. This included stealing of vehicles which were loaded onto warships, transport of vehicles, goods and herds of animals to West Timor for sale, looting of priceless and irreplaceable traditional objects of spiritual and cultural significance, and general practices of armed banditry against the civilian population. Local government officials, acting under the protection of the ABRI/TNI, also participated in looting and stealing from civilians suspected of opposing the occupation.
- ✳ Destruction and looting of civilian property was commonly accompanied by other violations, such as beatings, detention, torture, rape and killing of civilians. A common method was the looting of property, killing of the inhabitants of a house,

and then burning the house with the victims inside. This method was utilised in order to punish and intimidate opponents of the occupation, and to destroy the evidence of the violations.

- * Members of ABRI/TNI systematically destroyed food sources of members of the civilian population. This included the burning of crops and slaughtering of herds of animals. These violations had dire consequences for the civilian population of Timor-Leste and directly contributed to the loss of life on an enormous scale in the 1970s due to famine and related sickness.
- * ABRI/TNI used weapons which are prohibited by the international laws governing armed conflict in their military operations in Timor-Leste. These included chemical weapons which poisoned water supplies, killed crops and other vegetation, and resulted in the deaths by poisoning of hundreds of civilians.
- * ABRI/TNI dropped napalm bombs and other incendiary devices indiscriminately on civilian targets. The illegitimate use of these bombs caused terrible suffering to civilians, including the death by burning of unarmed men, women and children.
- * ABRI/TNI forcibly recruited tens of thousands of East Timorese men, women and children to assist them in their military operations, particularly during the years 1975-79, and in periods of heightened military operations, across the territory. Those who refused to participate were subjected to beatings and torture. The illegal forced recruitment of civilians into military operations was carried out to provide cheap practical assistance and also to demean the morale of those who opposed the occupation.
- * East Timorese people who had been forcibly recruited to join ABRI/TNI units were routinely forced to carry large loads of food, ammunition and equipment under extreme conditions. They were often subjected to cruel, inhuman and degrading treatment.
- * Members of ABRI/TNI summarily executed East Timorese civilians who had been forced to accompany Indonesian military operations, ostensibly over issues concerning disobedience and discipline.
- * Young East Timorese women who were forced to work for members of ABRI/TNI were routinely raped and forced into conditions of sexual slavery by their military masters.
- * Many pro-independence supporters who were captured or surrendered were tortured and then forced to perform duties as night guards or other security-related functions. If they failed to undertake these duties they were further tortured or ill-treated. Some Falintil soldiers who were captured were forced to act as Indonesian troops against Falintil, armed only with spears, in order to ensure they could not effectively rebel against their ABRI/TNI commanders. This placed them in direct danger in combat situations and resulted in deaths.

- * In a number of cases East Timorese who had been forced to participate in ABRI/TNI operations were killed by Falintil during the operations.
- * Prior to the Popular Consultation in 1999 the ABRI/TNI formed pro-integration militia groups across the territory. ABRI/TNI implemented a programme of systematic forced recruitment of thousands of East Timorese men into these groups, in addition to those who had voluntarily joined in return for payment. The militia groups who were involved in this organised programme of violence and destruction had been intentionally formed, armed, funded and directed by the Indonesian military.
- * Members of the ABRI/TNI committed widespread and systematic violations of human rights, including the laws of war, in the lead up to and following the Popular Consultation in 1999.
- * The programme of violence and destruction in 1999 was a systematic attack by heavily armed and organised military and militia groups on generally unarmed and defenceless civilians. It did not involve a conflict between two armed groups, as Falintil was, with very few exceptions, not involved in the conflict. It was a massive military exercise targeting a vulnerable civilian population for the purpose of forcing them to vote to remain with Indonesia, and, following the result, punishing them for not doing so. This military targeting of mass numbers of the civilian population constitutes violations of the laws of war by the Indonesian military.
- * The violations committed by members of the Indonesian security forces and their auxiliary militias during 1999 included:
 - killing more than 1,400 civilians
 - rape and sexual violation of hundreds of women
 - assault and beating of thousands of civilians
 - forced deportation of approximately 250,000 of thousands of civilians and the forced displacement of approximately 300,000 within the territory of Timor-Leste
 - forced recruitment of thousands of East Timorese into militia groups
 - burning of over 60,000 houses belonging to civilians
 - looting of vast amounts of civilian property in the territory, including almost all motor vehicles and valuable manufactured goods which were removed across the border into Indonesia
 - the theft or killing of large numbers of livestock
 - intentional destruction of the majority of public infrastructure for no military purpose, including hospitals, most schools, water installations, electricity generators and other equipment necessary for the supporting the well-being of the civilian population.
 - looting of important and irreplaceable cultural and historical artifacts from the public museum in Dili in September 1999, removing these objects to West Timor, Indonesia.

Findings concerning Fretilin/Falintil

The Commission finds that:

- * Portugal was the UN-recognised administering power of Timor-Leste during the period of conflict with and occupation by Indonesia. Portugal had ratified the third Geneva Convention.
- * The laws of war applied to Fretilin/Falintil, which could be recognised in international humanitarian law as a resistance movement as it complied generally with the requirements for such recognition: it had in place a command structure; its members generally distinguished themselves from civilians, carried arms openly; and it conducted operations in accordance with the laws and customs of war. Fretilin/Falintil was therefore required to obey Geneva Conventions.
- * During the period of Indonesian occupation members of Fretilin/Falintil forces were involved in violations of the laws of war, including the targeting of civilians, killing, torture, burning of houses and the intentional destruction of private property. Although extremely serious, the scale of the violations committed by members of Fretilin/Falintil was a small fraction of those committed by ABRI/TNI.
- * Members of Fretilin/Falintil summarily executed prisoners who were members of the UDT and Apodeti political parties in their custody, soon after the invasion of the Indonesian forces in late 1975 and early 1976, and civilians in the village of Kooleu (Loré I, Lautém) in January 1976.
- * Members of Fretilin/Falintil summarily executed civilians who were suspected of being collaborators with the Indonesian security forces, members of their own organisation who were suspected of disloyalty, and civilians willing to surrender to the ABRI/TNI in contravention of the Fretilin policy that they should remain together with Fretilin/Falintil in the interior. Members of Fretilin/Falintil also detained, tortured and ill-treated large numbers of civilians and Fretilin/Falintil military and political cadres in the 1970s who they suspected of holding views against the policies of Fretilin/Falintil, especially in relation to whether civilians should leave the Fretilin/Falintil bases in the interior and return to their villages and towns.
- * Members of Fretilin/Falintil tortured and ill-treated civilians suspected of disloyalty or collaboration with the Indonesian military. Methods of torture employed included being detained in underground holes, beatings, being trampled on and severely burned.
- * Members of Fretilin/Falintil attacked and burned houses belonging to civilians who surrendered to ABRI/TNI, and those suspected of collaboration with the Indonesian military. This destruction caused hunger, illness and hardship among the civilian population, and the attacks themselves caused civilian deaths.

Political Trials

[B]ecause the judges were on the side of the military authority the trial which should have been fair and independent, was manipulated by the military. They just waited for Bakin's instructions, closely watched whichever direction they went in...They were not independent, [they were] manipulated by the [military] authorities...They waited for instruction from Bakin even regarding the Articles — they looked for Articles to incriminate the defendant. How did they give instruction? Within the police, the interrogation was controlled by Bakin. The judges, too, could do their work but not independently...[T]he intelligence officers who were present at the trial(s) gave them the decision just before the judges read those decisions..³⁸

Overview

The Indonesian courts in Timor-Leste began to conduct criminal cases from 1977,³⁹ but the criminal law was not used to target political opponents to the claimed integration of Timor-Leste into Indonesia in the early years of the occupation. Instead of being put on trial, political prisoners in this period were either held in indefinite arbitrary detention or killed. In 1983 a new policy of “normalisation” led to a decision by the Indonesian government to charge people suspected of assisting the movement for independence with offences such as treason and subversion, and prosecute them in the courts. Hundreds of East Timorese people were tried and convicted of these offences during the next 16 years.

The Commission read and considered the contents of several hundred of the Dili District Court files in relation to these trials. In addition it interviewed and received statements from a variety of individuals who were defendants in trials, witnesses to events and lawyers, both East Timorese and Indonesian, who were involved in the cases.

The picture that emerged from these inquiries is that the trials did not necessarily signal a reduction in the human rights violations that were occurring, but to some degree altered their form. The killing, arbitrary detention and torture of political opponents continued. In addition a range of actors including military intelligence officers, police, prosecutors, defence counsel and judges were involved in other violations related to the conduct of political “show trials”.

These trials were intended to demonstrate to the world that a change in policy had produced a new commitment to human rights and the rule of law. In fact the trials were a sophisticated production designed to create an illusion of justice and due process. This veneer hid the reality that the trials were a tool that ensured the conviction of political opponents while providing a response to international critics.

³⁹ As early as 24 July 1976, Kodahankam (Komando Daerah Pertahanan Keamanan, Regional Defence and Security Command) Commander, Colonel Dading Kalbuadi issued an arrest warrant for the governor's driver, Tito Dos Santos Baptista, for violation of Article 359 of the Indonesian Criminal Code (KUHP) in connection with a fatal car accident. [CAVR Interview with Mário Carrascalão, Dili, 30 June, 2004].

The trials involved a range of violations of both the Indonesian criminal code and international law. Suspects were routinely tortured and intimidated into signing Records of Interrogation (RoI), which contained confessions and evidence against other co-accused. These Records of Interrogation were the basis for many convictions. Indonesian military and police officers consistently gave false evidence under oath in court, and intimidated other witnesses into doing the same or not providing testimony at all. Defendants were refused the right to select lawyers to defend them and in most cases were appointed with lawyers who did little more than speed up the prosecution case. Judges ignored indications of unethical behaviour and evidence that had been fabricated, and handed down judgments of guilty in all cases. The sentences were disproportionately harsh and often did not take into account lengthy periods of time already served in military detention. The Commission did not find a record of complete acquittal of a single defendant in any of the hundreds of case files examined. Appeal proceedings provided a rubber stamp of higher authority on the tainted decisions of the trial judges.

Findings

The Commission finds that:

- * Although the Indonesian legal system was functioning to some degree in Timor-Leste from 1977, political opponents of the occupation only began to be prosecuted in 1983. At this time the Indonesian security apparatus developed a policy of using the criminal law and the courts as tools to crush the resistance to Indonesian rule in Timor-Leste.
- * The implementation of this policy did not mean that previous methods such as killing, arbitrary detention and torture of political opponents were discontinued. Rather the courts were used as a complementary tool, and added to the other means already employed, in order to achieve the political goal of crushing the Resistance.
- * The new role of the criminal law and courts did not mean that there was a movement towards respect for human rights and the rule of law. The trials were not fair trials. They were in general “show trials” similar in many ways to those which had occurred under other military dictatorships in other countries. The verdicts of those who were accused were never in doubt. The function of the trial was largely as a propaganda tool, calculated to provide the illusion of justice which would cover a victimisation of political opponents.
- * The major method used for guaranteeing that the court found defendants guilty but ensuring that the proceedings did not appear to be totally corrupt was to fabricate and limit the evidence that the court was able to consider. To fabricate the evidence, interrogators tortured and intimidated defendants into making confessions, military and police witnesses concocted their evidence and created false material evidence, defence witnesses were prevented from appearing, and defence counsel who would not strongly contest a prosecution case were appointed.

- ✳ The degree to which the trial process was corrupted in order to paint a veneer of legitimacy over predetermined guilty verdicts dictated by political goals is demonstrated by the following summary in relation to the first wave of political trials, from 1983-85.
- ✳ 232 political trials were examined by the Commission. These resulted in:
 - 232 convictions on charges involving treason and subversion
 - 232 defendants were represented by government appointed defence counsel
 - 0 defence witnesses were called
 - 0 cases of acquittal of all charges were recorded
 - 0 appeals against conviction were lodged.
- ✳ The intelligence services of the Indonesian military forces were involved in guiding the outcome of the political trials at every stage of the interrogation and trial process.
- ✳ The military officers who used terror and torture in interrogating prisoners, the police who prepared the cases, the prosecutors who presented the cases in court, the court appointed defence counsel who failed to rigorously defend their clients and the judges who acquiesced in allowing profound and repeated travesties of justice to take place were involved in a collaboration and collusion designed to ensure that defendants did not receive a fair trial.
- ✳ Indonesian military officers arbitrarily detained political opponents of the occupation and held them for long periods of custody, often years, before trial, even though in many cases there was little or no evidence against them.
- ✳ Indonesian military officers routinely used torture and intimidation as tools during interrogation in order to obtain confessions and other information. The results of the torture and intimidation were used as evidence at trial.
- ✳ Many of those who were tortured were also threatened that if they did not cooperate and admit their guilt they would be detained indefinitely and continue to be tortured and mistreated. As a result they signed confessions of their involvement in the pro-independence movement, whether that was the truth or not. They also provided evidence against other persons, many of whom were actually unknown to them.
- ✳ Members of the Indonesian security forces routinely signed false statements that provided evidence against persons accused of political crimes, and perjured themselves in the trials of those persons.
- ✳ Members of the Indonesian security forces also routinely fabricated material evidence, for example producing weapons with no connection to the particular case, to substantiate the evidence relied on for prosecution.

- * Members of the Indonesian security forces failed to inform suspects that the information they provided would be used against them at trial, and that they were entitled to the presence of a lawyer, according to Indonesian law and international law.
- * Members of the Indonesian security forces routinely interrogated suspects and forced them to sign Records of Interview that had been fabricated and produced without interpretation in Indonesian, a language that the suspects did not fully understand.
- * Defendants were regularly refused the right to appoint lawyers of their choice to defend them at trial. The defence counsel appointed in most cases supported the prosecution case, did not call any defence witnesses and did not in reality provide a defence for their clients.
- * In a small number of cases independent defence counsel, from Indonesian legal aid non-government organisations and East Timorese lawyers, courageously provided a professional defence of their clients. They did this in pursuance of the principles of justice, despite intimidation and allegations of a lack of patriotism levelled at them both inside and outside the court, and other hindrances such as a lack of time to prepare cases.
- * During trials of political opponents prosecutors routinely ignored ethical issues that arose in relation to the evidence they presented to the court. This included confessional evidence obtained through torture and obviously fabricated evidence.
- * Judges presiding over the political trials failed in their duties to provide an independent and objective adjudication. These judges significantly contributed to the overall corruption of the legal system by allowing their positions of authority to be manipulated as a political tool of the military intelligence services.
- * The judges who presided over the political trials allowed obviously fabricated evidence to be admitted without objection. They did not consider allegations of torture and intimidation of witnesses to be a serious issue. They routinely based their verdicts of guilty on Records of Interview that had been signed as a result of torture, under illegal conditions. The judges also ignored defendants' requests to be represented by counsel of their choice.
- * Judges handed down sentences to persons convicted of political crimes that were disproportionate to the degree of criminality of the acts allegedly perpetrated. In some cases this involved sentences of years of imprisonment for actions such as supplying cigarettes or small quantities of food to persons suspected of being opponents to the occupation. Time served in military detention, up to seven years in the most extreme case, was generally not taken into account when determining sentences.
- * There was no meaningful appeal process available for persons who were convicted of political crimes.

Sexual Violence

My name was on the Kodim list as a person who could be “used”, so at every [troop] rotation I would always be picked by a member of ABRI who wanted me. I always submitted to them because I feared for my life.³⁹

I was not shunned by my family but by the community and the Church. When people called me names my father said, “Whatever the consequences she is our child. Her sins are also our sins, it is a burden, a cross, that we bear as her parents.”...One day, my child and I were in a line in front of the altar to receive the baptism sacrament. There were only two people before we got to the priest, when we were pulled out by a Church official...He said the priest told him to do this. My child was not allowed to be baptised because he was born out of wedlock. My parents and I were not allowed to take communion, confess our sins, or to pray during the month of Holy Mary. From 1980 to 1996 our house never had a turn [to host] prayers. I had to wait until ABRI did not live among us anymore, then I was allowed to participate in Church activities again, including taking communion and going to confessions.⁴⁰

Overview

In Timor-Leste, as in other countries, victims of sexual violation are often unwilling to talk about their experiences. Despite the cultural and personal reasons for such reluctance, the Commission recorded hundreds of direct testimonies made by women and girls who were victims of rape, sexual slavery and other forms of sexual abuse.

From its statement-taking process the Commission documented 853 reported instances of sexual violations. Rape was the most commonly reported sexual violation, at 46.1% (393 out of 853) of all sexual violations documented by the Commission. Rape was followed in frequency by sexual harassment and other acts of sexual violence (27.1%, 231/ 853) and sexual slavery (26.8%, 229/ 853). Out of the total number of violations documented from the statement-taking process 93.3% (796/853) were attributed to Indonesian security forces and their auxiliaries, 2.5 % to Fretilin (21/853), 1.2% to Falintil (10/853), 0.6% to UDT forces (5/853), 0.1% to Apodeti forces (1/853), and 0.9% to others (8/853).

The Commission also interviewed more than 200 victims and witnesses of sexual violence. These in-depth interviews and the statements reporting incidents of sexual violence depicted an overwhelming picture of impunity for sexual abuse. After careful consideration of the evidence before it, the Commission has no doubt that the patterns of widespread sexual violations that the women described represent the truth.

By any standards, the contents of this chapter portray a shameful and disgraceful account of the abuse of power in the hands of those with guns. It became clear that the physically weakest and most vulnerable members of communities were targeted for reasons that have no legitimate connection to either military or political objectives.

The voices of the victims in this chapter provide a clear picture of the widespread and systematic nature in which members of the Indonesian security forces openly engaged in rape, sexual torture, sexual slavery and other forms of sexual violence throughout the entire period of the invasion and occupation. Members of Fretilin, UDT and Falintil also committed violations, although these were isolated incidents and occurred on a far smaller scale. They were neither widespread nor systematic.

The evidence also demonstrates how acceptance of abhorrent practices by commanders and officials encourages those under their command and control to continue and expand the use of such practices. The victims' testimonies clearly show that there was a widely accepted practice for members of the security forces to rape and sexually torture women while on official duty, in military installations and other official buildings. These practices were covered by almost total impunity.

Sexual violations by members of Fretilin and UDT

The Commission finds that:

- * Members of the Fretilin and UDT parties were involved in rape and sexual violence during the internal political conflict of 1974-76 and other times during the period of the Commission's mandate. However, the low number of cases reported to the Commission (two involving UDT and one involving Fretilin) indicates that these incidents were isolated and not systematic.

Sexual violations by members of Falintil

The Commission finds that:

- * Members of Falintil were also involved in rape and sexual violence during the Indonesian occupation. In some cases, impunity was enjoyed because of the reluctance of communities to report Falintil activities to the authorities. However, the small number of cases reported to the Commission indicate that the incidents were isolated and not systematic.

Rape and sexual torture by members of the Indonesian security forces

The Commission finds that during the period of the invasion and occupation of Timor-Leste:

- * Members of the Indonesian security forces and their auxiliaries were involved in widespread and systematic rape, sexual torture and acts of sexual violence (other than sexual slavery) directed mainly towards vulnerable East Timorese women.

The Commission bases this finding on the interviews and statements of hundreds of victims who courageously gave firsthand testimony of their personal experiences, as well as corroborating evidence contained in other witness statements and documents

considered by the Commission. The evidence of the individual victims was judged to be particularly credible because of the negative personal impact and trauma associated with giving information of this nature to an official institution.

- ✳ Institutional practices and formal or informal policy of the Indonesian security forces tolerated and encouraged the rape, sexual torture and sexual humiliation of East Timorese women by members of the Indonesian armed forces and the auxiliary groups under their command and control.

This finding is based on strong, widely corroborated evidence which demonstrates that:

- the violations were commonly committed in a wide range of military institutions; and
 - military commanders and civilian officials knew that soldiers under their command routinely used military premises and equipment for the purposes of raping and torturing women and took no steps to deter these activities or to punish those involved. On the contrary, the commanders and officials were in some cases themselves also perpetrators of sexual violence. At middle and senior levels, this included practices of providing young women who could be raped on demand by visiting guests and passing on the “licence to rape”, or “ownership of”, young women to another officer at the end of a tour of duty.
- ✳ Victims of sexual torture were usually women perceived by the security forces to have a connection to the pro-independence movement. Often these women were the targets of proxy violence. That is, because the woman’s husband or brother who was being sought by the military was absent, the woman would be raped and tortured, as a means of indirectly attacking the absent target.

It was common for these women to be taken to military installations where they would be questioned about the activities of their absent husbands or family members and subjected to a range of obscene methods of torture. In other cases, the women were raped in their homes or other places during military operations.

- ✳ The Commission finds that the following acts directed at East Timorese women took place inside official Indonesian military installations:
 - mutilation of women’s sexual organs, including insertion of batteries into vaginas and burning nipples and genitals with cigarettes
 - use of electric shocks applied to the genitals, breasts and mouths
 - gang rape by members of the security forces
 - forcing of detainees to engage in sexual acts with each other, while being watched and ridiculed by members of the security forces
 - rape of detainees following periods of prolonged sexual torture
 - rape of women who had their hands and feet handcuffed and who were blindfolded. In some cases women who were bound in this way were raped until they were unconscious
 - forceful plucking of pubic hairs in the presence of male soldiers

- rape of pregnant women. The Commission received repeated evidence of this, including one account in which a woman was raped the day before she gave birth
 - forcing of victims to be nude, or to be sexually violated in front of strangers, friends and family members. In at least one case a woman was raped in front of her mother and later killed. More commonly, victims were raped and tortured in front of their children
 - women were raped in the presence of fellow prisoners as a means of terrorising both the victims and the other prisoners
 - placing women in tanks of water for prolonged periods, including submerging their heads, before being raped
 - the use of a snake to instill terror during sexual torture
 - threats issued to women that their children would be killed or tortured if the women resisted or complained about being raped
 - repeated rape of women by a multitude of (unknown) members of the security forces. In some cases the women said they could not count the number of men who raped them. The Commission accepts that some victims were raped by various military officers every day during months of detention
 - forced oral rape
 - urinating into the mouth of victims
 - rape and sexual violence indiscriminately inflicted upon married women, unmarried women, and young teenagers still children by law
 - keeping lists of local women who could be routinely forced to come to the military post or headquarters so that soldiers could rape them. Lists were traded between military units. In some cases these women were commanded to appear at the military post every morning, in order to be raped by members of the security forces.
- * The degree of rape and other forms of sexual violence reflected the patterns and degree of military activity at the time. Sexual violations increased during periods of major military operations, and decreased when such operations were less frequent.
- * Women who had surrendered to the Indonesian security forces were particularly vulnerable to rape and sexual torture. In the early years of the conflict, 1975-78, a large proportion of victims of sexual violations had surrendered and were living in temporary shelters supplied by the Indonesian military, or had recently returned to their former homes following surrender.
- * Women who surrendered from the mountains, who were known to have links to the guerrilla forces or who were thought to know the location of guerrillas and their supporters, were made to assist the Indonesian military in searching for these groups. In some cases women were subjected to torture and rape during their participation in these military operations. Women were also forcibly recruited into civilian defence groups and made to patrol around their villages. During these patrols, supervised by armed men, women were commonly raped and sexually harassed.

- ✳ The mass arrests following civil uprisings between 1981 and 1983 led to increases in the number of women who were raped by members of the security forces. This reinforces the finding that there was a connection between military operations and objectives and the scale of rape and other sexual violations committed by members of the security forces.
- ✳ In some cases large military operations were accompanied and followed by coordinated and large-scale rape and other violations targeting female members of communities involved in the military operations:
 - Following the Falintil attack on the Dare Sub-district Military Command and other ABRI posts in Dare and Mauchiga (Hatu Bulico, Ainaro) in 1982, members of the Indonesian security forces separated women from other members of the community. They then proceeded to commit individual and gang rape, sexual torture and other forms of sexual violence against scores of these vulnerable women. These crimes continued over a period of several months and were perpetrated by military commanders, lower-ranking military personnel and members of Hansip. The Commission finds these personnel responsible and accountable for these massive violations of human rights.
 - Extreme sexual violence against East Timorese women was also used to suppress the local population following the uprising in Kraras, Bibileo (Viqueque, Viqueque) in 1983. This included forcing women into sexual slavery.
 - Mass arrests during military operations resulted in the sexual abuse of women who had been detained. This was the experienced of women detained in the Flamboyan Hotel in Bahu (Baucau Town, Baucau), the sub-district military command post (Koramil) in the sub-district of Uatu-Lari (Viqueque), and in the Balide Prison (Comarca) in Dili, as well as in other detention centres.
- ✳ The large-scale violence during 1999 led to a significant increase in the number of women who suffered rape. Those who were displaced within East Timor or who became refugees in West Timor were particularly targeted. These incidents of sexual violence involved members of the militias, the TNI and in some cases by members of both these groups acting together.

Impunity for perpetrators of rape and sexual torture

The Commission finds that:

- ✳ The practice of capturing, raping and torturing women was conducted openly, without fear of any form of sanction by senior military officers and other military personnel, civilian officials, police officers, teachers and members of the auxiliary groups including Hansip and the militias. When victims of sexual violence or their family representatives complained to the legal authorities about what had taken place they were generally met with denial and aggression. In some cases family members who complained were beaten and otherwise punished.
- ✳ There were no practical steps that could be taken by an East Timorese victim of rape or sexual violence to seek a legal remedy for such crimes. There was also no

avenue through which they or family members acting on their behalf could seek official help to stop these violations from taking place or continuing. Victims were helpless and unable to escape the violations by members of the security forces.

- * Participation in, and acceptance of, such practices by military commanders and civilian officials, widespread knowledge that rape and sexual torture was officially condoned, use of military and official facilities for this purpose, and almost total impunity for offenders led to a situation where such practices could be undertaken by members of the security forces at will. This led to an increase in sexual violence in the years following the invasion and expanding participation by officers of lower rank and members of auxiliary forces, such as Hansip and the militias, operating under the control and protection of the security forces. In some cases Hansip or low-ranking local civilian officials would forcibly take women and pass them on to the military commanders in return for increased status and rewards.
- * Indonesian police officers were also involved in torturing and rape, but not to the same extent as the military. Police officers enjoyed the same general impunity in committing sexual violations, that extended to other members of the security forces.
- * There were also incidents in which male members of the Indonesian security forces raped (including having forced oral sex and other forms of sexual violation) East Timorese male prisoners and civilians. However, this type of violation occurred far less frequently than sexual violence against East Timorese women.

Sexual slavery

The Commission finds that:

- * Throughout the invasion and occupation there was a persistent practice of forcing East Timorese women to become, in effect, the sexual slaves of military officers. These activities were conducted openly, without fear of reprisal, inside military installations, at other official sites and inside the private homes of women who were targeted. In a significant number of similar cases, rapes and sexual assaults were repeatedly conducted inside victims' homes, despite the presence of parents, children and other family members of the victim.
- * As with rape, sexual slavery also increased dramatically during periods of major military operations, and decreased when such operations were less frequent. For example, 64% of sexual slavery cases reported to the Commission took place during the period of invasion and during periods of large-scale military operations.
- * It was common practice for members of the Indonesian security forces to keep East Timorese women in detention in military bases for reasons that were not related to a military objective. These women, who were sometimes detained for many months and sometimes years, were often raped on a daily basis or on demand by the officer who controlled them, and often also by other soldiers. In addition, they were forced to do unpaid domestic work.

- * The victims of this form of sexual slavery were not free to move about or travel, or to act independently in any way. It was not uncommon for the "ownership rights" over these women to be passed on from an officer who was finishing his tour of duty to his replacement or another officer. In some situations, women forced into these situations became pregnant and gave birth to children of several different officers during the years in which they were the victims of sexual slavery.
- * In general, Indonesian officers who were responsible for fathering these children through rape or sexual slavery accepted no responsibility to support their material well-being. Mothers of these children faced significant difficulties in providing for them. This was particularly problematic because former victims of rape and sexual slavery at the hands of the Indonesian military forces were often considered "soiled" and unsuitable for marriage by East Timorese men and faced ongoing social stigma.
- * The methods used to force East Timorese women into situations of sexual slavery often involved torture by members of the security forces, threats of torture and killing of victims, their family members, or the targeting of their community.

Impunity for perpetrators of sexual slavery

The Commission finds that:

- * Members of the Indonesian security forces forced women into conditions of sexual slavery in military institutions or their homes openly, without fear of reprisal. The total impunity enjoyed by members of the security forces, their demonstrated capacity to kill and torture at will, and the systematic nature of these violations across the territory presented victims with no possibility of escape. The women who were targeted were forced to experience the repeated and horrific violation of their bodies and personal dignity, or be faced with an even greater harm to themselves, their family or community. In this impossible situation there was no hope of help from law enforcement officials, or any other source, and no reason to believe the situation would end in the foreseeable future.
- * The scope and nature of the violations which were being committed and the complete impunity enjoyed by all classes of perpetrators was well-known at all levels of the security forces and civil administration during the occupation. This impunity could not have continued without the knowledge and complicity of members of the Indonesian security forces, the police force, the highest levels of the civilian administration and members of the judiciary.

Sexual violations as a tool of terror and degradation

The Commission finds that:

- * In addition to rape, sexual torture and sexual slavery a wide variety of other sexual violations were committed by members of the Indonesian security forces. Violations that were particularly degrading to victims or culturally repulsive were

often committed in public view. This included instances of forcing prisoners to walk long distances through communities while naked, public rape and multiple instances of rape and torture in military posts carried out where other prisoners could hear the screams of the victims.

- * The scope and nature of the violations demonstrate that the intention was not only limited to the personal gratification of perpetrators or the direct impact on individual victims. The purpose was also to humiliate and dehumanise the East Timorese people. It was an attempt to destroy their will to resist, to reinforce the reality that they were utterly powerless and subject to the cruel and inhuman whims of those who controlled the situation with guns. Military officers repeatedly treated and spoke to East Timorese victims as if they were "less than human". These patterns helped to justify and spread these views among security personnel, leading to wider participation in sexual violations.
- * Rape, sexual slavery and sexual violence were tools used as part of the campaign designed to inflict a deep experience of terror, powerlessness and hopelessness upon pro-independence supporters. Sexual violation of East Timorese women, particularly those connected to members of Fretilin and Falintil, was intentionally carried out to destroy the self-esteem and spirit, not only of the victims, but of all who supported the movement for independence, with the aim of forcing them to accept the political goal of integration with Indonesia.

Total number of victims of sexual violations

The Commission notes the inevitable conclusion that many victims of sexual violations did not come forward to report them to the Commission. Reasons for under-reporting include death of victims and witnesses (especially for earlier periods of the conflict), victims who may be outside Timor-Leste (especially in West Timor), the painful and very personal nature of the experiences, and the fear of social or family humiliation or rejection if their experiences are known publicly. These strong reasons for under-reporting and the fact that 853 cases of rape and sexual slavery, along with evidence from about another 200 interviews which were recorded, lead the Commission to the finding that the total number of sexual violations is likely to be several times higher than the number of cases reported. The Commission estimates that the number of women who were subjected to serious sexual violations by members of the Indonesian security forces numbers in the thousands, rather than hundreds.

Impact on victims

Although victims of sexual violence cannot in any way be blamed or held responsible for the terrible violations that were forced upon them, they were often socially marginalised or mistreated by their own families, community members and the Catholic Church because of their experiences. Misperceptions on sexual violence continue to lead to the victimisation of women.

Violations of the Rights of the Child

We would walk for up to 12 hours a day. We would leave at 5.00am and walk until 12.00 when we would have a break and eat lunch, then we were off again until it was dark. The next morning we would set off again and we went back and forth through the forest like that. I was already carrying heavy loads then...Suddenly, all of the bigger TBOs ran away. They knew the way and so ran back to their villages. It was harder for us [little ones], we were in the middle of the forest, how would we find the way? That night when the company commander ordered us to get rice, it was discovered that two TBOs had gone. One other TBO then ran away from our regiment, leaving just two of us. The other TBO was 16 or 17, but I was just eight or nine.⁴¹

Overview

Children in Timor-Leste experienced the full range of human rights violations during the period of the Commission's mandate. The Commission's research has revealed that all sides to the political conflicts in Timor-Leste perpetrated violations against children. The overwhelming majority of these violations were committed by the Indonesian military and their auxiliaries. These forces killed, sexually violated, detained and tortured, forcibly displaced and forcibly recruited children.

In some ways, then, children's experience was like that of adults; they suffered from the general failure on all sides to distinguish civilians from combatants. As a result children were not spared when mass killings took place or when they were caught with their families in the line of fire during military operations. The data collected by the Commission through the statement-taking process show that children suffered most violations during the years 1976-81 and 1999, more or less exactly mirroring the pattern of violations experienced by the population as a whole.

Moreover, the manner in which violations were perpetrated against children was often the same as for adults. Except for the age of the victims, the content of the reports of sexual violence against children recounted below barely differ from those in the chapter on sexual violence. They describe:

- rape and sexual slavery in the resettlement camps
- "proxy" sexual violence aimed at family members still in the forest
- violations against children engaged in clandestine activity that could turn into long-term sexual exploitation, and
- strategic use of sexual violence as a form of torture, and its apparently opportunistic perpetration.

For children, as for adults, sexual violence was conducted openly without fear of sanction by all ranks of the military and by East Timorese paramilitaries, as well as by persons in positions of civilian authority such as village heads.

Further muddying the distinction between the experience of adults and children is the fact that the East Timorese have a more flexible understanding of childhood than the

clear-cut one adopted under international definitions. Consistent with instruments of international law, such as the Convention on the Rights of the Child, the Commission has adopted the definition of children as persons aged 17 years old and under.*

Why then are children being dealt with separately in this Report? First, violations perpetrated against children are universally deplored. Thus the expectation that all sides would treat them with greater respect than would be shown to adults makes violations against children on any scale especially shocking. This sense that they are particularly shocking derives from an understanding that children as a group are innocent and that their innocence should be preserved from the corruptions of adulthood for as long as possible.

Second, it is plain that children are among the most vulnerable sections of society, particularly in situations of conflict and upheaval such as Timor-Leste underwent during the 25 years of the Commission's mandate period. Children were among those who were moved from their homes following the invasion, sometimes for years at a time, and were the main casualties of famine and illness. Many others were left without family members to support them and were therefore vulnerable to abuse, kidnapping, or forced recruitment. The use of children as operations assistants (*Tenaga Bantuan Operasi*, TBOs), for example, endangered their lives, their health and their future prospects. Their relative physical weakness meant that the heavy loads they were obliged to carry were more liable to undermine their health. Periods of service that could last for several years blighted their educational chances.

The special position of children in Timor-Leste does not arise only from the universal acknowledgment of their unique status. It is also derived from the fact that children represent the future. Both sides sought to cultivate loyalty to their cause among children from a young age. The Indonesian military actively involved children in the military and paramilitary auxiliaries through using them as TBOs and militia. Some rose through the ranks to become senior pro-integration figures. Indonesia openly used the education system to deliver propaganda on integration and the Indonesian state to children from the earliest days of the occupation. The Resistance mainly engaged with children through using them in minor roles such as couriers and guards. However, as the stories below demonstrate, it allowed them to rise up through the ranks of the clandestine movement. There were practical reasons for engaging with children as well: for the Indonesian military children were more malleable and more compliant than adults. For the Resistance, children had the advantage of being above suspicion from the authorities and of having existing Church and community networks that could be co-opted into the struggle.

Because of the special vulnerability of children, the Commission believes that trauma is widespread among East Timorese who grew up under the Indonesian occupation. There is evidence that the incidence of trauma may be acute among those recruited as child militia in 1998-99. In their case trauma was due not only to their exposure to extreme violence, but also to the psychological impact of forced recruitment, divided loyalties and the shame of ending up on the wrong side. Reported below are the cases of children who were subject to comparable stresses. TBOs, for example, were often

* In Timor-Leste the group is understood to consist of persons who are not yet married. Thus persons younger than 18 who are married may be regarded as adults, and single persons over the age of 17 may be regarded as children. The conflict itself created further complications: for example, children as young as 15 held positions of authority in Falintil and were treated as adults; because of the disruption caused by war, many high-school students were aged 18 and above.

recruited precisely because they or their families were suspected of having ties to the pro-independence movement. There was a gross imbalance in power and resources between the occupier and the occupied. As with the rest of the population, the line between coercion and acquiescence was never a clear one. The need to balance these pressures put children at risk of being called two-faced, or two-headed: (*kepala dua*, [Indonesian] *ulun rua* [Tetun]), by either side. Children's responses to these pressures could change over time as a result of torture, inducements or exposure to battle.

Third, East Timorese children suffered abuses that were specific to them rather than those perpetrated against the population as a whole. In particular, only children were transferred in their thousands to Indonesia. Many of these children were transferred to Indonesia forcibly and in the face of parental opposition and thus were in effect abducted. It is unclear if this practice was formalised in policy. However there is plenty of evidence that high-level officials, both military and civilian, failed to regulate it and were sometimes themselves involved. Even where the transfers were motivated in part by humanitarian concerns or where parental consent was sought, little effort was made to ensure that children maintained contact with their families. They were not able to choose freely whether or not to return to Timor-Leste, nor were they allowed to maintain their cultural identity. In some cases all of these things were positively discouraged.

Like women, children were often treated as chattels. As TBOs, for example, they were not regularly paid for their services. They were required to carry heavy loads. They could be taken back to Indonesia by the soldier who had recruited them or passed on to another soldier. Their ties to their families and their special status as children were largely ignored.

Fourth, the special status of children is recognised under international law and most systems of domestic law, including that of Indonesia. Most legal systems give special consideration to the needs of children. While in situations of armed conflict and occupation international law provides children protection not accorded to the general population.

General Findings

The struggle for control of Timor-Leste was partly played out in the battle for its children. Children became victims, perpetrators, assistants and observers in the political conflicts that engulfed Timor-Leste from 1974. The obligation of all parties to put the best interests of children first was widely ignored.

Children are owed special protections under international legal principles that arise out of the acknowledgment of children's particular vulnerability. The responsibility of all parties to fulfil their duty of care towards children is particularly urgent during periods of conflict when the imbalance of power between children and adults is most pronounced. The Commission finds that all sides to the conflicts failed to take these protections into account, but the most reprehensible violations of all kinds were committed by Indonesia.

Indonesia, as the effective state power in Timor-Leste, had a clear duty to respect the rights of children. These duties arose under international humanitarian law as

contained in Geneva Convention IV. Apart from its specific obligations, it had a general duty to protect children and not endanger them by exposing them to dangerous situations. It failed to fulfil this obligation most graphically when it treated children as chattels that could be deployed on the battlefield and when it separated children from their families and sent them to Indonesia where their cultural identity was not recognised.

Throughout the course of the occupation Indonesia was also bound by human rights standards as set out in the Universal Declaration on Human Rights. These were consistently breached in a variety of ways, including by forcibly recruiting children to assist its armed forces, by violating children's rights to life, liberty and the security of person, and the right to freedom of conscience and expression. Even after Indonesia ratified the Convention on the Rights of the Child in September 1990, it failed to meet its legally binding obligations. In general terms, Indonesia failed to live up to the obligation to give priority to the best interests of the child when making decisions in relation to children and where possible to take the child's views into consideration (Article 3(1)). It also violated many of the specific obligations relating to sexual violence and obligations regarding freedom of expression and choice.

Children in armed conflict and the clandestine movement

Children were used by all sides to the political conflicts in Timor-Leste over the mandate period of the Commission.

Children used by the Indonesian military as TBOs (Operations Assistants)

The Commission finds that:

- * The Indonesian military recruited several thousand children as TBOs.
- * TBO's were recruited throughout the period of occupation, and numbers peaked during the period 1976-81 when military operations were at their height.
- * ABRI used a variety of methods to recruit children as TBOs, ranging from outright coercion to the offer of inducements. Some children enlisted as TBOs voluntarily. However, in the desperate circumstances of the time, the dividing line between voluntary and forced recruitment was never clear-cut.
- * The Indonesian military preferred to use children as TBOs and actively sought to recruit minors as opposed to adults.
- * The recruitment of children by individual soldiers was known about at the highest levels of the military structure. No attempt was made to prevent this occurring; rather attempts to regulate the practice indicate that it was condoned.
- * Although officially recognised, TBOs were not members of the armed forces and did not enjoy the perquisites of regular soldiers such as a salary, a rank or a uniform.

- * Child TBO's received no salary from the Indonesian military for their services. Although they often received food and board, this was not a fair wage.
- * There was no regulation of the treatment of child TBOs by individual soldiers.
- * The relationship between child TBOs and the soldiers they served was wholly unbalanced. In some cases, soldiers treated their TBOs as if they had rights of ownership over them. They controlled their movement, duties, living conditions and, ultimately, whether they lived or died. Sometimes these soldiers retained control over their TBOs after their tour of duty ended; sometimes they passed them on to other soldiers; sometimes they were simply left to fend for themselves.
- * Child TBOs performed tasks which, although not usually involving them directly in fighting, exposed them to physical danger. At the very least, the conditions in which they worked put their health at risk and jeopardised their educational chances. In many cases, the work undertaken by child TBOs was not in proportion to their physical and intellectual capacities.
- * Aside from their recruitment as TBOs, children were also enlisted with adults for military operations. In the case of the *Operasi Kikis* of July-September 1981, in some areas children as young as 10 years old were among the tens of thousands of East Timorese recruited to converge on Falintil strongholds.

On the findings above, the Commission is satisfied that the practice of using child TBOs by the Indonesian military:

- Amounted to a form of enslavement. This was a violation of the fundamental customary prohibition against enslavement, as well as a grave breach of the Geneva Conventions (wilfully causing great suffering or serious injury to body or health: Geneva Convention IV (Article 147)) and a violation of the laws and customs of war.
- Was a form of forced labour in violation of Article 51 of Geneva Convention IV, which requires that, if an Occupying Power uses the labour of the civilian population of the occupied territory, it is obliged to pay them a fair wage and "the work shall be proportionate to their physical and intellectual capacities".

Children in Falintil and in the clandestine movement

The Commission finds that:

- * Children under 15 served as guerrilla soldiers with Falintil. However incidences were not widespread.
- * There is no evidence that children were forcibly recruited to Falintil. Several former child recruits to Falintil have testified that they eagerly enlisted to support Timor-Leste's struggle for independence; others have told of how their efforts to join the guerrilla force were rebuffed on the grounds that they were too young. This distinguishes child members of Falintil from child soldiers in other parts of the world who are forcibly recruited for their obedience and willingness to commit atrocities.

- * Recruitment appears to have been ad hoc, informal and not centrally controlled. Some children left their homes to join up, others were formally “recruited”, others were living with the communities that fled to the forests and became involved by merely being present.
- * The treatment of those who were recruited was generally good, although they were subject to the same harsh conditions as other recruits. Cases of mistreatment were related to disciplinary procedures, the intra-Fretilin conflict or to prevent surrender.
- * Service was not without its costs. Aside from being exposed to the danger of losing their lives during combat, many of these youths experienced difficulties after their service, including being targeted as pro-independence sympathisers by the Indonesian security forces and finding it difficult to adjust to civilian life after demobilisation.

The Commission is satisfied that:

- In accepting children under 15 into its guerrilla forces, Falintil violated the standards of international humanitarian law set out in 1977 Additional Protocol I to the Geneva Conventions.
- The voluntary recruitment of those aged 15-17 was not a violation of human rights instruments or humanitarian law.

The Commission finds that:

- * Children were an essential part of the clandestine component of the Resistance to the Occupying Power, whether as *estafeta* (couriers), participants in demonstrations or providing other kinds of support.
- * The leadership of the Resistance recruited children and youth into the clandestine movement precisely because of the unique contribution they could make.
- * There is little evidence to suggest that children participated in clandestine activities other than voluntarily. Indeed, direct experience of human rights violations committed by members of the Indonesian security forces against themselves or close family members was often their motive for working with the Resistance. It is difficult to assess the extent to which the choice to take part in clandestine activities was an informed choice. However children of sufficient age and maturity do have a right to freedom of expression and to act in accordance with their conscience
- * East Timorese children participating in the clandestine movement were placed at grave risk of punishment by the Indonesian military and its agents. Many suffered because of their involvement.

The Commission is satisfied that:

- Although the recruitment of children into the clandestine movement by a non-state actor does not constitute a violation of international law, it is contrary to the human rights standard that the best interests of the child must be prioritised.
- The draconian response of the Indonesian military towards children involved in the clandestine movement was a breach of the rights of all people to enjoy freedom of conscience and expression and which are enshrined for children specifically in Articles 12 and 13 of the Convention of the Rights of the Child (CRC).

Children recruited by pro-autonomy militias in 1999

The Commission finds that:

- * From late 1998 children were recruited into the militias that terrorised Timor-Leste.
- * Almost all child recruits were forced to join through intimidation of either themselves or their families. Some children joined out of their own free choice, usually because they or their families were pro-integration and agreed with the objectives of the militias.
- * Child members of the militia were involved in the commission of grave human rights violations including killings, physical assault and rape as well as in the widespread destruction of property.
- * Recruits were only sometimes paid, either with small amounts of money or in food.
- * Indonesia did nothing to protect children from this forced recruitment into criminal gangs; in fact, members of the military were closely involved in the activity.
- * The practice of forced recruitment of children into pro-integration militias appears to have been, in part, designed to create the impression of a mass of youth who were fanatical in their support for integration and to draw these youth into criminal activities that would destroy the family and communal ties that sustained the pro-independence movement.
- * Those recruited often came from the most disadvantaged segments of East Timorese society, were brutalised by their participation in and witnessing of violence, and incurred the stigma of having been on the “wrong side”. There is some evidence that of all the children recruited by the parties to the 25-year conflict, those who joined the militia may have been the most severely traumatised by their experience.
- * The Commission has not found any evidence that Indonesia has taken any steps to promote the physical and psychological recovery and social reintegration of these children.

The Commission is satisfied that:

- Forcing a child to join a militia and then making him or her take part in criminal acts, sometimes against his or her own community, amounted to inhuman treatment and/or caused great suffering or serious injury to the body or health of the child involved. This is in violation of Article 147 of Geneva Convention IV and the laws and customs of war. This also constitutes a violation of Indonesia's human rights obligation under Article 38 of the CRC to ensure respect for the child-specific rules on international humanitarian law.
- Using children to achieve political goals amounts to exploitation. Indonesia thus violated the rights of such children to be protected from exploitation prejudicial to their welfare, in contravention of Article 36 of the CRC.
- Indonesia failed to fulfil its obligation to take all steps to promote the physical and psychological recovery and social reintegration of these children under Article 39 of the CRC.

Inhumane treatment of children

Arbitrary detention

The Commission finds that:

- * Children were subject to arbitrary detention throughout almost the entire period of the Commission's mandate. Members of UDT arbitrarily detained children during the internal armed conflict of 1975. Fretilin representatives were responsible for such detentions during this period and also in the years after the Indonesian invasion. Indonesian security forces engaged in the arbitrary detention of children on a much larger scale. Their treatment while in detention involved systematic violations throughout the 24-year period of the occupation.
- * Throughout the occupation, agents of the Indonesian government arbitrarily detained children and were responsible for widespread and systematic violations of the rights of children while they were in custody. From 1975 to 1999 children were commonly bound, beaten, kicked, raped, electrocuted, burnt with cigarettes, immersed in water, held in isolation in dark cells, threatened with death and otherwise terrorised by agents of the Indonesian security forces. Some children died as a direct result of this maltreatment. The Commission knows of only one case in which a perpetrator of these violations was subject to punishment or discipline.
- * In the years after the invasion, children were detained on a massive scale following capture or surrender and were subsequently placed in "resettlement camps". The food, shelter and healthcare they received were seriously inadequate, and their restricted movement limited their own, and their families', ability to supplement what little food they received. Children were sometimes also detained in formal detention centres and military facilities after surrender or capture. Children also constituted a significant element of those detained on the island of Ataúro between

1980 and 1986, either with family members or separated from them. Several thousand children died as a result of the harsh conditions in the resettlement camps and on Ataúro.

- * The reasons for the detention of children by the Indonesian military were similar to those for the detention of adults: their involvement in clandestine activities, to break off support to members of Falintil and to gain information about Falintil or the clandestine movement. Children were also detained because of the actions of their parents or other family members.
- * Students and schoolchildren were targeted for arrest and detention when public demonstrations began to be held in the 1990s. Indonesian authorities detained children during and after demonstrations, and sometimes to prevent demonstrations taking place. Many of those detained were subjected to severe violations, including torture. Children were also arrested and detained by members of the Indonesian security forces and their militia agents during the violence surrounding the Popular Consultation in 1999. Sometimes these arrests were used to force children to join a militia.
- * Following the armed movement of 11 August 1975 children were among prisoners detained by UDT at locations designated for this purpose. The Commission did not receive evidence of torture or other serious maltreatment of children detained by UDT.
- * During the period of the internal armed conflict, children were among those arbitrarily detained by members of Fretilin because they or family members were believed to be affiliated with political opponents. Torture and maltreatment of children in Fretilin custody occurred, but it was not widespread or committed systematically.
- * After the Indonesian invasion children continued to be detained arbitrarily by Fretilin but this was mostly incidental to the detention of adults. However, there were also cases of children being arrested as proxies for relatives belonging to other parties who were outside Fretilin's control and for alleged breaches of discipline by the child. Despite evidence that "warrants" were produced in some cases, the arrests, torture, denial of due process and use of children as hostages which often followed had no legal basis.

The Commission is satisfied that:

- The detention of children by members of the Indonesian security forces involved multiple and repeated violations of Indonesian law, human rights standards and international law. Arrests were commonly made by persons who lacked the legal authority to carry out such actions under Indonesian law.
- The widespread torture and mistreatment causing great suffering or serious injury to body or health constitute grave breaches of Geneva Convention IV (Article 147) which applies to Indonesia as both customary and treaty law.
- The failure to provide adequate food and medical supplies to children in detention was a breach of Article 55 of Geneva Convention IV.

- Failure to permit free passage of all consignments of essential foodstuffs, medicine and clothing intended for children under the age of 15 was a breach of Article 23 of Geneva Convention IV.
- The widespread failure to inform children arrested of their rights and reasons for arrest was a breach of Article 71 of Geneva Convention IV.
- Indonesia was in breach of its specific obligations under the Convention of the Rights of the Child, which it ratified in 1990, in particular Article 37, which provides a duty to ensure that no child is deprived of his or her liberty unlawfully, and that the arrest, detention and imprisonment of a child are in conformity with the law and take place only as a last resort and then only for the shortest possible time.
- The actions of representatives of both UDT and Fretilin during the internal armed conflict were in breach of human rights standards, applicable Portuguese laws and international law. Representatives of neither party had any legal authority under Portuguese law to arrest, detain, assault or maltreat individuals.
- Representatives of both parties breached their obligations under Common Article 3 of the Geneva Conventions which prohibits violence to life and person and outrages against personal dignity, such as humiliating and degrading treatment and the taking of hostages.
- Torture, illegal detention and use of children as hostages by Fretilin during the period following the Indonesian invasion constituted grave breaches of the Geneva Convention IV.

Arbitrary killing of children

The Commission finds that:

- * The general failure by all sides to distinguish between civilians and combatants extended to children. Children were generally killed for the same reasons as adults and often in similar circumstances. There is therefore insufficient evidence to say that children were specifically targeted. At the same time, children were generally not specifically protected or treated with exception in the violence of the political conflicts.
- * Children were killed in a wide variety of contexts, including during open armed conflict, in mass killings, in custody and in summary executions. In the early years of the conflict many were killed together with their families during military operations or when caught in contested areas. In later years, under-age victims were likely to be teenagers targeted for suspected pro-independence activities.
- * During the period of the internal armed conflict, children were killed by both Fretilin and UDT. They were killed when in the custody of the other side either because of their own or their family's political affiliations. Most often they were killed in groups rather than individually and with other family members.
- * Indonesian forces and agents killed children in the period 1975-79 within the wider context of the Indonesian campaign to bring Timor-Leste under its control. It did not distinguish children from adults in this regard. Children out looking for food,

either on their own or in the company of adults, ran the risk of being shot by ABRI or members of Hansip. Groups of unarmed civilians, including children, living outside Indonesian-controlled resettlement camps could be randomly executed.

- ✱ From 1980, children were killed when ABRI undertook wide-ranging and often indiscriminate reprisals in response to attacks by the Resistance. Children were among the victims killed in the large-scale crackdowns that followed the Falintil-led attacks on Dili in June 1980, on the Mauchiga Koramil in August 1982 and on the ABRI Engineering unit in Kraras in August 1983. In these cases children were killed in indiscriminate attacks on groups of civilians and because they themselves were suspected of giving support to Falintil.

- ✱ In 1999, children were killed during operations in search of clandestine members or Falintil, in the course of militia attacks to punish communities for supporting or assisting the Resistance, as part of killings after the ballot result or while out looking for food. Children made easy targets during the attacks on places of refuge. The reported perpetrators were militia aligned to the Indonesian military or the TNI itself.

The Commission is satisfied that:

- The killing of children is a breach of their right to life, one of the most fundamental of human rights. In many cases, they were killed as a result of unlawful actions amounting to war crimes, whether in violation of the laws and customs of war or as grave breaches of the Geneva Conventions 1949.
- The killing of children by members of UDT and Fretilin was a breach of Portuguese law, which provided no basis for either party, as non-state actors, to take the lives of any person, let alone children, in any circumstance.
- The killing of civilian children during the period of the internal armed conflict constituted a breach of Common Article 3 of the Geneva Conventions of 1949, which expressly prohibits parties from killing persons who are not taking an active part in hostilities.
- Once the internal conflict became internationalised, the rules governing international armed conflict applied in Timor-Leste to regulate the activities of the UDT, Fretilin and Indonesia. The protections afforded to children under the International Law of Armed Conflict were greater, but their protections in relation to the right to life were the same as those for adult civilians.
- The killing of child civilians by the Indonesian military or its agents during the period of international armed conflict amounted to war crimes under the laws and customs of war and Geneva Convention IV.
- Children killed for their connection with the clandestine movement or during searches for the Resistance were also unarmed civilians not engaged in military conflict. Such killings would appear to fall within the generic war crimes category in violation of the laws and customs of war as well as Geneva Convention IV.

Sexual violence committed against children.

The Commission finds that:

- * The Indonesian security forces, their East Timorese auxiliaries and other persons in positions of authority used sexual violence against children both strategically and opportunistically throughout the occupation.
- * Strategic sexual violence was used to establish control through terror, whether as a form of punishment of the victim, as a means of extracting information or with the wider aim of undermining family ties.
- * The scale of opportunistic sexual violence reflected a climate of impunity that extended from the higher reaches of the military to their East Timorese auxiliaries to civilians in positions of authority.
- * Sexual violence against girls often appears to have been motivated by a desire to punish family members involved in resistance activities.
- * Girls and adult women were subject to the similar forms of sexual violence throughout the mandate period. Both were at particular risk in resettlement camps or while detained by Indonesian authorities.
- * Once violated, girls became vulnerable to long-term exploitation leading to an extended period of sexual slavery or other forms of repeated sexual violence.
- * The practice of sexual violence against children was, in most cases, conducted openly without fear of sanction by both lower ranks of the military and their superior officers, as well as persons in positions of civilian authority such as village heads, police and teachers.
- * Most of the cases of sexual violence that the Commission has examined took place in military custody or on military premises or other locations that could be considered official.
- * Although senior members of the Indonesian and civilian hierarchies would certainly have known of the unlawfulness of such conduct, the Commission has found only one case in which an agent of the government was prosecuted. It is noteworthy that this case involved a low-ranking member of Hansip.

The Commission is satisfied that:

- On the basis of the nature of the sexual crimes committed against children and the impunity which perpetrators enjoyed, there existed an environment in Timor-Leste where sexual violence against children was condoned, and even encouraged.
- Rape and other forms of serious sexual violence are devastating assaults on a person's security; they may also be cruel inhuman and degrading treatment that in some circumstances amounts to torture. These egregious crimes are further aggravated when the act is committed against a child,

whose vulnerability requires particular protection. These principles are universally enshrined in international law as well as in Indonesian law, including in Indonesian law (KUHP Chapter XIV).

- Some of the sexual violence examined by the Commission amounted to cruel, inhuman and degrading treatment or torture. Torture in the circumstances outlined amounted to grave breaches of the Geneva Conventions and violations of the laws and customs of war, as well as violation of the customary prohibition against torture.
- In the circumstances of invaded-and-occupied Timor-Leste, many acts of sexual violence against children, including rape, were grave breaches of the Geneva Conventions (Article 147 of Geneva Convention IV for civilians) for causing great suffering or serious injury to body or health, or for amounting to inhuman treatment.
- These acts constitute violations of the laws and customs of war for being ill-treatment of civilians and an outrage on personal dignity and honour (Common Article 3 and Article 76(1) of the Regulations Annexed to Hague Convention IV as custom).
- Sexual enslavement and other slave-like practices, such as being made to provide sexual services on call, committed against child civilians constituted a violation of Article 27 of Geneva Convention IV and were grave breaches of that Convention (Article 147). These practices involve multiple violations of human rights standards including unlawful confinement, causing great suffering or serious injury to body or health, torture or inhuman treatment.
- As almost every act of sexual violence considered by the Commission was committed by officials or agents of the Occupying Power; Indonesia was responsible for the suffering that victims endured (Articles 29 and 32, Geneva Convention IV).
- Indonesia failed to fulfil its customary and treaty obligations under the Geneva Conventions to protect child civilians from sexual violence and to take steps to investigate prosecute and punish individual perpetrators of grave breaches (Article 146, Geneva Convention IV).
- After September 1990, Indonesia failed to meet its obligation under the Convention on the Rights of the Child (CRC) to protect children from sexual exploitation and abuse (Article 34).
- After September 1990, Indonesia failed to fulfil its obligation under the CRC to assist the physical and psychological recovery and social reintegration of child victims of sexual violence (Article 39).

The transfer of children to Indonesia

The Commission finds that:

- * East Timorese children were frequently removed from their families and homeland to Indonesia throughout the period of occupation.
- * The transfer of children to Indonesia took many forms, ranging from abductions by individual soldiers to government-sponsored education programmes.

- ✳ Although the degree of coercion exercised by persons and institutions in effecting the transfer of children varied, there was almost always an element of duress and, sometimes, outright force.
- ✳ In the first years after the invasion, regular soldiers were the main perpetrators of the removal of East Timorese children. As in the case of child TBOs (some of whom were also transferred to Indonesia by the soldiers they had served at the end of their tours of duty), children who were removed to Indonesia were frequently treated as chattels by being removed forcibly, transported in boxes and required to perform menial tasks for the families with whom they lived.
- ✳ Institutions, including hospitals and the Seroja Orphanage facilitated the removal of children by Indonesian soldiers. Although individual staff members expressed to the Commission that they had concerns in relation to the process, there is no evidence that the institutions refused to take part.
- ✳ Religious institutions were also directly involved in taking children out of Timor-Leste. Although the Commission recognises that these transfers were considered to be charitable by the institutions, there was a clear lack of information provided to parents and children.
- ✳ Efforts to regulate the practice were instituted in the early 1980s but the Commission heard little evidence that the regulations were followed or that there was monitoring of the way in which they were applied. Where consent was sought from parents, parents were often not given complete information or were openly lied to. Further, there are cases of forced “consent” under threat of violence.
- ✳ East Timorese children taken to Indonesia at a young age suffered a loss of their cultural identity, a cause of great suffering both to the children and their families. In many cases this was as a result of the policy of the religious institution involved, the decision of persons entrusted with the care of the child, or simply as a result of children being deprived of their cultural roots by their distance from their homeland.
- ✳ The Commission heard of no case in which an attempt was made to provide education to East Timorese children by people of the same nationality, language or religion. Rather, the Commission heard of many cases in which there were explicit attempts to transform the child’s religion or in other ways become more Indonesian.
- ✳ There is insufficient evidence to determine whether the large-scale removal of East Timorese children was official Indonesian government or military policy. Nevertheless, there is clear evidence of high-level involvement in some of its manifestations, extending to President Soeharto and his family.
- ✳ The Indonesian government made no genuine attempt to regulate the practice of the removal of children through the institution of adoption policies undertaken by competent authorities according to the applicable law.

- ✳ There is little evidence that the Indonesian government made a genuine effort to meet its obligations under international law regarding the care of East Timorese children by non-family members or at institutions, their transfer to Indonesia or the conditions under which they were kept.
- ✳ The decline in the number of children who were abducted after 1981 seems to have been related more to the changing military situation and the “normalisation” of the occupation than to effective measures taken by the Indonesian authorities.
- ✳ The Commission finds that programmes of the Ministries of Education and Manpower under which children were sent to Indonesia to study or to work had underlying political and security motivations. These included encouraging a commitment to Indonesian integration and removing possible trouble-makers from Timor-Leste.
- ✳ Even where the transfers were motivated in part by humanitarian concerns or where parental consent was sought, little effort was made to ensure that children maintained contact with their families or to ensure that children were able to choose freely whether or not to return to Timor-Leste. The Commission received numerous reports of children being removed and never seeing their families again, as well as of persons who were removed as children returning as adults and being unable to locate their families or even their home districts. Testimony provided to the Commission reveals that parents who tried to trace their abducted children were obstructed by Indonesian officials.

The Commission is satisfied that:

- The abduction of East Timorese children by soldiers is both a crime under Indonesian law (Chapter XVII of KUHAP dealing with crimes against personal liberty), as well as being in breach to the duty of an Occupying Power to respect family rights and not to intimidate civilians (Articles 27 and 23 of the Geneva Convention IV).
- The separation of a child from his or her true identity, culture, ethnicity, religion or language may amount to a grave breach of Geneva Convention IV in so far as it constitutes inhuman treatment or causes great suffering to the child.
- The imposition of an alien culture was a violation of customary human rights law which obliged Indonesia to respect the child’s rights to freedom of thought, conscience and religion.
- Indonesia’s failure to ensure that children’s personal status was not changed by its soldiers or institutions was a breach of its obligations under Geneva Convention IV (Article 50).
- Indonesia’s failure to ensure that education was provided, as much as possible by persons of the same nationality, language and religion was a breach of Geneva Convention IV (Article 50).
- Indonesia’s failure to adequately regulate the practice of the transfer of children constitutes a breach of its obligations under Article 21 of Geneva Convention IV.

- Indonesia's failure to combat the illicit transfer of children abroad constituted a breach of The Convention on the Rights of the Child (Article 11) and its failure to prevent the abduction, sale or traffic of children was a breach of its obligations under Article 35.
- Indonesia did not take sufficient measures as an Occupying Power to fulfil its obligations to the children of Timor-Leste under Geneva Convention IV to evacuate children from the field of conflict (Article 17), take all necessary steps to ensure that members of the same family were not separated (Article 49), ensure children were reunited with their parents, or placed with family or friends, or ensure they were identified and their parentage registered (Article 50). There was no attempt to ensure that children should be placed in an institution only as a last resort. The failure to reunite separated families after 1990 constituted a violation of the CRC.
- Making students from occupied Timor-Leste swear an oath accepting the integration of Timor-Leste into Indonesia contravened Article 45 of the Regulations Annexed to Hague Convention IV which prohibits making the population of an occupied territory swear allegiance to the Occupying Power.
- It was unlawful for Indonesia to have forced anyone under 18 into any kind of work or to force any civilian from an occupied territory to work outside of the occupied territory (Article 51, Geneva Convention IV).

Violations of Economic and Social Rights

Overview

Under the Indonesian occupation the people of Timor-Leste were subjected to brutal forms of violation of their physical integrity and their civil and political rights, but the impact of the conditions in which they lived, while often less remarked on, was equally damaging and possibly more long-lasting.

The social and economic rights of the East Timorese were comprehensively violated during the Indonesian occupation. These rights are defined in a number of international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Universal Declaration of Human Rights (UDHR), and, for children, the Convention on the Rights of the Child (CRC). Specific provisions of the Fourth Geneva Convention cover the obligations of an Occupying Power to protect civilians' social and economic circumstances.

A constant theme of Indonesian propaganda during the occupation was the supposed contrast between the backwardness that was said to be Portuguese colonialism's chief legacy and the rapid development that Indonesia brought to East Timor. In the instances cited in this and other sections of this report Indonesia plainly failed to live up to its claims that its overriding concern was the well-being of the East Timorese people. Waves of violence and the extreme political and social repression and control exercised by the Indonesian military seriously hampered activities that were fundamental to making a day-to-day living, including movement, farming, and the ability to transport and market goods.

Violations of economic and social rights did not occur only as a by-product of military operations, however. Even at times of relative normality, security concerns, which sometimes became intertwined with private and corporate interests, took precedence over the well-being of the East Timorese people. The explicit use of education as a propaganda tool, rather than to meet basic learning needs, restricted children's development and future opportunities. The permanent resettlement of entire villages in areas that had previously been avoided because of their poor soils and malarial conditions endangered people's health. The manipulation of coffee prices to fund military operations and benefit military and civilian officials personally limited farmers' chances of making an adequate livelihood. The unsustainable and destructive extraction of natural resources by government officials and their business partners undermined survival strategies and depleted the "natural capital" on which East Timorese people had expected to draw for many years to come. The preoccupation with security biased state investment towards areas such as road-building and the development of the government apparatus at the expense of agriculture in which the vast majority of East Timorese people were employed.*

Economic and social rights are definitively set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Although Indonesia has not ratified the Covenant, its provisions set the standard by which Indonesian conduct in

* These policies should also be seen in the context of Soeharto's New Order regime (1965-1998).

Timor-Leste during the occupation should be judged. In the Covenant itself and in its elaboration by the Committee on Economic, Social and Cultural Rights it is recognised that because they are at different stages of economic development, states are not equally able to realise all the rights set out in the Covenant. The obligation on states is therefore to take steps to achieve the progressive realisation of social and economic rights to the maximum extent that their resources allow. However, at the same time states have core responsibilities which they must always fulfil. These include responsibilities to provide for certain basic needs such as food, shelter, essential medicines and basic education. It is also required that states not act in a discriminatory manner in the provision of economic and social benefits and that they not take retrogressive measures that cause people's enjoyment of these rights actually to deteriorate.

The Commission believes that Indonesia violated economic and social rights at all these levels. In many instances the State took extreme security measures that were at odds with meeting its core responsibilities. In these situations the State failed to provide for the population's basic needs, and frequently took measures that were both retrogressive and discriminatory.⁷ At the same time the Commission has also found that the Indonesian State failed to realise the economic and social rights of the East Timorese people to the maximum extent possible, and that at the end of the occupation, East Timor's development still lagged well behind that of even the poorest Indonesian provinces. This conclusion might seem surprising. The scale of Indonesian investment in the territory was large and the GDP growth rates that it produced were high. Moreover, the low benchmark established by the Portuguese colonial administration makes the progress achieved in some areas, such as health and education, look dramatic. However, the Commission has found that the allocation of investment, the distribution of GDP and the delivery of social services, including health and education, were all severely compromised by the Indonesian State's overriding preoccupation with security, by its authoritarian style of government and by its close collaboration with special interests.

This finding clearly demonstrates the close relationship between serious violations of civil and political rights and the deprivation of economic and social rights. In Timor-Leste, the denial of fundamental civil and political freedoms had many manifestations, but among them were the ones that fostered the factors identified by the Commission as preventing the realisation of the economic and social rights of the people of East Timorese.

The Commission finds that:

- * Taking the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other relevant international instruments as the standard, that Indonesia failed both to fulfil its core responsibilities as a state with regard to economic and social rights and to do its utmost to realise progressively those rights to the extent that its resources allowed.
- * Indonesia repeatedly failed to carry out its core responsibilities with regard to economic and social rights. It failed to meet the basic needs of the population for food, shelter and essential medicines. By dispensing its resources selectively, whether by channelling them to favoured groups or by withholding resources

from those in dire need of them, it acted in a discriminatory fashion. It repeatedly took measures that placed members of the population in situations that caused their economic and social situations to deteriorate, that is, it took measures that were retrogressive.

- ✱ Instances where Indonesia failed to fulfil its core responsibilities to the people of East Timor occurred with regularity throughout the occupation. For example, the treatment of East Timorese who were “resettled” after surrender or capture in the late 1970s and the effects of the scorched earth policy implemented by the TNI and its militia allies in 1999 were clear examples of policies which resulted in the denial of the population’s economic and social rights, with extreme impact on its rights to an adequate standard of living, livelihood, to the highest attainable standard of health, to education, and to undertake work freely chosen.
- ✱ Despite its claim to be bringing development to Timor-Leste, in fact the Indonesian government also failed to realise the economic and social rights of the East Timorese to the maximum extent possible.
- ✱ The Indonesian authorities, both civilian and military, disregarded those provisions of the Geneva Conventions of 1949 and the Hague Regulations of 1907 bearing on an occupying power’s obligations to respect defined economic and social rights of the people of an occupied territory. They were in breach of specific obligations not to destroy or seize property arbitrarily, not to profit from the resources of the occupied territory, and not to subject members of the population to compulsory service with the occupying forces. As already noted, they failed in their duty to meet basic needs for food, medical supplies and shelter, violating not just the standards set out in the ICESCR but also their obligations under international humanitarian law.
- ✱ Many of the actions of the Indonesian authorities during the occupation had long-lasting impacts on the economic and social conditions of the people of Timor-Leste and, in many cases, continue to this day. The plunder of resources such as timber depleted to precariously low levels, assets that are essential to the long-term well-being of the population. No less damaging was the social impact of these measures. The discriminatory use of resources served to create new divisions and to entrench existing ones. The arbitrary use of powers to move the population and evict them forcibly has left an unresolved legacy of uncertain tenure and landlessness. The exposure of the overwhelming majority of the population to terror of various kinds, including torture, killings and rape, has undermined the mental health of an unknown number of East Timorese. The Commission takes the view that all of these social impacts are impediments to reconciliation and need to be addressed within that context.
- ✱ Timor-Leste was not the only area under Indonesian control in which violations of economic and social rights occurred during the occupation period. Many of the violations reported above were also commonplace in Indonesia itself during this period. However, the exceptional degree of military control and the context of invasion and occupation in Timor-Leste often made these violations more intense and limited the population’s ability to rectify them through seeking redress or by other means.

The right to an adequate standard of living

Development and government spending

- * Despite the Indonesian Government's large investment in Timor-Leste and the rapid economic growth that it produced, particularly when compared with the performance of the Portuguese colonial power, government security concerns rather than the interests of the majority of the population guided the distribution of that investment. The contrast between investment and growth in such sectors as transport and communications and government administration, and that in agriculture on which the vast majority of the population depended for its livelihood, strikingly illustrates the occupying power's distorted priorities. Income and poverty indicators at the end of the Indonesian occupation, which show Timor-Leste lagging behind most other countries and all the provinces of Indonesia itself, provide strong evidence of the harmful effects that this choice of priorities had on the living conditions of the majority of East Timorese.

Rights over natural resources

- * The Commission is satisfied that trading companies with direct links to the military and the Indonesian government deliberately and systematically underpaid coffee smallholders, thereby abridging their right to an adequate livelihood.
- * The arrangements that the Indonesian authorities put in place in the coffee industry was one of several instances where Indonesia denied the people of Timor-Leste an essential component of their right to self-determination, namely their right to dispose of their natural wealth and resources freely. The Indonesian authorities committed similar violations by exploiting other resources, including sandalwood and timber, without regard to sustainability and by failing to regulate the exploitation of these resources by others. These forms of exploitation of natural resources were also positively harmful to the well-being of the population and were sometimes used to fund military operations, and as such violated the duties of an occupying power.
- * In a further breach of the people of Timor-Leste's right to dispose of its natural resources, the Commission finds that Indonesia and Australia concluded the Timor Sea Treaty in 1989 without consulting the people of Timor-Leste or paying due regard to their interests.

The right to adequate food

- * The Indonesian government took measures that worsened the food situation of the people of Timor-Leste. Timor-Leste's climate and the uneven quality of its soils make the food situation precarious at the best of times, and survival dependent on the population's ability to move freely. The Commission has found that the Indonesian authorities did not just neglect agriculture; they also took security measures that positively worsened the chances of the farming population to make a living, primarily by forcibly settling them in infertile areas under conditions in which their movement was restricted.

Housing and land

- * The Commission finds that all sides to the conflict — Fretilin, UDT and the Indonesian security forces and their auxiliaries — engaged in activities, including forcible displacement, the destruction of houses and other property, and the looting of possessions, that violated the right to housing.
- * The Commission finds that repeated displacements, the redrawing of administrative boundaries and the non-recognition of customary land-ownership and land-use practices produced a legacy of landlessness and highly complex land disputes. Although security considerations played an important part in producing this outcome, the unchecked pursuit of economic interests by military and civilian officials and their business associates was also a crucial factor. The disruption of landholding and land-use patterns has had and will continue to have profoundly damaging effects on the economic, social and cultural fabric of East Timorese society.

Rights to health and education

- * Although Indonesian investment in health and education was significant and resulted in the physical installation of territory-wide health and education systems, the Commission found that it was ineffective in overcoming chronic public health problems or meeting basic learning needs.
- * Many factors contributed to this outcome. Among the side-effects of extreme violations, such as torture and forced recruitment, were ill-health and the disruption of education. The skewed economic development promoted by the Indonesian authorities created a self-perpetuating cycle in which poverty, on the one hand, and poor health and low educational achievement, on the other, fed on each other. The highly militarised context and other structural factors, such as the lack of expertise and commitment of the Indonesian medical personnel and teachers assigned to Timor-Leste, resulted in services that were sub-standard and mistrusted by the local population. Basic health and educational needs were often subordinated to security considerations, as exemplified by the forced settlement of large numbers of the population in disease-ridden areas that had previously been shunned and the heavy emphasis on propaganda in schools.
- * The implementation of the family planning programme in Timor-Leste was wholly at odds with principles that are integral to the right to health, namely the freedom to control one's health and body and the right to information that will enable one to have such control. The Commission has found that the programme contained a strong element of compulsion, which was reinforced by a target-driven approach and direct military involvement in the programme's design and implementation. The programme was also pursued without regard to the possible and actual side-effects of the birth-control methods that were prescribed.
- * The suspicions generated by the authoritarian approach to patient care were reflected in the widespread credence given to allegations that the Indonesians were secretly engaged in a campaign of forced sterilisation whose intent was genocidal.

The Commission has not found these allegations compelling, but they do highlight the kind of suspicions fostered by an authoritarian approach to medical care in which medical personnel felt no obligation to give patients information about their treatment.

- * The use of schools for propaganda and indoctrination severely interfered with the education of an entire generation of East Timorese youth. Education was used in this way as part of an integrated security approach whose overriding objective was to ensure that pro-independence sentiment did not take root in a new generation. In this context, teaching children the skills that would enhance their prospects and enable them to fulfil their human potential was secondary.

Responsibility and Accountability

Principal findings on the State of Indonesia and the Indonesian Security Forces

The Commission finds that:

- ✳ The military invasion of Timor-Leste by Indonesia on 7 December 1975 was a violation of one of the most fundamental and universally accepted principles of international law — the prohibition on the illegal use of force by one state against another. The Commission holds the State of Indonesia to be accountable for this violation and responsible for its consequences.
- ✳ Throughout the period of the illegal military occupation of Timor-Leste members of the Indonesian security forces committed massive, widespread and systematic human rights violations against the civilian population of the territory. The Commission is satisfied that these violations amounted to crimes against humanity and war crimes.
- ✳ Integral to the military operations designed to overcome resistance to the Indonesian invasion and occupation was official acceptance of the commission of gross violations including widespread and systematic executions, arbitrary detention, torture, and rape and sexual slavery.
- ✳ The Government of Indonesia and the Indonesian security forces are primarily responsible and accountable for the death from hunger and illness of between 84,200 and 180,000 East Timorese civilians who died as a direct result of the Indonesian military invasion and occupation. The Commission received conclusive evidence that between the years 1976-1979 the Indonesian security forces systematically:
 - Failed to discriminate between civilian and military targets in conducting repeated large-scale bombardments from land, sea and air and other military operations which caused large numbers of East Timorese civilians to flee their homes and once having done so to flee again, often repeatedly, with the result that their capacity to make a livelihood was severely curtailed.
 - Destroyed food sources by burning and poisoning crops and food stores, slaughtering herds of livestock. Forced tens of thousands of East Timorese who surrendered or been captured by Indonesian forces to move into designated settlements from which they were not free to leave.
 - Failed to supply those interned in these settlements with sufficient food or medicines to ensure their survival, even though the needs of the internees were entirely foreseeable since the Indonesian forces' military campaigns had aimed precisely at achieving the outcome they did in fact achieve — namely the mass surrender of the population under Fretilin control into areas under Indonesian control.
 - Denied those who had been interned in these settlements the freedom to search for food.

- Refused to allow access to international aid organisations which offered to provide food to those confined to the settlements.
 - Continued to implement these policies even after thousands of men, women and children had starved to death in the camps and restricted areas.
- ✳ The only logical conclusion that can be drawn from these actions is that the Indonesian security forces consciously decided to use starvation of East Timorese civilians as a weapon of war, as part of its strategy for destroying resistance to the military occupation.
 - ✳ The intentional imposition of conditions of life which could not sustain tens of thousands of East Timorese civilians amounted to extermination as a crime against humanity committed against the East Timorese civilian population.
 - ✳ During the invasion and occupation members of the Indonesian security forces summarily executed thousands of East Timorese non-combatants. The executions included mass executions and massacres, the killing of prisoners who had been captured or had surrendered, and collective and proxy punishment for actions carried out by others who had evaded capture. Collective punishment was a central and systematic component of an Indonesian military strategy designed to overcome resistance to the military occupation. These illegal killings amounted to crimes against humanity and war crimes.
 - ✳ Throughout the entire period from the Indonesian invasion in 1975 to the arrival of international peacekeepers in 1999, members of the Indonesian security forces implemented a programme of widespread and systematic arbitrary detention, which routinely involved the torture of thousands of East Timorese non-combatants. These practices were systematic and were condoned and encouraged at the highest levels of the security apparatus and the civil administration. The use of torture amounted to crimes against humanity and war crimes.
 - ✳ Throughout the period of the conflict members of the Indonesian security forces systematically raped and imposed conditions of sexual slavery on thousands of East Timorese women, often inside military facilities, police stations and government offices. Gang rape by military personnel inside military facilities was common, as was sexual torture. The Commission finds that the systematic rape of these mostly young women by members of the Indonesian security forces amounted to crimes against humanity and war crimes. The Commission bases these findings on the first-hand accounts of hundreds of individual, unrelated victims who courageously told of their experiences despite the significant personal sacrifice involved in providing such evidence.
 - ✳ All of the major categories of human rights violations committed by members of the Indonesian security forces against adults were also committed against children. Children (persons under 18 years of age) were systematically killed, detained, tortured, raped and otherwise violated on a widespread scale by members of the Indonesian security forces inside military facilities and at other official locations.

- ✳ Commanders and personnel of ABRI/TNI committed significant violations of their obligations under international law by using illegal methods of warfare in their campaign in Timor-Leste. Actions routinely carried out which were in violation of the Geneva Conventions included:
 - The targeting of civilians in military attacks
 - A failure to discriminate between civilian and military targets
 - The collective punishment of civilians for the actions of members of the Resistance forces
 - The killing, torture and ill-treatment of civilians who had surrendered and been taken prisoner
 - The use of prohibited weapons including napalm and chemical weapons
 - Large-scale forced recruitment, including of children
 - The deliberate destruction of civilians' food sources.

- ✳ Indonesian judges, prosecutors, defence counsel, police, and military intelligence operatives collaborated to conduct sham trials of several hundred East Timorese after their arrest for engaging in pro-independence political activities. These trials involved the systematic use of torture to produce confessions, the fabrication of evidence and the manipulation of judicial proceedings. Those who participated in the preparation and conduct of these trials are responsible and accountable for the illegal imprisonment of hundreds supporters of independence for Timor-Leste.

- ✳ The State of Indonesia violated the right of the East Timorese to use and enjoy the benefits flowing from their own natural resources. This right was violated in a variety of ways including; by allowing the Indonesian security forces and their business associates to control the East Timorese coffee crop and to remove large quantities of resources, such as sandalwood and other types of timber, from the territory. Indonesia also violated the rights of the East Timorese people by illegally entering into an agreement with the Government of Australia to exploit the oil and gas resources in the Timor Sea.

The systematic programme of violations in 1999

The Commission finds that:

- ✳ Senior members of the Indonesian military, police and civil administration were involved in the planning and implementation of a programme of mass human rights violations intended to influence the outcome of the United Nations-organised Popular Consultation conducted in Timor-Leste in 1999. One of the main ways in which this programme was implemented was through the creation of new East Timorese militia groups and the strengthening of existing ones.

- ✳ The militia groups were formed, trained, armed, funded, directed and controlled by the Indonesian security forces. Indonesian military personnel served as commanders of some militia groups, senior commanders endorsed the militias, they operated from Indonesian military bases, and commonly committed atrocities in the presence of or under the direction of uniformed members of the TNI.

- * The programme conducted by members of the Indonesian security forces used violence and terror, including killing, torture, beatings, rape and property destruction in an attempt to force East Timorese voters to opt formally to “integrate” with Indonesia. When this strategy failed to produce the intended result, the security forces and their auxiliaries went on a rampage of violence, directed against people and property, and forcibly deported several hundred thousand East Timorese to West Timor.
- * The massive human rights violations committed during 1999 were not the result of a conflict between East Timorese groups with different political preferences. Nor was it the result of “rogue elements” of the TNI acting out of the control of their superiors. The violations were committed in execution of a systematic plan approved, conducted and controlled by Indonesian military commanders up to the highest level.
- * The systematic violations that occurred in 1999 were facilitated through both the direct participation and the inaction of members of the Indonesian police force, who systematically failed to intervene to prevent the violations taking place and to punish perpetrators when they did.
- * Members of the local civil administration in Timor-Leste and national-level government officials, including ministers, knew of the strategy being pursued on the ground, and rather than taking action to halt it, directly supported its implementation.
- * The violations committed by the members of the Indonesian security forces during 1999 included thousands of separate incidents which constituted crimes against humanity. The Commission holds the leadership of the Indonesian security forces at the highest levels responsible and accountable for their role in planning and executing a strategy of which violations of human rights were an integral part, for failing to prevent or punish perpetrators under their command, and for creating a climate of impunity in which military personnel were encouraged to commit abhorrent acts against civilians known or perceived to be supporters of East Timorese independence.

Principal findings on the responsibility of Fretilin

The Commission finds that:

- * Representatives of Fretilin were justified in taking up arms to defend themselves and the right of the East Timorese people to self-determination in response to the actions of representatives of the UDT party during the armed movement in August 1975.
- * However, representatives of Fretilin responded by committing serious human rights violations against members and leaders of UDT and, on a smaller scale, of Apodeti which are inexcusable under any circumstances. In particular members of Fretilin were responsible for the arbitrary detention, beating, torture, ill-treatment

and execution of civilians who were known or thought to be members of UDT and Apodeti. These acts were violations of their obligations under Common Article 3 of the Geneva Conventions, which applies to internal armed conflicts.

- ✳ Representatives of Fretilin executed prisoners in Aileu (Aileu), Maubisse (Ainaro) and Same (Manufahi) between December 1975 and February 1976. The Commission finds that in addition to local-level Fretilin and Falintil leaders and commanders in Aileu, Maubisse and Same, senior leaders and commanders, including members of the Fretilin Central Committee present in these areas at the time, were responsible for the torture and execution of prisoners in these places in late 1975 and early 1976. While accepting that the Fretilin Central Committee did not take a formal decision to commit these violations, the Commission finds that these senior leaders and commanders were either aware that they were taking place, were directly involved in deciding that they should take place, or were present when they did take place.
- ✳ When differences over military strategy and ideology emerged within the Resistance during 1976 and 1977-78, leaders of Fretilin belonging to the dominant faction within the party and their supporters responded in a grossly intolerant manner. This intolerance manifested itself in serious human rights violations, including the torture and ill-treatment of detainees and the execution of leaders and members of Fretilin and Falintil who disagreed with the mainstream Fretilin leadership. The victims were often treated in this way after being accused of collaborating with, spying for or otherwise acting as agents of the Indonesian security forces. The Commission finds that these accusations were often politically-motivated, and that Fretilin/Falintil condemned victims accused of these crimes were subjected to severe punishments, including indefinite periods of detention in deplorable conditions and execution, without any form of due process which in any way met international standards for procedural fairness.
- ✳ The Fretilin leadership is also responsible for the detention of hundreds of persons in Renals and other detention centres established by Fretilin. The Renals were established to “re-educate” persons who differed from the leadership in their political views or whose loyalty was in doubt. Those detained included many ordinary people living in Fretilin-controlled areas who were believed, often on tenuous grounds, to be planning to surrender to Indonesian forces or to have had contact with Indonesian forces or their East Timorese collaborators. They also included those accused of common criminal offences. These people were often subjected to inhumane conditions, beatings and torture, which led to their death in detention, and many were executed.
- ✳ To the extent that it subjected persons it detained during the period 1976-78 to a process of “popular justice”, the Fretilin leadership within Timor-Leste was responsible for sanctioning a trial process which was grossly unfair in that it denied the accused their rights to be informed of the nature of the accusations beforehand, to be presumed to be innocent and to reply to the accusations made. As a result of these “non-trials” the accused persons were often subjected to further severe violations, including execution.
- ✳ The question of whether individuals should or should not have been prevented from surrendering to Indonesian forces in the years following the invasion is

complex, and some decisions are understandable when the totality of the situation is considered. However, the Commission found that the severe ill-treatment, torture, and, in some cases, killing of persons who favoured surrender was always inexcusable. Whatever the rights and wrongs of the debate over surrender, the Fretilin leaders who condoned and in some cases implemented these practices remain responsible for these extreme violations of victims' rights, which cannot be justified under any circumstances.

- * The actions of the members of the Fretilin party, and those associated with it, in cases of detention, torture and killing of civilians, prisoners, the wounded and the sick were violations of their duties under Common Article 3 of the Geneva Conventions.

Principal findings on the responsibility of the UDT political party

The Commission finds that:

- * On 11 August 1975 the leadership of the UDT party launched an armed movement, the purpose of which was to gain control of the political leadership of the territory of Timor-Leste. UDT had no legal authority to undertake this action, and by doing so acted in violation of the rights of the East Timorese people to determine voluntarily their own political destiny.
- * During the armed movement UDT committed widespread human rights violations against members of the civilian population and combatants not engaged in combat, and particularly against individuals believed to be leaders and supporters of Fretilin. Hundreds of civilians were arbitrarily detained, many of whom were tortured, killed and otherwise mistreated.
- * The actions of the members and leaders of the UDT party, and those associated with the party, in cases involving the detention, torture and killing of civilians, prisoners, the wounded and the sick were violations of their obligations under Common Article 3 of the Geneva Conventions.
- * The leadership of UDT at the time are responsible for inciting their members to participate in an armed action without putting in place systems of command and control which could effectively regulate the behaviour of their members. They also did not prepare adequate facilities for the hundreds of prisoners who were detained. The Commission therefore finds the leaders of the UDT party at the time of the armed movement responsible for the violations committed by the members of UDT who were acting under their overall command.
- * The local UDT leaders who incited hatred and who ordered victims to be detained, beaten, tortured or killed to be responsible and accountable for the consequences of these actions. The most extreme forms of abuse reported to the Commission occurred at the UDT headquarters in Dili, and in the districts of Ermera and Liquiça, which were UDT strongholds.

- * The Commission holds the UDT district party leaders in Dili, Ermera and Liquiça Districts in August 1975 to be responsible and accountable for the serious mass violations committed by those acting under their command and control. These violations included ordering or allowing the torture and summary execution of groups of unarmed civilians by party members acting under their authority.
- * The Commission finds the leadership of the UDT party to be responsible for contributing to the violation of the right of the East Timorese people to self-determination by contributing manpower to assist the invading Indonesian forces, inviting Indonesia to invade Timor-Leste and signing the Balibo Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.
- * Members of UDT joined Indonesian forces training in West Timor after September 1975 and participated in the military invasion of Timor-Leste, accompanying Indonesian military personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of UDT involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly.
- * UDT leaders assisted Indonesia by presenting false and misleading information to the United Nations and its member states in the period after the Indonesian invasion. It thereby prevented members of the international community from gaining a true picture of the situation in Timor-Leste, which might have formed the basis of international initiatives on behalf of the people of Timor-Leste. By taking on this role they contributed to the suffering of the East Timorese people, for which they must be held morally responsible.

Principal findings on the responsibility of the Apodeti political party

- * Although the Commission received significantly fewer reports of violations committed by members of Apodeti than by either Fretilin or UDT, the evidence clearly demonstrates that apart from their direct role in violations, members of Apodeti participated in the Indonesian invasion and supported the military occupation in a variety of ways.
- * Apodeti members worked with Indonesian intelligence agents, both military and civilian, inside Timor-Leste and in Indonesia during 1974-75. They were responsible for undermining the decolonisation process and destabilising the situation in Timor-Leste.
- * Beginning in December 1974 approximately 200 members of Apodeti participated in military training exercises near Atambua, West Timor, which led to their participation with Indonesian military personnel, in covert military action inside Timor-Leste from August 1975 and possibly earlier, including the attack on Balibo on 16 October 1975. These East Timorese “Partisans” subsequently took part in the invasion of Timor-Leste, accompanying Indonesian military

personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of Apodeti involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly. They are also responsible for the consequences of signing the Balibo Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

- * The Apodeti leaders and those directly involved in compiling lists and pointing out individuals who were targeted by Indonesian forces during the invasion are responsible for the consequences of these actions, including the detention, torture and killing of those who were identified.

Principal findings on the responsibility of the KOTA and Tralabalista parties

- * Although members of the Tralabalista and KOTA parties were not identified as direct perpetrators of a large number of violations, they did play a role in supporting the Indonesian invasion and occupation, and therefore contributed to the mass violations committed by members of the Indonesian security forces. By taking up arms in the “Partisan” force, members of these parties are also responsible for contributing to the Indonesian military invasion and occupation.
- * Members of Tralabalista and KOTA also contributed to the formulation and signing of the Balibo Declaration which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of Timor-Leste.

**THE RECOMMENDATIONS OF
THE COMMISSION**

In an independent East Timor, the children and youth shall represent our hope in the future, and the protection and promotion of their rights shall always be a priority. Their education shall be based on cultivating love and respect for life, peace, justice and equality so that a new world can be built on the ruins of war.

Magna Carta concerning Freedoms, Rights, Duties and Guarantees for the People of East Timor adopted by the National Council of East Timorese Resistance (CNRT), Peniche, Portugal, 25 April 1998.

What's the point of continually collecting information from us if there's nothing to show for it?

Community of Lalerek Mutin, Viqueque

Introduction

The Commission is required to make “recommendations concerning reforms and other measures whether legal, political or administrative which could be taken to achieve the objectives of the Commission, to prevent the repetition of human rights violations and to respond to the needs of victims of human rights violations” [Regulation 2001/10, Section 21.2].

The thousands of first-hand testimonies of victims and witnesses that were given to the Commission have provided this nation and the international community with a clear picture of the intense suffering of the East Timorese people between 1974 and 1999. This suffering was primarily caused by violations against individual citizens committed by state agents particularly after 1975. It was made possible due to the climate of impunity that prevailed for most of this period due on the one hand to the absence of democratic checks and balances on the Indonesian military within the Indonesian system and, on the other hand, to the tolerance by the international community of the Indonesian government's excesses in the conduct of its affairs.

The Commission has been given the duty to make recommendations that, if implemented, will assist in preventing a recurrence of the violations of the past. As most of the human rights violations recorded in this report were committed by the state and the state has primary responsibility to uphold human rights, prevention must be focussed on ensuring that the actions of state agents do not once again become alienated from legal obligations and the will of the general population. Members of the military, police, intelligence services, judiciary and government agencies must at all times remain strictly accountable to the people, the law and internationally agreed standards. For its part the international community must not only enunciate standards but insist, through all the measures available to it, that these standards are complied with particularly at this stage when the architecture of the new state is still being developed.

History teaches us that nations recovering from long conflict face a difficult task to develop the democratic institutions and laws that can protect and guarantee human

rights. Some nations fail to meet this challenge and revert to violence. It should not be taken for granted that human rights will automatically be protected in Timor-Leste. Vigilance against the kind of practices that lead to violations needs to be constant.

The need for vigilance is demonstrated by the fact that although the vast majority of serious violations examined by the Commission were committed by members of the Indonesian security forces, these perpetrators were both Indonesian and East Timorese members of the forces. Although the worst periods were during the military occupation, violations were also committed by East Timorese against their brothers and sisters during the struggle for power in the internal armed conflict of 1975 and within the Resistance especially in 1977. The proper safeguards of a democratic state need to be put in place, strengthened where they already exist, and applied and respected by all the institutions and citizens of Timor-Leste.

These recommendations have been made in the spirit of building a future for our children who must be guaranteed that the violence of the past shall not be repeated. We must learn from the past in order that every child in Timor-Leste can fulfill his and her potential.

The Commission commends the national leaders of Timor-Leste, the elected representatives who developed the Constitution, our members of Parliament and Church leaders and those in government, civil society and the business community who strive to build a nation based on the principles of the Constitution and international human rights. They are motivated by values and objectives born from our painful past which have also been given powerful expression in the Magna Carta of human rights formulated by the National Council of Timorese Resistance (CNRT) in 1998 and the policies of all East Timorese political parties. In recognition of these commitments and out of a deep conviction based on our inquiry, the Commission makes these recommendations acknowledging that this is a long-term process requiring sustained commitment and action.

The recommendations are organised as follows:

- Timor-Leste and the international community
- Timor-Leste and Portugal
- Human rights in Timor-Leste: protecting and promoting all rights for all
- Human rights in Timor-Leste: protecting and promoting the rights of the vulnerable
- Human rights in Timor-Leste: protecting and promoting rights through effective institutions
- Human rights in Timor-Leste: security services that protect and promote human rights
- Truth and justice
- Reconciliation in the general community
- Reconciliation in the political community
- Reconciliation with Indonesia
- *Acolhimento* (reception)
- Reparations
- Follow-on institution

1. Timor-Leste and the international community

The relationship of Timor-Leste to other nations was defined by the nature of the political conflicts between 1974 and 1999. The conflict in Timor-Leste was not primarily an internal conflict but one of foreign intervention, invasion and occupation that caused the people of Timor-Leste great suffering and loss and violated international law and human rights which the international community was duty bound to protect and uphold. While these relationships have evolved since the intervention of the United Nations in 1999, there are a number of steps to be taken which will assist the building of this new nation and its international relations and to ensure that Timor-Leste's experience is not repeated in other situations.

The Commission recommends that:

- 1.1 This Report is given the widest possible distribution at all levels in the international community through the media, internet and other networks and particularly within the United Nations and those individual nations and institutions that are highlighted in the Report, viz. Australia, China, Britain, France, Indonesia, Japan, Portugal, Russia, US, the Catholic Church, as well as the East Timorese diaspora and international civil society organisations.
- 1.2 This Report is disseminated at all levels in the Community of Portuguese Language Countries (Comunidade dos Países de Língua Portuguesa, CPLP) with a view to it contributing to greater understanding of Timor-Leste as the newest member of the Community.
- 1.3 This Report is disseminated at all levels in each of the countries of the Association of Southeast Asian Nations (ASEAN) in order to deepen appreciation of Timor-Leste's recent history and its needs as a future member of this important regional body.
- 1.4 The Vatican and the governments of China, Britain, France, Japan, and Russia make available to Timor-Leste their classified and other archival material on the period 1974-1999 so that this information can be added to that already provided by other countries to ensure that Timor-Leste, after so many years of isolation, can build a comprehensive depository of information on its history.
- 1.5 The UN Secretary-General refers the Report to the Security Council, the General Assembly, the Special Committee on Decolonisation and the UN Commission on Human Rights, and requests that each of these bodies devotes a special session to discussion and reflection on the Report and the lessons to be learned from its contents and findings.
- 1.6 The states that had military cooperation programmes with the Indonesian Government during the Commission's mandate period, whether or not this assistance was used directly in Timor-Leste, apologise to the people of Timor-Leste for failing to adequately uphold internationally agreed fundamental rights and freedoms in Timor-Leste during the Indonesian occupation.

- 1.7 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 1999 and who are duty bound to uphold the highest principles of world order and peace and to protect the weak and vulnerable, assist the Government of Timor-Leste in the provision of reparations to victims of human rights violations suffered during the Indonesian occupation.
- 1.8 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 contribute to the reparations programme for victims of human rights violations.
- 1.9 All UN member states refuse a visa to any Indonesian military officer who is named in this Report for either violations or command responsibility for troops accused of violations and take other measures such as freezing bank accounts until that individual's innocence has been independently and credibly established.
- 1.10 States regulate military sales and cooperation with Indonesia more effectively and make such support totally conditional on progress towards full democratisation, the subordination of the military to the rule of law and civilian government, and strict adherence with international human rights, including respect for the right of self-determination.
- 1.11 The governments of Australia, Britain and New Zealand undertake a joint initiative to establish the truth about the deaths of the six foreign journalists in Timor-Leste in 1975 so that the facts and accountability are finally established.
- 1.12 The international Catholic Church, led by the Vatican, honours Dom Martinho da Costa Lopes and the Catholic sisters, priests and laity who were killed in 1999 seeking to protect the people of Timor-Leste.
- 1.13 The documents and any other material relating to the events of 1999 and militia activity that were allegedly removed to Australia for safe-keeping after the arrival of Interfet in 1999 be returned to Timor-Leste by the Government of Australia.
- 1.14 The Government of Timor-Leste, with the support of the United Nations, honours the contribution of international civil society to the promotion of human rights in Timor-Leste, particularly the right of self-determination, and invites civil society organisations to contribute their documentation on this struggle to the people of Timor-Leste as a tool for remembering and fostering ongoing relations and solidarity.
- 1.15 Support, both practical and financial, be given by business, philanthropic bodies, corporations and academic institutions to assist key East Timorese figures and others to document their histories and experiences in order to build up the limited stock of East Timorese-generated literature for future generations.

2. Timor-Leste and Portugal

The Commission recommends that the Portuguese Government:

- 2.1 Formally acknowledges receipt of this Report, refers it to the Parliament of Portugal and implements the recommendations relevant to Portugal that it contains.
- 2.2 Supports financially and logistically the dissemination of the Report and its related products through the relevant sectors of Portuguese society and within the Community of Portuguese Language Countries (CPLP).
- 2.3 Assists the Government of Timor-Leste in the provision of reparations to victims of human rights violations from the conflicts in Timor-Leste.
- 2.4 Provides copies of relevant official archival material on Timor-Leste on to the people of Timor-Leste as an essential part of our national heritage and assists Portuguese civil society organisations, the media and the Portuguese Church to provide material in their possession to Timor-Leste.
- 2.5 Conducts an audit of artefacts and other cultural property of East Timorese origin currently in Portugal with a view to repatriation to Timor-Leste in order to assist in the conservation, development and diffusion of its culture in accordance with the right to cultural self-determination and the principles of the International Covenant on Economic, Social, and Cultural Rights.
- 2.6 Promotes two-way relations with Indonesia, bearing in mind Portugal's long historical links with the region and the changed situation in Timor-Leste, in order to deepen mutual understanding and cooperation, particularly at the level of people-to-people relationships, and contribute jointly to Timor-Leste.

3. Human rights in Timor-Leste: promoting and protecting all rights for all

The violence of war in Timor-Leste was not restricted to combatants but also resulted in violations of the human rights of civilians. Civil and political rights and freedoms were violated during the conflict, including the right to life itself and the rights to security of person, participation and the basic human freedoms essential to human dignity and development. The long period of conflict also impacted on the economic, social and cultural rights of the people of Timor-Leste including on the standard of living, health, family welfare and education.

Through the creation of the CNRT Magna Carta and the nation's Constitution and the ratification of the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, Timor-Leste has demonstrated its commitment to break with the past and to promote and protect all rights for all.

The Commission recommends that:

- 3.1.1 The Government of Timor-Leste adopts a human rights approach to governance, policy-making and development so that all decisions across the whole government system are informed by human rights principles.
- 3.1.2 The Government takes all measures necessary to ensure the implementation of the rights it has committed to uphold through its ratification of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other treaties.
- 3.1.3 The Government uses its human rights treaty reporting to the United Nations as a tool to evaluate its progress in implementing all human rights for all and that these reports are made widely available for public discussion in Timor-Leste.

3.2 The right to life, freedom from hunger and an adequate standard of living

Large numbers of East Timorese people were killed or died during the mandate period from conflict related causes, including massacres. Most deaths resulted from preventable famine during the early years of the Indonesian military occupation in violation of the "fundamental right of everyone to be free from hunger" (International Covenant on Economic, Social and Cultural Rights: Art. 11.2).

The Commission recommends that:

- 3.2.1 Families be assisted to locate and to re-bury the remains of relatives and loved ones who perished during the conflict and that, where resources permit, exhumation according to appropriate standards is carried out to allow for identification and establishment of the cause of death.

- 3.2.2 In consultation with families and the community, significant sites of killings, or deaths be memorialised in honour of the victims.
- 3.2.3 A public register of the disappeared be established and, in collaboration with the Government of Indonesia, a systematic inquiry is undertaken to establish the whereabouts and fate of those on the list.
- 3.2.4 The Parliament determines an annual day of national remembrance of the famine of 1978-1979 in order to remember those who perished from hunger and related causes at that time and to encourage discussion, research and educational activities on contemporary food security issues in Timor-Leste, including effective disaster preparedness.
- 3.2.5 In case of a humanitarian disaster causing people to leave their homes, the Government acts according to the UN Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, 11 February 1998).
- 3.2.6 The Government develops and implements policies that ensure that the fruits of development are enjoyed equitably, reaching the most isolated communities, benefiting and involving men and women, children, the elderly and the disabled, and providing opportunities to those who are most disadvantaged.

3.3 Right to security of person

The right to security of person is upheld in the International Covenant on Civil and Political Rights but for most of the period 1974-1999 the people of Timor-Leste experienced constant personal insecurity in many forms. This included arbitrary detention, torture, inhuman and degrading treatment or punishment, interrogation, invasion of privacy and unfair trials.

The Commission recommends that:

- 3.3.1 Buildings in all parts of Timor-Leste that were regular sites of detention be recorded in a national register, along with information about those detained and the conditions of detention in these places, and that selected sites are memorialised with a name plate or in other appropriate ways.
- 3.3.2 Individuals who continue to suffer physically or mentally from torture or other forms of inhuman and degrading treatment or punishment experienced during the conflict have their condition professionally diagnosed and be assisted with counselling and other forms of rehabilitation.
- 3.3.3 Law enforcement agencies adhere to the highest standards of due process in relation to the carrying out of arrests, investigations after arrest, access to counsel and detention in custody, as required by domestic law and human rights standards.
- 3.3.4 The Government applies at all times a policy of open access to outside monitoring of all prisons in Timor-Leste, by institutions of the state, East Timorese civil society and international organisations.

3.3.5 The Government ensures the establishment and maintenance of proper procedures to guarantee that prisoners are held in conditions which respect their human dignity, including:

- Access to full medical care for all people held in custody
- Adequate food and water for all people held in custody
- Proper procedures for holding of child and youth prisoners, including being held separately from adult prisoners
- Proper procedures for holding women and men prisoners in separate facilities
- Provision for the worship of religion
- Development of a programme of rehabilitation of prisoners, in order to help them prepare to return to daily social and economic life and be a full, participating member of the community. Such programmes should be adequately funded
- Strict rules and procedures preventing the use of any kind of torture or sexual abuse of those held in custody
- Strict procedures for the use of solitary confinement. Solitary confinement should only be allowed temporarily and exceptionally on the basis of a court order warranting it. Strict physical and mental health procedures should be developed and implemented for those held in solitary confinement
- Development and implementation of ongoing human rights training for all corrections services personnel, including high ranking personnel.

3.4 Right to security of person: a national commitment to non-violence

For the greater part of the conflict, the people of Timor-Leste were exposed to widespread violence. The conflict between the principal political parties in 1975 degenerated into short-term physical violence in many communities, and Indonesia used military firepower and strength of numbers to force its will on the people of Timor-Leste and maintain its presence at huge cost to many throughout the 24 years of the conflict. The effective use of power depends on cooperation. In a culture of violence and fear, however, force is the preferred way to resolve issues and maintain control and those in power can come to assume an attitude of arrogant superiority over others. Once embedded a culture of violence can become normal and corrupt relations at all levels and in many different ways including between officials and citizens, men and women, employers and staff, teachers and students, parents and their children.

On the other hand, the East Timorese Resistance, the Church and international civil society earned respect and support for their creative use of dialogue and non-violent strategies to achieve their goals of self-determination and independence.

The Commission recommends that:

3.4.1 The people of Timor-Leste explore ways of reflecting deeply on both their negative experience of violence – its origins, uses and impact – and on their positive experience of dialogue and non-violence to achieve their political goals,

and how the important lessons from these experiences can be further creatively used to promote a culture of respect, justice and peaceful resolution of conflict in all areas of life in Timor-Leste.

- 3.4.2 Political parties continue their practice of solemnly renouncing the use of violence in the political process and take the strongest possible stand against any in their midst who advocate violence, compromise the professional impartiality of the police and military, or who support groups in any way associated with violence.
- 3.4.3 The Parliament and the Government institute an inquiry into land disputes that have arisen as a result of the wide-scale resettlement programmes undertaken during the political conflicts, with a view to promoting peaceful mediation of these disputes and avoiding violence.
- 3.4.4 The public campaign to raise awareness and support for the prevention of domestic violence be continued and intensified, particularly in the districts.
- 3.4.5 Timor-Leste uses its membership of regional and international forums to be a vigorous opponent of military aggression and a strong advocate of international principles, the UN system and dialogue and diplomacy in the resolution of conflict.
- 3.4.6 The education system in Timor-Leste, both governmental and private, promotes values in education and develops courses and teaching methods to impart skills and a culture of peace, respect, and non-violence to students, including exposure to East Timorese and other figures who achieved their goals, both big and small, peacefully.
- 3.4.7 The power of sport, music, drama and other arts in Timor-Leste are harnessed as tools to promote peace, non-violence and the building of positive values and community relations, especially among youth.

3.5 Right to participation — guaranteeing essential freedoms

The freedoms which are essential to exercise the right of participation were repressed under both the Portuguese colonial system and the Indonesian regime of occupation. Those who exercised their rights to freedom of information, opinion, movement, association and assembly during the conflict with Indonesia ran grave risks, were forced to operate clandestinely and often suffered grievously for exercising these rights. Secrecy and heavy-handed control were the hallmarks of the system. This resulted in the killing of foreign journalists and, inter alia, the massacre of demonstrators at the Santa Cruz cemetery on 12 November 1991. Only information, media, political parties and associations acceptable to the Indonesian military were tolerated and freedom of movement within Timor-Leste and abroad was monitored and restricted. East Timorese were treated as subjects not as citizens. As a result, government was not accountable, development failed and human rights violations were committed with impunity.

The Commission recommends that:

- 3.5.1 The Government of Timor-Leste continues its policy of open government in its dealings with the community and, in the interests of promoting participation and accountability, seeks to maximise open two-way communication with the community, including through their elected representatives in the Parliament, civil society organisations and the media.
- 3.5.2 The parliament enacts legislation on national archives to ensure that official records in all parts of Timor-Leste are appropriately preserved and organised based on a standard national system and that, to enhance public participation and the accountability of public servants, the rules of access place very few restrictions on the information that can be made public and include Freedom of Information provisions.
- 3.5.3 Publishers, journalists and all sections of the media recognise that their role is vital to effective citizenship in Timor-Leste and that their over-riding professional responsibility is to provide independent and accurate news, information and alternative points of view on significant public issues to all sections of East Timorese society.
- 3.5.4 The media, institute an annual award for investigative journalism carried out by an East Timorese journalist and that this award be given in honour of journalists who lost their lives in Timor-Leste in the service of the truth during the period 1974-1999.
- 3.5.5 The fundamental importance of the rights of freedom of movement, opinion, association and assembly to the vitality and creativity of political, cultural, social and economic life in Timor-Leste continue to be recognised and upheld and, in particular, that law enforcement agencies continue to receive training on these rights and on strict procedures for the peaceful handling of public demonstrations.
- 3.5.6 Defamation laws not be criminalised, allowing for the proper regulation of these matters by the civil courts.

3.6 Right to participation — citizenship

After generations of marginalisation, the individual citizen is now the centre of the new democratic nation of Timor-Leste — as beneficiary and as actor. This shift owes much to the spirit of inclusiveness that was developed by the Resistance and that contributed significantly to its success. The opportunity to contribute remains equally important for the future – both as a right and as a duty inspired by the same sense of initiative, creativity, self-reliance and self-sacrifice that served Timor-Leste well in the past. The Commission was repeatedly reminded that the “little people” want to be able to participate fully in the life of the new nation despite the distance felt, especially in the rural areas, from the mechanisms and processes of government and decision-making.

Citizenship symbolises our unity as a nation. It is based on a sense of belonging to this country, national pride and commitment to our people, values and common future. It is essential to nurture the sense of citizenship through on-going public education about its importance and what it means in practice.

The Commission recommends that:

- 3.6.1 A comprehensive civic education programme is implemented that is focussed on the structure, institutions and processes of democracy and the rights and obligations of citizens; this programme should also be taught in the schools.
- 3.6.2 All public servants, including police, military, teachers and staff in government departments, continue to receive training, periodic in-services and performance evaluation on their role as servants of the government and citizens of Timor-Leste to ensure that they carry out their duties in a politically impartial, ethical and professional manner.
- 3.6.3 A Citizenship Day is established in Timor-Leste in order to heighten awareness of the meaning and importance of citizenship and to promote and celebrate our democratic values and responsibilities.
- 3.6.4 Annual awards be established for East Timorese citizens who make a special contribution to their local community or to the nation and are recognised as models of initiative and good citizenship for the emulation of others, particularly youth.

3.7 Right to education and cultural self-determination

The International Covenant on Economic, Social and Cultural Rights (Article 15) recognises the right of all to cultural life and the related need to conserve, develop and diffuse culture including through the formal education system. Though parts of Timor-Leste's unique way of life and culture survived, this right was denied to varying degrees under the colonial systems introduced by Portugal and Indonesia. The Portuguese system particularly neglected education for the people. Indonesia, though it addressed illiteracy and provided educational opportunities, used these as vehicles to promote integration not cultural self-determination.

The Commission commends the Government for its commitment to universal education and recommends that:

- 3.7.1 Ways of drawing on East Timorese culture and traditions be further developed as a source of national identity and nation-building, including through the education system, and that research for this purpose is undertaken by universities and relevant agencies.
- 3.7.2 The Government and Church education systems collaborate to develop curricula and teaching methodologies which are values-based and aimed at developing key values which are appropriate to Timor-Leste's traditions and current situation and that will promote a culture of peace, non-violence, and human rights.

- 3.7.3 The Government and Church education systems collaborate to develop a human rights curriculum and teaching methodologies for use at all levels of the education system and that makes use of this Report and related materials to ensure the course is grounded in Timor-Leste's lived experience.
- 3.7.4 The Government, bearing in mind creative initiatives undertaken in 1974-75, develops special programmes aimed at eradicating illiteracy in Timor-Leste, including for adults, especially women in remote communities.
- 3.7.5 The Department of Education, teachers and academics make use of the multi-media resources created and collected by CAVR — during its work on reconciliation and its inquiry into the period 1974-1999 — as a way of enriching East Timorese content in the education curriculum and to assist in the teaching of history, political science, conflict-resolution, international relations and law.
- 3.7.6 The Government establishes a programme of repatriation for East Timorese artefacts, documents and culturally-related material currently outside the country and invites governments, institutions and individuals who have these items in their possession to return them to Timor-Leste to assist in the conservation, development and diffusion of East Timorese culture in keeping with Article 15 of the International Covenant on Economic, Social and Cultural Rights.
- 3.7.7 The Government establishes a programme to restore and preserve sites and materials of particular cultural importance damaged or destroyed during the conflict such as the Palácio das Cinzas site in Dili to serve as a reminder to future generations of the destruction of 1999 and the challenges that had to be faced by the East Timorese leadership in establishing the new state.

3.8 Right to health and a sustainable environment

The enjoyment of basic rights to health, adequate food, housing and livelihood depend on a healthy environment. Harm to the environment is not only a crime against nature it is also a violation of human rights. Timor-Leste suffers from obvious depletion of its flora, fauna and soil. This is due to many factors but includes colonial exploitation of natural resources, war damage, the disruption of land care due to the long conflict, the consuming of native plants and animals during periods of displacement, and the removal of flora and fauna as war trophies to Indonesia.

The Commission recommends that:

- 3.8.1 The United Nations Environment Programme (UNEP), which has considerable experience in post-conflict environmental regeneration, is invited to undertake a study of the environmental situation in Timor-Leste and, taking into account excellent projects already underway, to make recommendations for remedial activities to help Timor-Leste realise the UN Millennium Development Goal of environmental sustainability.

- 3.8.2 Regions where defoliants are believed to have been used for military purposes are researched to ensure that they are safe for local communities and that, if necessary, rehabilitation is undertaken in cooperation with the affected communities and with the support of governments and companies who were involved in the supply of military equipment to the Indonesian armed forces.
- 3.8.3 The herbal and other alternative medicines and remedies used in the interior during the war of resistance be documented and evaluated for their effectiveness with a view to continued use.
- 3.8.4 A long-term public education programme be undertaken, including through the education system, to deepen community understanding of the relationship between a clean physical environment and health, especially for children.
- 3.8.5 World Health Day, held on 7 April each year, be successively devoted to each of the above themes.

4. Human rights in Timor-Leste: protecting and promoting the rights of the vulnerable

4.1 Women

During the conflict women played a crucial role in East Timorese society – both in Timor-Leste and in the diaspora – as the bedrock of families and communities, often left without husbands, brothers or fathers for support, and as advocates for human rights. In Timor-Leste, the conflict created conditions which limited the freedoms of women and girls who were also especially vulnerable to violations of human rights. These included rape, sexual slavery and other forms of sexual violence which, though mainly perpetrated by the Indonesian security apparatus also involved East Timorese men. Women who were victims of sexual violence were often ostracised by their community, increasing their vulnerability to new violations. Some continue to be victimised today because of their experience.

Through its interaction with victims and their families, the Commission observed that domestic violence was a common occurrence in the current lives of many victims. For example, some male survivors of detention and torture told the Commission that they had fallen into a pattern of violent behaviour.

The incidence of domestic violence and sexual assault in Timor-Leste remains high. A national commitment to the elimination of violence against women, in both the public and private domains, is essential to break the cycle of violence and fear that characterises the lives of many women and girls. This programme of action must also promote the development of a culture of equality because discrimination against women is a key contributing factor to violence against women.

The Commission recommends that:

- 4.1.1 The diverse contributions of women involved in the Resistance – internally and in the diaspora — be more fully recognised and that additional ways of documenting and disseminating their contribution be developed, including for teaching in the schools.
- 4.1.2 The call by Komisi Penyelidik Pelanggaran HAM Tim-Tim (Commission for the Investigation of Human Rights Violations in East Timor, KKP-HAM) to the Government of Indonesia to provide rehabilitation, compensation and support to the victims of the 1999 upheaval in Timor-Leste, including women and families, be implemented.
- 4.1.3 Crimes against humanity and war crimes committed in Timor-Leste which involved sexual violence against women and girls are excluded from any amnesty provisions, in accordance with UN Security Council Resolution 1325 on Women, Peace and Security (Par. 11, S/Res/1325 2000).

- 4.1.4 Continuing prejudice against women who have been victims of sexual violation be urgently addressed by the Government, religious institutions, local communities and civil society organisations in order to uphold the dignity of those who have suffered in this way.
- 4.1.5 The Government, together with religious organisations and civil society, continues efforts to eliminate all forms of violence against women and that measures to be taken include (a) the urgent introduction of legislation on domestic violence, including emergency measures to protect victims at times of crisis; (b) the provision of more resources and training to law enforcement agencies, the judiciary and legal aid groups, in order to enable an effective response to cases of domestic violence; (c) continued support for agencies and civil society organisations providing quality services and support to victims, and to those who work with men to transform patterns of violent behaviour.
- 4.1.6 The National 16 Days of Activism against Violence against Women be continued each year and be intensified particularly in the districts.
- 4.1.7 The Armed Forces and Police Services develop strong enforceable policies which promote gender equality, outlaw sexual exploitation and violence against women and impose the strongest possible sanctions on security personnel guilty of breaches of these policies so that never again should East Timorese women have cause to fear those entrusted to protect and uphold their rights.
- 4.1.8 The harmonisation of Timor-Leste laws with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is continued, that adequate capacity is provided to institutions responsible for the implementation of CEDAW and reporting to the UN on Timor-Leste compliance with CEDAW, and that understanding of CEDAW is promoted in the community, particularly through the education system, the media and the Church.
- 4.1.9 Access to information and services on reproductive health care, family planning and parenting are widely available to both men and women, including through the schools, in order that decisions about reproduction are informed and the responsibilities of reproduction and parenthood are equally shared and free of coercion or violence.
- 4.1.10 Measures are taken to recognise and support the role of women in the prevention and resolution of conflicts and in peace-building, including at the local level.
- 4.1.11 The Government upgrades the Office for the Promotion of Equality to a Secretariat of State in the Office of the Prime Minister and/or provides the Office for the Promotion of Equality with an Advisory Board as a way of further promoting and mainstreaming gender equality and the full participation of women in the economic, social, cultural and political life of Timor-Leste, including through the promotion of literacy for rural women and the greater participation of girls and women in secondary and tertiary education.

4.2 Children and youth

The rights of children were violated during the years of conflict. Children saw or experienced traumatic violence, died from starvation, were displaced from their homes, orphaned, separated from their parents, and were disadvantaged through lack of access to health, educational and other services. Children were also conscripted into the fighting, both during the internal armed conflict in 1975 and during the Indonesian occupation when they were used by the Indonesian military to provide logistic and other support. Some children were taken away from their families by the Indonesian military and officials, often to distant places in Indonesia, and remain separated from their families. With profound sadness, the Commission heard from East Timorese children in West Timor that they felt a dual sense of belonging to and alienation from Timor-Leste.

To ensure a better future for children in Timor-Leste, the Government has ratified the Convention on the Rights of the Child. In so doing, it has committed itself to protect and ensure children's rights and agreed to be accountable for this commitment before the international community. Ensuring a future for our growing youth population is one of Timor-Leste's main challenges.

The Commission recommends that:

- 4.2.1 The process of harmonising Timor-Leste laws with the Convention on the Rights of the Child (CRC) is continued, that adequate capacity is provided to institutions responsible for the implementation of the CRC and reporting to the UN on Timor-Leste compliance with CRC, and that understanding of CRC is promoted in the community, particularly through the education system, the media and the Church.
- 4.2.2 A public education campaign similar to that already underway on domestic violence be undertaken to educate parents, teachers and the community about the effects of physical and emotional violence on children and to provide alternative forms of behavioural control and character development.
- 4.2.3 Positive role models for girls and young women, and for boys and young men, be identified and promoted.
- 4.2.4 Adequate resources be allocated to the development of sporting infrastructure and management so that the potential of sport to contribute to community relations and the holistic development of youth, including equal access for girls and young women, is realised.
- 4.2.5 Reproductive health education programmes that are accurate, balanced and comprehensive and that promote responsibility are provided to the youth of Timor-Leste in keeping with Article 17 of the CRC which upholds the right to know especially where information promotes social, spiritual and moral well-being and physical and mental health.
- 4.2.6 Measures are undertaken to ensure that the Government policy of universal education is extended in practice to all children, especially orphans, the disabled

and those in remote rural communities including to guarantee that all girl children have full and equal access to education, and that more opportunities for vocational training are provided.

4.2.7 East Timorese children who were taken to Indonesia and remain separated from their parents and families are given the opportunity for family contact and reunion, including the option of freely returning to Timor-Leste, in keeping with Articles 9 and 10 of the CRC.

4.2.8 Special consideration is given to the situation of East Timorese children who have been disadvantaged educationally and in other ways because of their clandestine work and sacrifices as youth for the liberation of Timor-Leste.

5. Human rights in Timor-Leste: protecting and promoting human rights through effective institutions

5.1 An effective civil society

The freedoms required for the flowering of civil society were denied for most of Timor-Leste's colonial history and harshly repressed during the Indonesian occupation. Nevertheless, civil society emerged as a positive force for change both in Timor-Leste itself and in Indonesia and, together with international civil society, played an important role in the struggle for self-determination and independence. This role, the independence of civil society and the values of initiative and commitment to human rights that inspired it, are equally critical today. Outside government and political parties, civil society is the principal vehicle for the participation and contribution of citizens to nation-building. It is important that this sector enjoys an enabling environment as Timor-Leste continues to make the transition from opposition to constructive interaction between government and civil society.

The Commission recommends that:

- 5.1.1 Support and encouragement continue to be provided to civil society in Timor-Leste so that it can adequately fulfil its role in amplifying the voices of the poorest, contributing to development and holding government and business accountable, and that the fundamental civil and political freedoms that are necessary for this sector continue to be respected and upheld.
- 5.1.2 Civil society organisations, while valuing their independence and diversity, continue to find ways of working cooperatively with other NGOs, nationally and internationally, both to ensure the best use of scarce resources and the impact of their advocacy and contribution, and to exemplify in their organisation strong community links and the highest possible standards of democracy, professionalism and accountability.
- 5.1.3 Government and civil society organisations, while respecting each other's respective roles and independence, continue to build direct channels of communication in order to foster interaction through policy dialogue, consultation, shared training, and operational collaboration.
- 5.1.4 Government and donors continue to provide financial assistance, training and other forms of support for civil society in Timor-Leste to ensure it has the capacity to take its seat at the table and fulfill its role constructively and effectively.
- 5.1.5 International organisations provide specialist training to national NGOs to enable them to contribute to the process of external scrutiny when the Government makes its treaty-based reports on human rights to the United Nations.

- 5.1.6 The Catholic Church and other faith communities continue to contribute to the building of a culture of peace and human rights in the community, to providing assistance to victims of human rights violations and to fostering reconciliation and social cohesion.

Under Portugal and Indonesia, Timor-Leste had legislative institutions but these bodies were not representative of the people or accountable to them and served the interests of those in power rather than the people. This system has been replaced with a democracy in which a parliament freely elected by the people is sovereign. This new system is characterised above all by responsiveness and accountability to the people, through both its legislative function and, on behalf of the people, its scrutiny and monitoring of the executive government and public service, including the expenditure of public money.

The Commission recommends that:

- 5.2.1 Members of Parliament have sufficient facilities and resources to carry out their responsibilities effectively on behalf of the people.
- 5.2.2 The National Parliament and individual Parliamentarians continue to strengthen their representative role and demonstrate accountability to the people through mechanisms such as regular reporting, visits to the districts and interaction with the community, public hearings, and communication through the media.
- 5.2.3 The National Parliament and its members have an on-going programme to inform and educate the community about the role of the Parliament, particularly among young people and in schools; this will help overcome the sense of alienation inherited from the past by increasing understanding about the role of Parliament on behalf of the people and will encourage participation both through voting in elections and through a more active role in politics and use of the system.
- 5.2.4 The executive government and public service acknowledge the sovereign role of the Parliament and, in a spirit of accountability and partnership, make themselves regularly available for policy dialogue, consultations and questions from members of Parliament on behalf of the people.
- 5.2.5 The National Parliament enacts legislation to meet the reporting obligations of Timor-Leste under human rights treaties that have been ratified.

5.3 An effective judiciary

An independent, functioning judicial system is essential to secure the rule of law in Timor-Leste. During the Indonesian occupation, the judicial system was seriously flawed. The independence of the judiciary from government policy was compromised, and the judicial system failed to protect the basic human rights of those accused through due process. In so doing it contributed substantially to the culture of impunity, the breakdown of the rule of law and itself was the cause of human rights violations.

A result of this experience is that many East Timorese people do not trust the judicial system. They know the system during the Commission mandate period was corrupt, inaccessible and politically influenced. This is a major challenge in developing a new judicial system.

A fair, professional, accessible and effective judicial system is a cornerstone of establishing the rule of law in Timor-Leste. Experience shows that the rights of people can only be protected when there is an effective way to hold power accountable before the law. Without this accountability, protection of human rights is virtually impossible. The development of a strong, independent judicial system in Timor-Leste is a fundamental pillar of our new democracy. It should be given appropriate priority in terms of funding and policy.

The Commission recommends that:

5.3.1 The Government finalises formulation of the Penal Code and the Code of Criminal Procedures, incorporating adequate formulation of crimes against humanity and war crimes.

5.3.2 All the measures necessary to ensure the independence of the judiciary are put in place, including:

- administrative autonomy of the Prosecutor General's office and the courts, as well as the development of a mechanism of judicial appointments and tenure that is insulated from political pressures
- priority being given to a sustainable programme of education and training for East Timorese judges
- development of career paths for judges, including a system of proper remuneration and tenure in order to reduce the risk of corruption or political pressure on judges
- development of an independent supervisory system, established by legislation.

5.3.3 Access to the judicial system for East Timorese citizens is guaranteed by:

- ensuring that there is an adequate number of East Timorese judges and that university law schools and other resources of a suitable standard are available
- ensuring that there is an adequate number of well-trained judicial administrative officials to support the work of the courts
- ensuring that courts can regularly sit in the districts
- ensuring that East Timorese citizens coming before the courts have access to support in their mother tongue
- guaranteeing the independence of public prosecutors
- allocating adequate resources to defence lawyers and to para-legal support services to ensure that East Timorese citizens, accused and victims, can understand the judicial and legal system
- ensuring that people arrested are brought before a court within the statutory time period, and that the court can convene at short notice to guarantee this.

- 5.3.4 The appellate system is strengthened in order to provide internal enforcement of the highest international legal standards.
- 5.3.5 The Government ensures that the judicial system is fully resourced to fulfill its vital functions by making it a high priority in the national budget.
- 5.3.6 The United Nations and international community continue to support the development and strengthening of the legal and judicial system in Timor-Leste to ensure accountability before the law.

5.4 An effective public service

The public service in Timor-Leste during the Indonesian occupation had many of the negative features of the Indonesian bureaucracy of which it was a part: the system was politicised, centralised, top-down, corrupt, over-staffed, inefficient, wasteful of government resources and did not enjoy the confidence of the community. Families with connections to local elites and civil servants got faster and cheaper access to basic services. Corruption, high costs and bribes, and personal connections in public service delivery worked most heavily against the poor.

Today, the system in Timor-Leste, like its Indonesian counterpart, is still weak and is caught in an “institutional limbo” between the old structures and the emergence of a new institution and culture. To deliver the economic, social and cultural services to which the citizens of Timor-Leste are entitled as human rights, public servants must be politically impartial, appointed and promoted on merit, and be people of integrity and professional competence characterised by a strong ethos of duty and service.

The Commission recommends that:

- 5.4.1 Recruitment to the public service is based on equal opportunity and merit, not political affiliation, and that women are given every encouragement to apply and occupy positions of leadership in the government bureaucracy.
- 5.4.2 The training provided to public servants includes a strong emphasis on the equal rights of all citizens in Timor-Leste to services which protect and uphold their economic, social and cultural rights without discrimination and that this training is reinforced in practice through regular evaluation of staff performance, encouragement of feedback from citizens, including allegations of bribery, and the rewarding of best practice.
- 5.4.3 Government Ministers and senior public servants, including in the districts, practice accountability by informing citizens of policies and services, consulting with interest groups and being available to the media, and through regular attendance at the National Parliament to answer questions and hear the concerns of Members.
- 5.4.4 Allegations or evidence of patronage, favouritism, bribery or abuse of government property and equipment, even in small ways, are investigated and dealt with promptly, impartially and in a transparent manner, and those found guilty are appropriately sanctioned.

5.4.5 Budgets, expenditure and audits of government departments and agencies are published and the subject of public scrutiny.

5.4.6 Civil society organisations and the media inform citizens of their rights in relation to service delivery and government accountability and develop ways of acknowledging and rewarding best practice in the public service.

5.5 An effective Provedor

Timor-Leste's recent history shows how state institutions that are not respectful of the rule of law have a disproportionate capacity to contribute to human rights violations. For most of the period reviewed by the Commission, the East Timorese people lived without the protections of effective rule of law or the functioning of a financially accountable administration. Establishing these as the norm is a significant challenge for the government, civil society and the community.

The Commission applauds the establishment of the Office of the Provedor for Human Rights and Justice, and acknowledges the key role this independent institution has in protecting human rights in Timor-Leste including those rights at risk from corruption in the public sector.

The Commission recommends that:

5.5.1 The Office of the Provedor, in order to carry out its mandate to protect human rights and to prevent corruption effectively, be guaranteed full independence and appropriate levels of funding and human resources; the Provedor conducts a review of all laws, public policies and procedures relevant to the prevention of corruption, and reports to the National Parliament on reforms required to establish a strong legal framework and mechanisms to promote government integrity and to prevent corruption at all levels of public administration.

5.5.2 The National Parliament adopts the legislation recommended by the Provedor, that all sections of government and the public administration implement the recommendations and that a strict monitoring regime be put in place.

5.5.3 The State of Timor-Leste ratifies the UN Convention Against Corruption (UNCAC) which it signed in December 2003.

5.5.4 The Office of the Provedor holds regular consultations with business and civil society on the issue of corruption, uses International Anti-corruption Day on 9 December to heighten public awareness of the damage corruption does to the poor, development and foreign investment, and cooperates with organisations such as Transparency International to undertake a thorough and objective report on Timor-Leste as part of its Global Corruption Report.

5.5.5 The Office of the Provedor works with the private sector and the Chamber of Commerce to develop an anti-corruption code of conduct for business and that resources and training are provided to all members of the Chamber.

- 5.5.6 The Office of the Provedor develops as a state institution which the people regard as close to their communities and problems and which can assist in finding quick and effective responses to potential or actual human rights abuse, including by developing early warning mechanisms in areas where violence might develop.

5.6 An effective Church community

The Catholic Church has a significant place in East Timorese history and society. Though largely compromised during the Portuguese period, the Church was a strong advocate for human rights in Timor-Leste during the Indonesian occupation consistent with Catholic social doctrine based on the dignity and value of each human person. In partnership with other faith communities, it has a responsibility and resources to continue as a major force for human rights in the new democratic era.

The Commission recommends that:

- 5.6.1 The Church continues its mission to protect and promote human rights in Timor-Leste both through its services to the community in health, education and other areas and, where necessary, through public advocacy in defence of human rights.
- 5.6.2 The Church, through its organs for justice and peace, provides human rights training to all its personnel, including seminarians, teacher trainees, members of religious orders and catechists.
- 5.6.3 The Church reviews past practices of excluding women who were victims of sexual violence from the full life of the Church, thereby significantly increasing their experience of social stigmatisation, and addresses its responsibilities to these women.
- 5.6.4 The Church develops a programme of human rights education, which includes due emphasis on the rights and duties of citizens, for dissemination to the community through its network of parishes and schools.

6. Human rights at home: security services that protect and promote human rights

Building a new paradigm for the security services is one of the biggest challenges for Timor-Leste. It involves breaking with past models in which, particularly during the Indonesian period, the security apparatus was an instrument of force rather than community service, was a major perpetrator of human rights violations, was not accountable to the rule of law or subject to civilian control and did not enjoy the trust of the people. The demarcation of roles between the armed forces and police was ill-defined and the security apparatus proliferated into an unmanageable plethora of militia, groups and networks with differing loyalties and roles. The military had a dual role (*dwi-fungsi*) which, in addition to regular defence and security, also legitimated its intervention in socio-political affairs. The East Timorese Resistance developed a similar policy in 1975 when it broke with the Portuguese practice of non-involvement in politics (*apartidarismo*) and aligned mainly with the Fretilin party until the policy was discarded in favour of political impartiality in the 1980s.

The Commission fully supports current government policies which are focussed on the development of a politically neutral professional security apparatus. The following recommendations are intended to reinforce this new paradigm for the sake of the protection of human rights in Timor-Leste.

6.1 An accountable security policy

The Commission recommends that:

- 6.1.1 A public education programme be undertaken to deepen community understanding of Timor-Leste security policy and the role, limits and accountability of the police and armed forces.
- 6.1.2 This education programme highlights and explains the following:
 - the democratic control of the security policy and apparatus by the civilian authorities (President, Cabinet and Parliament), as provided for in the Constitution
 - the duty of the security apparatus to uphold human rights in compliance with the rule of law as laid down in the Constitution and legislation
 - the duty of the security apparatus and their members to stand apart from political life and under no circumstances to use their resources for political purposes, as occurred in the past
 - the duty of the security apparatus to comply with national security policy as articulated by the National Parliament in order to ensure (a) that there is a clear demarcation of roles; (b) that there is no proliferation of agencies as occurred in the past (c) that there is no breakdown of coordination leading to inter-agency rivalry and abuses as in the past; (d) that there is no politicisation of the security apparatus as occurred in the past; (e) that the security budget and

weapons procurement and distribution are overseen and approved by the National Parliament; and (f) that the human rights of civilians are not violated at a time of national crisis (such as a state of siege or state of emergency when extra powers are given to the security apparatus) as happened in the past

- the rules governing arrest by the police and the rights of the public in these situations so that there is no recurrence of past practices of arbitrary arrest and detention and the potential abuses which can occur in such circumstances
- the rules governing police behaviour during public demonstrations to ensure that there is no recurrence of the serious human rights violations that occurred in the past in these situations.

6.2 Police Service

The Commission recommends that:

- 6.2.1 The National Parliament plays an active role as the final civilian oversight mechanism of the Police Service and receives regular reports from the Minister of the Interior who is responsible for the police and answerable to Parliament.
- 6.2.2 Members of the Police Service are accountable for their actions outside the law and police involved in cases of human rights abuse should be brought before a normal court of law and not shielded by police or internal procedures.
- 6.2.3 Procedures and mechanisms for reporting complaints about police behaviour are established in collaboration with the Office of the Provedor in order to reverse the practices of the past when the security enjoyed impunity and the public had little recourse to justice.
- 6.2.4 A paradigm shift in police culture is fostered aimed at replacing a past "police force" mentality with a stronger emphasis on a community service approach to policing.
- 6.2.5 In addition to technical training all police personnel, including senior officers, receive on-going training in both the theory and practice of human rights as part of their professional development as protectors of human rights.
- 6.2.6 All police personnel, including senior officers, receive ongoing training in relation to gender-related crimes and the rights of victims of such crimes.
- 6.2.7 Specialised and ongoing training is provided on the gathering of evidence, forensic practice and appropriate methods of interrogation in order to lessen the risk that members of the police will seek to gather evidence from confessions obtained under duress.
- 6.2.8 The police respect the right of civil society organisations to monitor their work in order to ensure protection of human rights and, in collaboration with such organisations, develop procedures to ensure access.

6.2.9 Members of the Timor-Leste police be encouraged to join international peacekeeping operations under the mandate of the United Nations in order to increase experience of international best practice.

6.3 Defence Forces

The Commission recommends that:

- 6.3.1 The National Parliament establishes monitoring mechanisms to ensure that it effectively oversees the military.
- 6.3.2 Members of the Defence Forces are treated as citizens of Timor-Leste, not a separate caste above the rule of law and norms of society as happened in the past, and accordingly will be brought before a normal court of law if involved in cases of human rights abuse.
- 6.3.3 The role of the Defence Forces is limited to external defence and assistance in the event of a non-military disaster as determined by National Parliament; the use of the military to control perceived internal threats, as happened in the past, is prohibited in Timor-Leste.
- 6.3.4 Members of the Defence Forces at all levels should play no role in political life or in business and should only take direction from the legally authorised state institutions.
- 6.3.5 The development of civilian extensions of the military through the quasi-militarised or intelligence groups be prohibited, because in the past such practices contributed to human rights violations and were a cause of major divisions in the community.
- 6.3.6 On-going training in international human rights, humanitarian law and civic education is provided to the members of the Defence Forces, including senior leadership.
- 6.3.7 Ongoing dialogue is encouraged between national human rights organisations and the Defence Forces in relation to human rights and the respective roles of civil society and a professional military in a democracy.
- 6.3.8 Members of the Defence Forces are encouraged to join international peacekeeping operations under the mandate of the United Nations in order to increase experience of international best practice.
- 6.3.9 The Defence Forces not conduct joint training exercises with armed forces that have a known and proven poor human rights record and that, if this is in question, the National Parliament decide on the appropriateness of such training.

6.4 Other security agencies

In addition to the armed forces and the police, a plethora of community-based security groups and networks emerged on both sides during the conflict period. Those on the Indonesian side in particular were part of the doctrine of “total people’s defence” and as such were sanctioned and armed by the state and were responsible for an array of human rights violations committed with impunity.

To ensure these developments do not recur in Timor-Leste to the detriment of human rights, the National Parliament must take responsibility for the ultimate oversight of security issues and policy.

The Commission recommends that:

- 6.4.1 State security bodies such as intelligence gathering agencies are strictly regulated by law, monitored and held accountable for their actions when these exceed their legal mandate.
- 6.4.2 Officers in such security agencies participate in training about the role of these agencies in a democratic country and also receive human rights training.
- 6.4.3 State intelligence and security agencies are coordinated and subject to parliamentary oversight.
- 6.4.4 Legislation is enacted by National Parliament regarding non-state security agencies which, inter alia, requires that private security companies receive compulsory training by the Police Service and in human rights and that all such agencies are registered.

7. Justice and truth

Because of what took place on 20 August 1982 many of our people died, women were raped, became widows, children became orphans, many became impoverished, many are still traumatised... Do you think by taking statements from the people we can resolve [our problems] and heal our wounded hearts? Do you think by bringing people who committed crimes to the courts we can heal our wounded hearts?

Letter from the people of Mauchiga (Hatu Bulico, Ainaro), 31 May 2003

The Commission has listened to the voices of victims of serious violations of human rights from all districts of Timor-Leste. In recording nearly 8,000 individual statements, and listening to testimony in hearings at national, sub-district and village level, the Commission has sought to understand better the demands of the people for justice for past crimes. The Commission understands that the demands and needs of any two victims may not be the same, and that any single solution is unlikely to meet all the needs of all victims. From its relationship with victims of serious violations across the country, the Commission concludes that the demand for justice and accountability remains a fundamental issue in the lives of many East Timorese people and a potential obstacle to building a democratic society based upon respect for the rule of law and authentic reconciliation between individuals, families, communities and nations.

The Commission has completed its mandate to establish the truth of past human rights violations. The ability of the Commission to do this was based on its good faith with victims of human rights violations and by respecting their dignity and their right to demand justice for the crimes committed against them. The Commission considers that truth is a fundamental basis for pursuing justice and building new relationships founded on honesty and mutual respect. In addition to justice measures, the Commission believes it is important that the truth established in its Final Report be widely available to the people of Timor-Leste for generations to come, and for the governments and general public of nations who have an involvement in the story of Timor-Leste. Preservation, dissemination and development of educational materials are all important aspects to be followed up to secure the legacy of the CAVR and to honour the trust that the people of Timor-Leste placed in the Commission.

7.1 Justice for past atrocities

The findings of this Report show that the human rights violations which occurred in Timor-Leste were spread across most of the 25-year period from 1974-1999. The international community demonstrated its horror at the crimes committed in 1999, when the world witnessed systematic atrocities compounded by the failure of the Indonesian authorities to honour their agreements to guarantee security. An additional factor in the international outrage was the killing of UN personnel during the violence surrounding the Popular Consultation.

Egregious as they were, however, the crimes committed in 1999 were far outweighed by those committed during the previous 24 years of occupation and cannot be properly

understood or addressed without acknowledging the truth of the long conflict. The Commission was established during the same period as the Serious Crimes Unit and the Special Panels for Serious Crimes, as part of the fight against impunity and the struggle to achieve genuine reconciliation.

The Commission acknowledges the difficulties faced by the international community and the governments involved as they continue to seek resolution to the issue of serious crimes of 1999. The Commission notes that, in this process, the international community has paid little or no attention to the issue of justice for the grave crimes committed in Timor-Leste throughout the 23 years prior to the 1999 atrocities. Now that the Commission has reported on the truth of these atrocities, it is its mandated duty to draw the appropriate conclusions based on concerns of international law and not on political considerations. The findings of the Commission indicate that there have been no adequate justice measures for the crimes against humanity committed in Timor-Leste throughout the 25-year mandate period. Based on its mandate founded on respect for international law, the Commission concludes that justice for past crimes must encompass the violations committed throughout the 25-year period of its mandate.

The legacy of this lack of justice for years of human rights violations is manifold. For both Timor-Leste and Indonesia the result is that impunity has become entrenched. Those who planned, ordered, committed and are responsible for the most serious human rights violations have not been brought to account, and in many cases have seen their military and civil careers flourish as a result of their activities. Respect for the rule of law and the organs of the state responsible for its administration, a fundamental pillar of the democratic transition in Indonesia and nation building in Timor-Leste, will always be extremely fragile in this context.

The conflicts in Timor-Leste were of an internal nature during the confrontation of August-September 1975, while Timor was still a non-self governing territory under Portuguese authority. When Indonesian forces invaded Timor-Leste, from October 1975, the conflict was internationalised. Independently of the nature of the conflict, however, the crimes committed over this long period reached on many occasions the threshold of extreme conduct that invokes the responsibility of the international community.

In addition to the nature of the crimes, serious immediate circumstances invoke the responsibility of the international community. The Commission is persuaded that our nascent and still fragile State cannot be expected to bear the brunt of pursuing the daunting task of justice on its own. It is further concerned that the State of Indonesia has never shown a genuine will to bring to book the perpetrators, not just for the crimes committed for 1999, but for any of the crimes committed during the long occupation. Therefore the Commission believes that the definitive approach to achieve justice for the crimes committed in Timor-Leste should hinge critically on the commitment of the international community, in particular the United Nations. They should provide unqualified support for strong institutions of justice, able to act independently of the political situation within and outside Timor-Leste.

The Commission is aware that any formula for the solution to impunity for the crimes committed in 24 years of conflict and occupation will be complex and difficult to achieve. However, a few elements should be identified. Any formula to seek justice for the victims should be based on respect for international law and guarantees of due process. Equally, any design for justice should have the practical support not just of

the United Nations as such but of individual countries, ready to help the process in different ways. Finally, any response to impunity should face the challenge of how to ensure that the major perpetrators are accountable in spite of the current protection they enjoy.

The Commission is aware that by the time this report is published, the international Commission of Experts appointed by the Secretary-General of the United Nations to review the process of justice for 1999 will have issued its recommendations. Therefore, while we will express ideas for the cases of 1999 we will include recommendations on the crimes committed before 1999 that have received, regrettably, far less attention.

The Commission recommends that:

- 7.1.1 The Serious Crimes Unit and Special Panels in Timor-Leste have their respective mandates renewed by the United Nations and their resources increased in order to be able to continue to investigate and try cases from throughout the period 1975-1999.
- 7.1.2 The renewal of the mandate should be based on the conditions on which these institutions were originally established – that is, directly depending on the UN and not on the nascent national judicial system in Timor-Leste which is not prepared to deal with the technical and political challenges of the cases.
- 7.1.3 In relation to the crimes committed before 1999, the work of the Serious Crimes Unit includes investigation and preparation for prosecution of the following historical cases and periods, which the Commission concludes are exemplary and of critical importance in terms of the scale and nature of the human rights violations which occurred:
 - The execution of Fretilin-linked youth in Manufahi on or around 28 August 1975 by UDT-linked perpetrators.
 - The executions of UDT and Apodeti-linked prisoners by Fretilin-linked perpetrators in Aileu, Maubisse and Same in December and January 1976.
 - The reported massacre of civilians in Kooleu Village in Lautém District by Fretilin-linked perpetrators in January 1976.
 - The executions of Fretilin members and associates by Fretilin members and associates during party divisions in 1976, and especially 1977.
 - The massacres of civilians in Dili on the day of the full-scale Indonesian military invasion, 7 December 1975, and killings on following days.
 - The Indonesian military encirclement and annihilation campaigns of 1977-79.
 - The massacres of civilians by Indonesian security forces which occurred in and around Kraras Village, Viqueque District, from 1983.
 - The policy and practice of removing civilians to be held in captivity on the island of Ataúro from the early 1980s.
 - The Santa Cruz Massacre of 12 November 1991, and subsequent detention, torture and reported killings.

- 7.1.4 The renewed Serious Crimes Unit prepares indictments for these cases and that the Special Panels, after appropriate review, issue warrants for the arrest of those responsible, seeking transfer to their authority.
- 7.1.5 Those institutions of the Indonesian Armed Forces and those in positions of command responsibility named in the Part 8: Responsibility and Accountability of this Report, for crimes other than those in the above list, should be the subject of focused investigation and prosecution by Indonesian authorities.
- 7.1.6 The list of alleged perpetrators submitted to the President of Timor-Leste by the Commission be referred to the Office of the General Prosecutor for further investigation and action.
- 7.1.7 A regime of preservation and management be established by the United Nations for all evidence gathered by the Serious Crimes Unit to enable this material to be used for prosecutions as required and that ongoing technical and financial support be provided for this purpose by the United Nations.
- 7.1.8 All evidence gathered by the CAVR, Indonesia's Komnas HAM and Ad Hoc Human Rights Court on East Timor and others be preserved in a proper manner to enable this material to be used for prosecutions as required.
- 7.1.9 The international community urges and supports Indonesia to declassify information held by the Indonesian security forces so that it is available for judicial processes.
- 7.1.10 A proper system of protection for victims and witnesses be put in place as part of the justice process both for crimes committed in 1999 and crimes committed in the preceding years.
- 7.1.11 Indonesia, in an authentic spirit of reconciliation and with the aim of strengthening its own nascent democracy, be encouraged to contribute to the achievement of justice by (a) transferring those indicted who reside in Indonesia to the renewed Panels, and (b) strengthening the independence and efficiency of its judicial system in order to be able to genuinely pursue justice and revert the record of impunity that regrettably has been the norm regarding the crimes committed in Timor-Leste.
- 7.1.12 The international community demonstrates its commitment to justice and the Serious Crimes process by, inter alia:
- ensuring that their law enforcement authorities are enabled to transfer those indicted to the Serious Crimes regime established by the UN, to try those indicted themselves or to extradite them to a jurisdiction genuinely interested in trying them
 - ensuring that persons responsible for the crimes described in this report are not allowed to continue profitable careers regardless of their crimes
 - establishing a special board of investigation under the auspices of the United Nations to establish the extent, nature and location of assets held by those indicted for crimes against humanity in Timor-Leste

- freezing the assets of all those indicted for crimes against humanity in Timor-Leste, subject to national and international laws and pending hearing of cases before the relevant tribunal
- placing travel bans on those indicted for crimes against humanity in Timor-Leste
- linking international aid and cooperation to specific steps by Indonesia towards accountability, such as cooperation with the Serious Crimes process, the vetting of perpetrators who continue their careers in the public sector, and the scrutinising of Indonesian members of peacekeeping missions and training courses to ensure that alleged perpetrators of violations are not included.

7.2 International tribunal

The Commission recommends that:

- 7.2.1 The United Nations and its relevant organs, in particular the Security Council, remains seized of the matter of justice for crimes against humanity in Timor-Leste for as long as necessary, and be prepared to institute an International Tribunal pursuant to Chapter VII of the UN Charter should other measures be deemed to have failed to deliver a sufficient measure of justice and Indonesia persists in the obstruction of justice.

7.3 Commission for Truth and Friendship

As this Report neared completion, the Governments of Timor-Leste and Indonesia announced the establishment of a Commission for Truth and Friendship (CTF), a bilateral truth-seeking mechanism to review the crimes of 1999.

The CAVR believes that nothing should compromise the rights of victims to justice and redress. Accordingly it considers that any additional truth-seeking measure related to the crimes committed in 1999 should be undertaken in good faith and with a view to strengthening, not weakening, the chances of criminal justice. Similarly, although the CAVR recognises that its investigation still leaves aspects for further research, it believes that its work and the work of the Serious Crimes Unit should be respected and protected from denial. Any additional truth-seeking should be complementary, not opposite to the work that has been conducted.

The Commission recommends that the Governments and Parliaments of Indonesia and Timor-Leste:

- 7.3.1 Guarantee that the Commission for Truth and Friendship is permitted to act independently, impartially and objectively and to make recommendations as it sees fit, including the possibility of further criminal trials and a policy of reparations to victims.
- 7.3.2 Require that the names of alleged perpetrators be cleared by the Commission for Truth and Friendship only if this is based on judicial due process consistent with international standards.

- 7.3.3 Require that the Commission for Truth and Friendship fully respects the rules governing access to information which has been given under promise of confidentiality to previous institutions, such as the CAVR or the Serious Crimes bodies, in order to safeguard the well-being of victims and witnesses.

7.4 Dissemination of the Final Report in Timor-Leste

The Final Report of the Commission is a document of national importance for Timor-Leste and of international significance. Recommendations for its international dissemination can be found in point 1. Timor-Leste and the International Community (above). Though it has been produced to meet the statutory obligations of the Commission, the Report will have lasting significance for future generations of East Timorese and should therefore be widely accessible.

The Commission recommends that:

- 7.4.1 The Final Report be translated into the Tetum language and widely distributed in Timor-Leste so that current and future generations have access to its contents.
- 7.4.2 The Ministry of Education in the Government of Timor-Leste works with the post-CAVR institution to utilise the Final Report and other Commission materials in the development of curricula and other educational resources related to human rights, reconciliation, history, law, gender studies and other relevant disciplines.
- 7.4.3 The Government of Timor-Leste and international donor partners support the reproduction of the Final Report and related materials to enable this continuing education programme.

7.5 Archives of the CAVR

The Commission has preserved and organised its archives in accordance with its statutory obligations pursuant to Regulation 10/2001. The archives are a unique part of Timor-Leste's national heritage and comprise thousands of multi-media records that have been entrusted to the Commission by individuals, families and communities across the country as well as national and international organisations and governments. In many instances the opportunity to gather this information and material will never come again. This archive forms the basis of what should be a continuing effort to gather, restore, and make available important historical materials for further reference, research and use. Continued national and international support will be needed to ensure the preservation of the collection and its development into a first class depository.

* Poem read and written by Edy M Parada, a child from Viqueque living in Naibonat refugee camp in West Timor, Indonesia, played by video recording during the CAVR National Public Hearing on Children and Conflict, 29-30 March 2004 (Translated from Indonesian).

The Commission recommends that:

- 7.5.1 The National Parliament of Timor-Leste adopts legislation regulating the preservation, organisation and use of national archives.
- 7.5.2 The archives of the Commission be maintained at the site of the former Balide Comarca and be administered as part of the official national archives in accordance with the access policy decided by the CAVR Commissioners until national legislative provisions are determined.
- 7.5.3 The archives form an integrated part of an active human rights centre to be developed in the former Balide Comarca whose overall purpose will be to remember, honour and learn from Timor-Leste's recent human rights history.
- 7.5.4 Financial support is provided by the Government for the maintenance and development of this centre and ongoing programme of research and education.
- 7.5.5 The Government of Indonesia be asked to return to the former Balide Comarca any documents it has in its possession relating to the administration of the prison between 1975 and 1999 so that these can be added to the existing archives.
- 7.5.6 The Government of Portugal be asked to return to the former Balide Comarca any documents it has in its possession relating to the building and administration of the prison prior to 1975.

8. Reconciliation

Cry of a child of the nation*

*At that moment a whisper, melodious
Seconds to the announcement of the Timor Lorosae's
independence
But why are the children still scattered in all directions?
Lorosae
20 May is your first day of independence
A day when you feel happiness incomparable
A day when you hear your children clapping, laughing,
embracing
But why, among them, are there faces of sadness
You can hear their lament and suffering
Do you not feel that there is something missing, something lost,
Lorosae?*

Throughout its mandate, the Commission was painfully aware of the divisions among our people. At the time of writing these recommendations, it is estimated that many thousands of East Timorese are still living in Indonesia, mostly in West Timor, and that most of these have opted for Indonesian citizenship. Some are living in refugee camps, others have built a new life in self-exile. These divisions are not only between East Timorese living in Timor-Leste and Indonesia, but also exist within our own communities in the newly independent Timor-Leste. Although some of these differences are caused by new tensions and new problems, often the roots of conflict can be traced back to old divisions of the past.

The Commission addressed these splits through a multi-leveled approach. At the national leadership level, party leaders were asked to publicly explain what took place during the civil war of 1975. The 4-day CAVR National Public Hearing on the Internal Political Conflict of 1974-76 in December 2003 was a landmark in the history of East Timorese political life, and an important time for all East Timorese people to better understand the events of this tragic period and listen to leaders taking responsibility.

At grassroots-level, the Commission facilitated a mediation process where perpetrators who committed lesser crimes and did harm to their communities voluntarily and publicly admitted their wrong-doing so that they could be reconciled with their communities. More than 1,400 perpetrators took part in this process and successfully completed the community reconciliation process.

The Commission believes that to be effective a process of reconciliation in Timor-Leste must engage individuals, families and community groups from all sides of the political conflicts, reach to the highest levels of the national leadership, and continue for many years to come.

Reconciliation in the general community

Violence occurred at the community level throughout the period 1974-1999. The violence of the civil war which started in Dili in 1975 quickly spread to other communities, pitting neighbours and even family members against each other. The Indonesian military created extensive intelligence and paramilitary organisations whose members were involved in violations of human rights against people in their communities. In late 1998 and 1999, the activities of militia groups formed by the TNI further terrorised and divided communities.

From our Community Reconciliation Process (CRP) programme, it is clear that there is a continuing need to assist communities to come to terms with the divisions caused through the long years of political conflict. The Commission commends village communities for the way in which they adapted the Community Reconciliation Process to their local situations. The Commission also commends the courage of those who spoke honestly and openly about the harm they had done to individuals and communities and sought to become accepted as full members of their communities once again. And the Commission extends its highest respect to those who had been wronged and yet found it in their hearts to accept back into the full life of the community those who had done the harm. The Commission also pays special respect to the traditional leaders who gave their unique support and authority to these processes.

From these experiences with communities, the Commission knows that reconciliation is not a simple or immediate matter. It cannot be achieved in just one step, or a single procedure, and people cannot be obliged to reconcile according to the wishes of an institution or a state. But it is also clear that communities, victims and those who have harmed their communities are often open to assistance to help them come together to resolve past problems for the sake of a peaceful future. The Commission also believes that there is more work to do to secure the peace achieved by communities across the country since the end of the conflict.

The Commission recommends that:

- 8.1 The Government of Timor-Leste establishes a community-focussed mechanism for conflict prevention and resolution, based on the lessons learned from the CAVR community reconciliation process, that this mechanism be mandated by legislation, and be conducted by an independent national institution that works in cooperation with the judiciary, police and local authorities.
- 8.2 The basic principle of this mechanism will be to assist communities to resolve local conflicts or problems within a framework which is consistent with the rule of law and respect for human rights, including equality between women and men, but also respectful of traditional processes and the diversity of cultures in Timor-Leste.
- 8.3 This mechanism has a clear focus on the capacity building of local community facilitators of conflict prevention and resolution and on helping young people build a culture and capacity to resolve conflict peacefully.

- 8.4 This mechanism be mandated to address both past political conflicts in Timor-Leste and contemporary challenges to the peace and stability of communities.
- 8.5 The post-CAVR institution recommended elsewhere in this Report be requested to convene consultations with the Government and community on this proposal and to submit draft terms of reference to the National Parliament.
- 8.6 The Prosecutor General decides within three months of the release of this Report what action he will take in relation to the 85 cases of pending Community Reconciliation Processes held by his Office, recognising that these deponents sought the assistance of the Commission in good faith, and that he communicates his decision on each case to each deponent and his community individually.

9. Reconciliation in the East Timorese political community

The Commission worked to understand the underlying causes of the political conflict in Timor-Leste and the violence committed by East Timorese and the Indonesian armed forces. It listened to victims of violence from all sides, and interviewed political leaders from all points of view, including conducting interviews in Indonesia. The Commission believes that the deep divisions in our society from 25 years of conflict, and the violence which entered East Timorese political life in 1975, remain a potential stumbling block to the development of a sustainable culture of democracy and peace in Timor-Leste.

Violence and intimidation have no place in political life in Timor-Leste – the cost is too great. The Commission was encouraged by the humility of political leaders who testified at the National Public Hearing on the Internal Political Conflict of 1974-76, and the positive community response to their openness. However more needs to be done to heal the deep hurt from this period and to consolidate the development of pluralistic and peaceful political life in Timor-Leste.

The Commission recommends that:

- 9.1 All political parties ensure that the universal principles of human rights enshrined in the Constitution of Timor-Leste are fully respected in their policies and practices.
- 9.2 All political parties respect the neutral role of the Police Service, Defence Forces and other state security bodies and include a commitment to respect this principle of neutrality in their party policies.
- 9.3 All political parties make a public commitment to conduct their political activities in a peaceful and non-threatening manner and to take strong disciplinary measures against any party member who advocates or uses the media to ferment aggression or fear in the community.
- 9.4 All political parties make a public commitment that they will never mobilise youth groups for political purposes other than in peaceful and lawful ways.
- 9.5 The five historical political parties – Apodeti, ASDT/Fretilin, KOTA, Trabalhista, and UDT – institute processes, where necessary, to address human rights violations committed in the past by their members or those linked to them, and undertake to work for the implementation of the recommendations in this Report, in particular those directed at permanently removing the threat of violence from political life in Timor-Leste.
- 9.6 The former pro-autonomy political groups still in existence in Indonesia undertake to work for the implementation of the recommendations in this Report, in particular those directed at permanently removing the threat of violence from political life in Timor-Leste.

- 9.7 Civic education programmes make use of the material in this Report to impress on the community the importance of non-violence and the appalling cost of political violence.
- 9.8 The President undertakes new initiatives to foster political, social and cultural dialogue between East Timorese in Indonesia and Timor-Leste, and that this initiative seeks the involvement of political leaders from all backgrounds and the support of the Government of Indonesia.

10. Reconciliation with Indonesia

Timor-Leste and Indonesia have demonstrated since 1999 that they want to build a new relationship. The Commission commends this forward-looking and generous attitude. The Commission believes that for this new friendship to flourish the principles of acknowledging the truth of the past, accountability for violence, and a spirit of generosity in assisting those who have been harmed by that violence, are vital. During its extensive work in the community, especially with victims of serious violations perpetrated by Indonesian soldiers, the Commission was struck by the generosity of those victims toward Indonesia. Communities in all parts of the country have made clear to the Commission their need to see justice done for the serious crimes committed during the conflict. However this call for justice has rarely been made in a vengeful or hateful way, nor generalised against Indonesia or the Indonesian people. Accountability on the part of those responsible and the competent authorities will open the way for a deeper new relationship based on genuine reconciliation.

The Commission recommends:

Truth as the basis for the relationship

- 10.1 That the Government of Indonesia formally acknowledges receipt of this Report and tables it in the Indonesian Parliament.
- 10.2 That, in order to foster a spirit of reconciliation, the Government of Indonesia sends a senior delegation to Timor-Leste to acknowledge the violations committed by its representatives during the occupation and to apologise to the victims and families of victims for these violations.
- 10.3 That the Government of Indonesia undertakes a revision of official accounts and education materials relating to Indonesia's presence in Timor-Leste to ensure that these give the Indonesian people an accurate and comprehensive account of the period 1974 to 1999, including the UN conduct of the 1999 Popular Consultation, and contribute to reconciliation.
- 10.4 That Indonesia and Timor-Leste continue to develop ways of deepening people-to-people relations and cooperation in social, cultural, economic and political life.

Recognising Indonesian military casualties and assisting Indonesian families

- 10.5 That the Governments of Indonesia and Timor-Leste continue to cooperate in the maintenance of Indonesian war cemeteries in Timor-Leste.
- 10.6 That the Governments of Indonesia and Timor-Leste cooperate to provide information to Indonesian and East Timorese families who do not know the full circumstances of the death and/or whereabouts of the remains of family members who were members of the Indonesian armed forces in Timor-Leste.
- 10.7 That the Governments of Indonesia and Timor-Leste cooperate to assist Indonesian families to visit Timor-Leste to pay their respects to their dead and/or to repatriate the remains of loved ones to Indonesia.

Making available full documentation of military operations resulting in human rights violations of civilians

- 10.8 That the Government of Indonesia makes available to the Government of Timor-Leste and the international community records of military operations that resulted in civilian deaths and injuries and damage to property, including:
- Operation Seroja and the massacres of civilians in Dili on 7 December 1975 and killings on following days
 - the military encirclement and annihilation campaigns of 1977-1979
 - the Mauchiga offensive of 1982 in the district of Ainaro; the massacres of civilians in Kraras in 1983 in the district of Viqueque
 - the removal of civilians to the island of Ataúro from the early 1980s
 - the Santa Cruz Massacre in Dili of 12 November 1991 and subsequent reported killings and disappearances.
- 10.9 That the Government of Indonesia makes the following information available to the Government of Timor-Leste and the international community:
- the names and details of all ABRI/TNI personnel of East Timorese origin killed in Timor-Leste between 1975 and 1999
 - the names and details of all East Timorese children removed from Timor-Leste by the Government of Indonesia, military or related personnel or institutions between 1975 and 1999
 - the names and details of all political prisoners who died in custody between 1975 and 1999
 - all Indonesian military units which served in Timor-Leste between 1975 and 1999, including names of commanding officers
 - the formation and funding of East Timorese para-military groups by the Indonesian military and/or other state agencies between 1974 and 1999
 - all military and civilian intelligence records on Timor-Leste from 1974-1999
 - all weapons, military equipment and material purchases or donations from governments and companies between 1975 and 1999 that were used in Timor-Leste during this period.
- 10.10 That the Government of Indonesia makes available to the Government of Timor-Leste and the international community records relating to the involvement of the Indonesian administration and military in the operations of 1999 which resulted in killings and the displacement of more than half the population of Timor-Leste, including:
- Liquiça Church Massacre (6 April 1999)
 - Cailaco (Bobonaro) killings (12 April 1999)
 - massacre at Manuel Carrascalão's Dili residence in Dili (17 April 1999)
 - killing of two students at Hera, Dili (20 May 1999)
 - Suai Church Massacre (6 September 1999)
 - Maliana Police Station Massacre (8 September 1999)
 - Murder of church personnel and the journalist accompanying them in Lautém (25 September 1999)

- Massacres in Passabe and Maquelab in Oecusse (September-October 1999)
- Massacres in Nitibe in Oecusse (October 1999).

10.11 That the Government of Indonesia cooperates fully with any future international or East Timorese initiatives established to address justice for violations of human rights committed in Timor-Leste between 1974 and 1999.

Peace and stability

10.12 That the Government of Indonesia continues to make clear its respect for the independence and sovereignty of Timor-Leste and takes action against any individuals or organisations in Indonesia who undertake illegal activities aimed at destabilising Timor-Leste.

Clearing the names of those wrongly accused

10.13 The Government of Indonesia expunges the criminal record of all East Timorese political prisoners tried and found guilty of crimes associated with the peaceful expression of their political beliefs during the period of the conflict.

10.14 The Government of Indonesia destroys all intelligence files maintained on East Timorese people relating to the period 1974-1999.

10.15 The Government of Indonesia expunges from Department of Immigration "black lists" the names of East Timorese and non-East Timorese human rights activists and instructs all relevant intelligence agencies and government offices to remove these names from lists and files.

Reparations

10.16 The Government of Indonesia makes financial contributions to the reparations trust fund recommended elsewhere in this Report.

10.17 Indonesian business companies which profited from war and related activities in Timor-Leste between 1974 and 1999 make financial contributions to the reparations trust fund recommended elsewhere in this Report.

11. *Acolhimento* (Reception)

The 25 year period covered by the Commission mandate saw East Timorese people flee the country for reasons of personal security, political beliefs, or because they were forced to leave. Many thousands who fled in 1999 remain in Indonesian West Timor and other parts of Indonesia. Thousands more who fled Timor-Leste in 1975 and later, live in Portugal and Australia, and smaller numbers are spread across the world. East Timorese children taken to Indonesia during the war continue to be separated from their families.

The creation of a climate of welcome or *acolhimento* for East Timorese who wish to visit or return to Timor-Leste should be a national priority. This will strengthen the inclusive, democratic nature of our society and add to its capacity and security in important ways. Where East Timorese people have been involved in human rights violations, due process should apply consistent with official commitments to build a society based on accountability, rule of law and human rights.

The Commission recommends that:

11.1.1 There are ongoing initiatives to promote contact and goodwill between East Timorese in Timor-Leste and East Timorese in Indonesia, particularly West Timor, with an emphasis on social, cultural and educational exchanges for children and youth, and that community leaders, the Catholic Church and other faith communities, Indonesian NGOs and the Government of Indonesia be requested to assist this process.

11.1.2 Ways of nurturing Timor-Leste's relationship with East Timorese who are living abroad or who have taken citizenship in other countries are developed so that overseas East Timorese people are encouraged to retain their family, cultural and other links with the country of their origin and to contribute to the interests of Timor-Leste through their activities and connections abroad.

11.2 Separated children

Many East Timorese children were separated from their families during the Indonesian occupation of Timor-Leste, including some 4,500 in 1999. Many in the pre-1999 category are now adults and include some who are looking for their families but may not know where they come from. Most of those who became separated from their families during the violence of 1999 have either been reunited with their families or have continued to stay with caretakers. Responsibility for this category rests with the Governments of Indonesia and Timor-Leste following the signing in December 2004 of a "Memorandum of Understanding Concerning Cooperation to Protect the Rights of Separated and Refugee Children", facilitated by UNHCR.

*Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, approved by the Human Rights Commission of the UN on 20 April 2005 [UN Doc. E/CN.4/RES/2005/35, Annex].

The Commission recommends that:

- 11.2.1 The implementation of the 2004 MOU between the Governments of Timor-Leste and the Indonesia be monitored by NGOs in both countries to ensure that the rights of separated children, particularly any whose cases have not been resolved and those in the custody of caregivers, are protected – including their right to unhindered access to identify and nationality procedures.
- 11.2.2 The Governments of Timor-Leste and Indonesia ensure that regular and free communication is maintained between the child and parents while the child remains with the caretaker or with an institution and that separated children are able to make informed decisions about their future free of intimidation or fear.
- 11.2.3 Assistance be provided, particularly for those in remote, poor areas, so that parents and adult separated children can trace each other, communicate and meet.

12. Reparations

Because of the war I was used like a horse by the Indonesian soldiers who took me in turns and made me bear so many children. But now I no longer have the strength to push my children towards a better future.⁴²

12.1 Introduction

The Commission urges the Government of Timor-Leste to implement a programme of reparations for the most vulnerable victims of human rights violations.

All East Timorese people have been touched and victimised by the conflict in one way or another. However, in the course of its contact with many communities the Commission became acutely aware of those among us who still suffer daily from the consequences of the conflict and whose children will inherit the disadvantages their parents face as a consequence of their victimisation. They include those who live in extreme poverty, are disabled, or, who — due to misunderstandings — are shunned or discriminated against by their communities. We are all victims but not all victims are equal. We must acknowledge this reality and lend a hand to those who are most vulnerable.

The Commission believes that this recommendation is consistent with:

- The Constitution of Timor-Leste which states that “the State shall 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 shall protect all those who participated in the resistance against the foreign occupation” [Section 11].
- The mandate of the Commission which requires it to assist in restoring the human dignity of victims, to promote reconciliation [Regulation 2001/10, Section 3.1(f) and (g)] and also to make “recommendations concerning reforms and other measures whether legal, political or administrative which could be taken to achieve the objectives of the Commission, to prevent the repetition of human rights violations and to respond to the needs of victims of human rights violations” [Regulation 2001/10, Section 21.2].
- East Timorese tradition, according to which a person who experienced a wrong-doing has the right to receive some measures to correct the offence.
- International human rights law,^{*} according to which victims of human rights violations have the right to seek redress.

A reparations programme will ensure that:

- The most vulnerable victims, who are often on the margins of their communities, will gain access to basic services and opportunities provided to the general community.

^{*} Testimonies of key historical actors and representatives and members of the five political historical parties, at the CAVR National Public Hearing on The Internal Political Conflict 1974-76 held between 15 and 18 December 2003, are recorded in the CAVR Archive on video recording. The Commission also published a book on this hearing titled: *The Internal Political Conflict 1974-76, CAVR National Public Hearing 15-18 December 2003*.

- A form of justice is delivered which directly benefits the victim and will contribute to healing, national reconciliation and a further reduction in the possibility of violence.
- The most vulnerable victims of past atrocities will be afforded recognition and the means to enjoy their fundamental rights and fulfil their potential on an equal footing with other citizens of Timor-Leste.

12.2 What are reparations?

During the course of its work, the Commission defined reparations as measures to repair damages suffered by victims of human rights abuses, including rehabilitation, restitution, compensation, recognition of a truthful account of what happened, and guarantee of non-repetition of these violations. Reparations can take shape as measures directed to individuals or, collectively, to groups of victims.

The Commission places reparations in a human rights framework which includes three essential components which cannot be substituted for each other: truth, justice and reparations.

Some forms of reparations

Compensation which includes fair and adequate compensation through litigation or mediation.

Restitution which is the re-establishment, as far as possible, of the situation that existed for the beneficiary prior to the violation.

Rehabilitation which is the provision of medical and psychological care and the fulfillment of significant personal and community needs.

Restoration of dignity, which includes symbolic forms of reparation.

Establishment of the truth which may include public confession and apology from perpetrators, and testimonies on violations and their impact from victims and their families.

Reassurance of non-repetition which is the creation of legislative and administrative measures that contribute to the maintenance of a stable society and the prevention of the re-occurrence of human rights violations.

12.3 Legal and moral foundations for reparations

In its inquiry into past human rights violations the Commission listened to victims of violations from all districts of the country, who suffered at the hands of all sides to the conflicts. Life has been terribly altered for many victims who survived violations. The thousands of dead due to human rights violations left behind families. Many

families continue to look for loved ones who have disappeared. There are thousands of survivors of rape, torture and other gross human rights violations who still suffer consequences of these violations in their everyday lives.

As it listened to survivors, in hearings and workshops or giving statements and interviews, the Commission was struck by the humble nature of what most survivors seek. Overwhelmingly they have expressed to the Commission that they seek some kind of accountability on the part of the perpetrators, and simple assistance to enable them and their children to participate on an even footing in the new democratic Timor-Leste. For many this participation is difficult due to the severe hardships they still suffer due to the violations inflicted upon them

As Timor-Leste seeks to establish itself as a new democratic nation based on the rule of law and respect for human rights, there is a deep moral obligation to reach out to and assist our brothers and sisters who are struggling to participate in this new life. The values of our nation will be measured by our actions in this regard, not merely by the words of our new laws and leaders.

Furthermore, as a member of the United Nations, Timor-Leste has committed to uphold, respect and enforce human rights and humanitarian law standards. This includes the principle of ensuring appropriate remedies and reparations to victims of human rights violations, as stipulated in the UN Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law.

Timor-Leste context

From its inquiry, the Commission has found that all sides of the conflict were responsible for committing human rights violations. During the Commission's National Public Hearing on the Internal Political Conflict, leaders of political parties bravely and honestly testified about the violence during the period of the internal armed conflict, claiming institutional responsibility for some of the crimes of the past and their commitment to repair the harms inflicted upon victims and their families.* This commitment is reflected in the Constitution of Timor-Leste which obliges the state to provide "special protection to the war-disabled, orphans, and other dependents".⁴³ Following this, the State of Timor-Leste has the moral and constitutional obligation to ensure that victims of past human rights violations receive measures of reparations.

However, the highest proportion of institutional responsibility for human rights violations falls on the shoulders of State of Indonesia, the occupying force whose agents committed most of the gross violations. Indonesia has the moral and legal responsibility to repair the damage caused by its policies and state agents.

Learning from the experience of repairing past violations in other nations, the struggle to gain reparations from an invading nation is one that may take time. In the meantime, many of the victims can no longer wait. Timor-Leste must step into the void. The international community, who looked the other way when atrocities were committed, also bears a portion of this responsibility.

12.4 The Commission's contribution

*Not one person cared about what happened to me. I was alone.*⁴⁴

As a transitional justice mechanism, the Commission had as its core focus the experience and rights of victims of past human rights violations. The Commission, in implementing its mandate, placed victims at the centre of its long-term goal of social rebuilding and reconciliation.

The Commission listened to thousands of victims and asked them what they needed to assist in this transformation. This was done during hearings at national, sub-district and village levels and at healing workshops conducted with survivors of human rights violations from all districts.

A special section in the executive body of the Commission was established to support victims who participated in Commission activities. This unit helped implement an urgent reparations programme to assist vulnerable victims with urgent medical and other matters. This programme identified 712 victims with urgent needs who were then helped to access services, were provided with US\$200 each, and in some cases, were supported to participate in healing workshops and public hearings organised by the Commission. The Commission, in partnership with NGOs, also developed a number of pilot projects on collective measures for urgent reparations in severely affected communities.

In all aspects of its work, the Commission sought to have a reparative effect but the need for targeted reparations exceeded the Commission's capacity in the time available. Individual victims and communities told the Commission clearly and repeatedly of the need for ongoing healing and work to repair damage caused by human rights violations.

12.5 Reconciliation

The Commission believes that lasting reconciliation cannot be achieved without establishing the truth, striving for justice, and providing reparations to victims. Reparations are necessary to restore the dignity of victims and to repair damaged relationships within our society. In East Timorese culture, the institution of *kasu sala* – a traditional mediation process which establishes who has been wronged by whom and what compensation should be given to the wronged party — sets the foundation for community reconciliation and peace-building. In the same way, acknowledging the suffering of victims through reparations is a cornerstone to lasting reconciliation in a nation that has experienced more than two decades of violence.

12.6 Guiding principles for a reparations programme in Timor-Leste

The following principles will assist in the development of an effective reparations programme for the most vulnerable victims of human rights violations in Timor-Leste:

Feasibility

As a new nation in the early stages of development Timor-Leste is faced with many competing needs. In order to be feasible in this context, the reparations programme should be selective and focus on the most urgent needs of the most vulnerable and, where possible, provide collective responses that are cost-effective and inventive.

Accessibility

Care should be taken to ensure the programme is accessible to victims who are disadvantaged not only as a consequence of their experience but also by their isolation, lack of information and means of transport, particularly those in remote rural areas.

Empowerment

The programme should empower those who have suffered gross human rights violations to take control over their own lives and to free themselves of both the practical constraints and the psychological and emotional feelings of victimhood. The delivery of rehabilitation services and other reparation measures should use a victim-centred and community-based empowerment approach.

Gender

The programme should take gender differences into account because the conflict in Timor-Leste affected men and women differently. Men and women experienced not only different types of human rights violations during the conflict, but also different barriers to mitigating the impact of these violations. More men were targeted as victims of detention, torture, killings and disappearances than women. However, when women became victims of detention, torture and other violations, they suffered disproportionately from sexual violence and faced on-going discrimination as victims. Women also suffered when their husbands, sons, fathers, and other members of their families experienced human rights violations. They became the primary carer in their family, taking responsibility for the sick and wounded, and working to feed their children and other dependents when other providers in the family were detained, disappeared, killed or maimed. They also became increasingly vulnerable to sexual violence when the traditional “protector” of the family was absent. At least 50% of programme resources should be directed to female beneficiaries.

Prioritisation based on need

The programme should address those most in need of support due to past violations. It is not possible for a single reparations programme to answer all the needs of all those who suffered during the conflict in Timor-Leste and the programme is not intended to take the place of long term national development, itself the major objective of the Timorese state.

12.7 Reparations programme

The main aim of this reparations scheme is to assist vulnerable victims of gross human rights violations, within the scope of the mandate of the Commission, by repairing, as far as possible, the damage to their lives caused by the violations through the delivery of social services and symbolic and collective measures.

Rehabilitation

The rehabilitation of victims should include medical and psycho-social care. Where this is already being provided to the general community by the Government and civil society, the programme should support victims to access these services, give service providers additional resources to reach beneficiaries and ensure quality service delivery by monitoring and providing feedback to service providers.

Collective measures

The programme should also ensure that rehabilitation takes place in a community context. This means that collective measures be developed to ensure that rehabilitation of victims of human rights violations takes place in context and together with their communities. A special window should be developed through which communities or groups of victims can apply for such assistance. These measures should be determined in consultation with the victims and can take the form of symbolic recognition, as described below, and/or material support for activities or items identified by victims together.

Symbolic measures

Symbolic measures, developed in consultation with victims, might include memorialisation, commemoration ceremonies, exhumations and reburials or marking and honouring of mass graves. Symbolic measures honour victims of past atrocities, strengthen the social commitment to oppose repetition of such acts, are educative and promote reconciliation.

12.8 Objectives

- To identify the most vulnerable victims of human rights violations committed during the Commission's mandate period and support their rehabilitation.

- To facilitate rehabilitation of communities or groups of victims most severely affected by human rights violations during the mandate period.
- To promote recognition and respect for victims of human rights violations and to preserve the memory of past atrocities and suffering in order to ensure the non-repetition of such acts.

12.9 Beneficiaries

According to the Commission’s mandate “a victim means 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.” [Regulation 2001/10, Section 1]

Taking into account the principles of feasibility and needs-based prioritisation, the Commission recommends that the programme focus on benefiting the most vulnerable among those who continue to suffer the consequences of gross human rights violations which took place between 24 April 1974 and 25 October 1999, namely:

- Victims of torture
- People with mental and physical disabilities
- Victims of sexual violence
- Widows and single-mothers
- Children affected by the conflict
- Communities who suffered large-scale and gross human rights violations, with a relatively high concentration of victims identified above.

The Commission recommends that the reparations programme begins with a list of victims who came before the CAVR, selected and prioritised according to the criteria set out in this reparations policy. A two-year window period for further identification of beneficiaries eligible for reparations, to complement those identified by the Commission, shall be provided, in order to ensure inclusiveness to those most vulnerable who did not come before the CAVR.

Working definitions for beneficiaries

Victims of torture are those who were detained, tortured, and continue to gravely suffer the consequences of the torture they experienced.

People with disabilities due to gross human rights violations are those who have become permanently physically or mentally disabled, either totally or partially, as a consequence of the conflict. Examples are victims who suffered amputations, lacerations, loss of body parts, gunshot wounds; victims with bullets or shell fragments in their bodies, or who have permanent problems due to severe beatings and torture which have left them totally or partially disabled; or victims with disabling mental health problems due to past violations.

Victims of sexual violence are those women and girls who were subjected to acts such as rape, sexual slavery, forced marriage or other forms of sexual violence; and boys and men who suffered sexual violence.

Widows and single mothers are women whose husbands were killed or disappeared and who, as a result, are the primary breadwinners for their families. Also included here are women whose children were born out of rape or sexual slavery and consequently became single mothers.

Children affected by the conflict are defined as:

- children who suffer from disabilities due to gross human rights violations
- children whose parents were killed or disappeared
- children born out of an act of sexual violence whose mother is single
- children who suffer psychological damage.

Children will be eligible for reparations if they were 18 years of age or younger on 25 October 1999.

12.10 Financing

Indonesia should bear a significant proportion of the costs. As the occupying power which committed most of the violations, Indonesia has the greatest moral and legal responsibility to repair the damage caused by its policies and agents.

Member states of the international community, and business corporations who supported the illegal occupation of Timor-Leste and thus indirectly allowed violations to take place, are obliged to provide reparations to victims based on the principle of international responsibility recognised in the international customary law of torts.

Contributions will also be welcome from international agencies and NGOs, based on the principle of social justice.

Timor-Leste is obliged by the Constitution to "ensure special protection to the war-disabled, orphans, and other dependents who dedicated their lives to the struggle for independence and national sovereignty, and shall protect all those who participated in the resistance against the foreign occupation." [Section 11, Constitution of RDTL]. In the spirit of reconciliation, the Commission recommends that this undertaking to take care of members of the Resistance is extended to include victims of human rights violations committed by all sides.

If Indonesia is slow to respond, Timor-Leste and the international community should make their contributions while pressing Indonesia to fulfil its responsibilities. Many of the victims cannot afford to wait.

The Commission therefore recommends that the reparations scheme be jointly funded by:

- Fixed allocation (guaranteed by legislation) from the Timor-Leste national budget
- Reparations by the State of Indonesia
- Reparations by Indonesian business companies, including State Owned Enterprises, and other international and multinational corporations and businesses who profited from war and benefited from the occupation
- Reparations from the Permanent Members of the Security Council – China, France, Russia, United Kingdom, United States of America
- Contributions from governments who provided military assistance, including weapons sales and training, to the Indonesian Government during the occupation and business corporations who benefited from the sale of weapons to Indonesia

Contributions from governments, international agencies, foundations and other civil society organisations, including special funds for victims of human rights violations, such as the United Nations Fund for Victims of Torture.

The Commission recommends that a trust fund be established to receive and manage the contributions and that this fund be regularly audited.

12.11 Duration

The Commission recommends that the programme functions for an initial period of 5 years, with the possibility of extension. It is recommended that the scholarship programme for children continues until the last eligible child turns 18 years old, that is, in 2017.

12.12 Methods

Methods for delivery of the reparations programme shall be developed in consultation with victims and victims groups and will include the following:

Support for single mothers and scholarships for their children

The programme will provide single mothers, including victims of sexual violence and war widows, with a scholarship for their school-aged children until they turn 18 years old. The package will include funds for school fees and other costs and will be administered by government agencies and/or NGOs at district level. Single mothers will be expected to travel to a service delivery organisation once a month to receive the funds, and at the same time have access to other services, such as counselling, peer support, livelihood skills training, and access to micro-credit for livelihood activities. The monthly activity will also serve as a focal-point for accessing other essential services, such as healthcare.

Support for the disabled, widows, and survivors of sexual violence and torture

The programme will provide 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. The delivery of these services will be conducted by government agencies, specialised NGOs and community-based NGOs.

Support for severely affected communities

The programme will provide support to severely affected communities who make a collective application for reparations. Applications will be required to include an account of how the community was affected by the conflict and, in general terms, the violations experienced, a concrete project to alleviate the harm suffered, and a list of beneficiaries who will be involved in the activities. This programme can also be used by government agencies and/or NGOs for activities such as healing workshops and other restorative work, including creative therapy and activities such as theatre, graphic arts, music and prayer. A gender-balance of beneficiaries is a criteria for eligibility.

Memorialisation

The programme will promote national memorialisation in consultation with victims and other stakeholders including the government. The programme of memorialisation should be guided by, but not limited to, atrocities described in this Report and include commemoration ceremonies, dates, monuments, and other initiatives to honour and remember victims of human rights violations in local communities and at the national level. Memorialisation will also include the development of educational materials on Timor-Leste's historic struggle to uphold human rights, the development of popular literature, music and art for remembrance, and – as recommended elsewhere in this Report – an education programme to promote a culture of non-violent resolution of conflict.

Commitment to non-recurrence of violence

As part of a national commitment to non-repetition of violence, a special education programme to mitigate the impact of 25 years of violence will be conducted together with relevant government agencies and civil society. Acknowledging the cycle of violence which continues to permeate East Timorese society, at the workplace and in our homes, the national reparations programme shall develop an education campaign to increase public awareness of the link between past abuses and current violent behaviour. The aim of this education programme is to facilitate a change in the practice of using violence as a means to mediate conflict, at all levels of life. In order to honour victims of mass violence, we must make a clear commitment to transform this legacy from the past.

12.13 Implementing body

The Commission recommends that an implementing body for the national reparations programme be established that will function for the duration of the programme. Its task will be to implement and coordinate the National Reparations Programme in cooperation with a range of relevant partners. These will include service delivery government agencies, such as the Ministry of Labour and Reinsertion, Ministry of Health, Ministry of Education, and service delivery NGOs and church-based organisations working at national and district levels.

The implementing body will engage grassroots “social workers” or facilitators at the district level, who will receive some training and transportation support. These district workers will help connect victims to services needed.

The implementing body will develop and support innovative programmes, together with NGOs, to assist victims, victims groups, and communities, to address needs and issues in a sustainable and empowering way.

The implementing body shall establish an advisory board which includes representatives of victims and victims groups, and organisations and individuals with high-standing in the community for protecting the rights of victims, as a permanent consultative body in the development and delivery of its programme.

13. Follow-on institution to the CAVR

The Commission has made a certain contribution to the nation building process of Timor-Leste in the early years of transition in our new democracy. This transition will be an ongoing and long process. It is the Commission's view, based on three years of dialogue with local communities, that many aspects of its work should be followed up as part of the national effort to build a society based on acknowledging the truth of the past, non-violence, reconciliation and reparations. The work of recording, preserving and sharing the truth of our history, of continuing the promotion of lasting reconciliation, and of creating a society based on human rights and the rule of law can all be enhanced by the establishment of an institution to carry on aspects of the Commission's work.

The Commission recommends that:

- 13.1 The National Parliament supports the recommendations in this Report, takes primary responsibility for overseeing and monitoring their implementation and delegates this task to an appropriate Parliamentary Committee.
- 13.2 The National Parliament mandates an appropriate organisation to conduct a national consultation under the auspices of the President on the role, terms of reference and feasibility of a follow-on institution and, based on these findings, to make a recommendation for consideration by the National Parliament. Issues to be considered should include:
 - the implementation of the Recommendations in this Report
 - the need for further reconciliation in Timor-Leste
 - the preservation of the ex-Balide Comarca as a heritage site and its use as a national memorial centre for victims and human rights
 - the preservation and use of the CAVR archives
 - the legal status of the institution.

Abbreviations and acronyms

ABRI	Angkatan Bersenjata Republik Indonesia	Armed Forces of the Republic of Indonesia (called TNI after restructure 1 April 1999)
Apodeti	Associação Popular Democratica Timorese	Timorese Popular Democratic Association
ASDT	Associação Sosial Democratica Timorese	Timorese Social Democratic Association
Asosiasi HAK	Yayasan Hukum, Hak, Asasi dan Keadilan	Foundation of Law, Human Rights and Justice
CEDAW		Convention on the Elimination of all forms of Discrimination Against Women
CNRT	Conselho Nacional de Resistência Timorese	National Council of Timorese Resistance
CPLP	Comunidade dos Países de Língua Portuguesa	Community of Portuguese Language Countries
CRC		Convention on the Rights of the Child
Fokupers	Forum Komunikasi Untuk Perempuan Lorosa'e	Communication Forum for Lorosa'e Women
Fretilin	Frente Revolucionaria de Timor-Leste Independente	Revolutionary Front of Independent Timor-Leste
GPK	Gerakan Pengacau Keamanan	Security Disturber Movement (Indonesian term for Fretilin/ Falintil etc.)
Hansip	Pertahanan Sipil	Civil Defense (Force)
ICESCR		International Covenant on Economic, Social and Cultural Rights
ICRC		International Committee of the Red Cross
KKP-HAM	Komisi Penyelidik Pelanggaran Hak Asasi Manusia	Commission of Inquiry into Human Rights Violations (in East Timor)
Kodim	Komando Distrik Militer	District Military Command
Komnas HAM	Komisi Nasional Hak Asasi Manusia	Indonesian Commission for Human Rights
Kopassandha	Komando Pasukan Sandhi Yudha	Secret Warfare Command (1971-86)
Kopassus	Komando Pasukan Khusus	Special Forces Command (1986-present)
Koramil	Komando Rayon Militer	Sub-district Military Command
Korem	Komando Resort Militer	Sub-regional Military Command
KOTA	Klibur Oan Timor Aswain	Association of Timorese Warrior Sons
KUHAP	Kitab Undang-undang Hukum Acara Pidana	Criminal Code Procedures
KUHP	Kitab Undang-undang Hukum Pidana	Criminal Code
NGO		Non Governmental Organisation
Pertamina	Perusahaan Pertambangan, Minyak dan Gas Bumi Negara	State Enterprise for Mining, Oil and Gas (Indonesia)
SGI	Satuan Gabungan Intelijen	Joint Intelligence Force (to 1993)
TBO	Tenaga Bantuan Operasi	Operations Assistant - boys and men who were used by ABRI as porters, servants etc
TNI	Tentara Nasional Indonesia	Indonesian National Army
Trabalhista	Partido Trabalhista	Labour Party (Timor)
UDT	União Democratica Timorese	Timorese Democratic Union
UNAMET		United Nations Mission in East Timor (1999)
UNHCR		United Nations High Commissioner for Refugees
UNTAET		UN Transitional Administration in East Timor (1999-2002)

Map of Timor-Leste



Endnotes

- 1 Regulation 2001/10 Section 13.1(a)(iv).
- 2 Regulation 2001/10 Section 3.1(b)
- 3 Regulation 2001/10 Section 13.1(a)(ii)
- 4 Regulation 2001/10 Section 13.1(a)(i)
- 5 Regulation 2001/10 Section 13.1(a)(iii)
- 6 Regulation 2001/10 Section 13.1(a)(iv)
- 7 Regulation 2001/10 Section 13.1(a)(v)
- 8 Regulation 2001/10 Section 13.1(a)(vi)
- 9 Regulation 2001/10 Section 13.1(c)
- 10 Regulation 2001/10 Section 13.1(d)
- 11 Regulation 2001/10 Section 21
- 12 Regulation 2001/10 Section 3.1(e)
- 13 Regulation 2001/10 Section 3.1(g)
- 14 Regulation 2001/10 Section 3.1(h)
- 15 Regulation 2001/10 Section 3.1(f)
- 16 Regulation 2001/10 Section 3.1(i)
- 17 Ruth Hubscher, notes of interviews submitted to the CAVR, June 2004.
- 18 CAVR, interviews conducted during internal assessment of CRP2004.
- 19 United Nations Transitional Administration in East Timor (UNTAET) Regulation 2001/10 on the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor, 13 July 2001.
- 20 As referred to in UNTAET Regulation 2001/10, Section 1(g).
- 21 Community elder, Speech given at CRP hearing in Maliana, Bobonaro District, November 2003
- 22 JSMP, Kent, 2004, interview.
- 23 CAVR, Key Recommendations from CAVR Workshop, Resolving the Past to Embrace the Future, Dili, 7 July 2004.
- 24 Florentina Gama, after giving testimony at a district-hearing in Balibo, Bobonaro, 2003.
- 25 Refugee from Baucau during a meeting.
- 26 See most recently Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice [henceforth: ICJ], 2004, paragraph [henceforth: para] 155.
- 27 These include Security Council [SC] Resolution 384, 22 December 1975; SC Resolution 389, 22 April 1976; General Assembly [GA] Resolution 3485 (XXX), 12 December 1975; GA Resolution 31/53, 1 December 1976; GA Resolution 32/34, 28 November 1977; GA Resolution 33/39, 13 December 1978; GA Resolution 34/40, 21 November 1979; GA Resolution 35/27, 11 November 1980; GA Resolution 36/50, 24 November 1981; GA Resolution 37/30, 23 November 1982.
- 28 Common article 1(2) of the International Covenant on Civil and Political Rights [henceforth: ICCPR] and Article 1(2) of the International Covenant on Economic, Social and Cultural Rights [henceforth: ICESCR], GA Resolution 1514 (XV), 14 December 1960, para 2.
- 29 Document 391, Jakarta, 23 December 1975, in Wendy Way (Ed.), *Australia and the Indonesian Incorporation of Portuguese Timor 1974-76*, Department of Foreign Affairs and Trade Documents on Australian Foreign Policy Melbourne University Press, Victoria, 2000, [henceforth: Wendy Way, (Ed.), DFAT], p. 650.
- 30 Interview with Carlos Vicente, Darulete, 8 March 2004
- 31 CAVR interview with Anacleto Ximenes, Cairui, Manatuto, 12 March 2004.

- 32 CAVR Interview with Cosme Freitas, Vemasse, Baucau, 10 April 2003. kd should be an Endnote
- 33 Communication, 21 August 1979. John Waddingham, “Notes on ‘counter-insurgency’ in East Timor: The Indonesian government’s resettlement program”, in Senate Standing Committee on Foreign Affairs and Defence [Reference: East Timor – Human Rights and Condition of the People, Commonwealth of Australia, Canberra, 1982, pp. 715-748].
- 34 Robinson, East Timor 1999 – Crimes against Humanity, Report commissioned by the United Nations Office of the High Commissioner for Human Rights (OHCHR), July 2003, Submission to CAVR, April 2004.
- 35 HRVD Statement 2874.
- 36 CAVR interview with a 50 year old former ABRI soldier in Same, 13 August 2004.
- 37 UNTAET Regulation 2001/10, Sections 3 and 1(c).
- 38 CAVR interview with Francisco Branco, Dili, 1 August 2004.
- 39 CAVR Interview with HG, Chai (Tsai), Lore I (Lospalos, Lautém), 10 July 2003.
- 40 CAVR Interview with OL, Lifau (Laleia, Manatuto), 19 March 2003.
- 41 CAVR, interview with João Rui, Dili, 5 May 2004
- 42 CAVR Interview with a victim of sexual slavery in Uatu-Lari, Viqueque, 18 September 2003.
- 43 RDTL Constitution, Section 11, 2002.
- 44 HRVD Statement 06400.