

**REFERENCES TO THE WORD:
PARTICIPATION**

Reports of the Truth and Reconciliation Commission of
Indonesia and Timor-Leste

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Researcher Notes on the Reports:

Indonesia -Timor-Leste: Final Report of the Commission of Truth and Friendship (CTF)

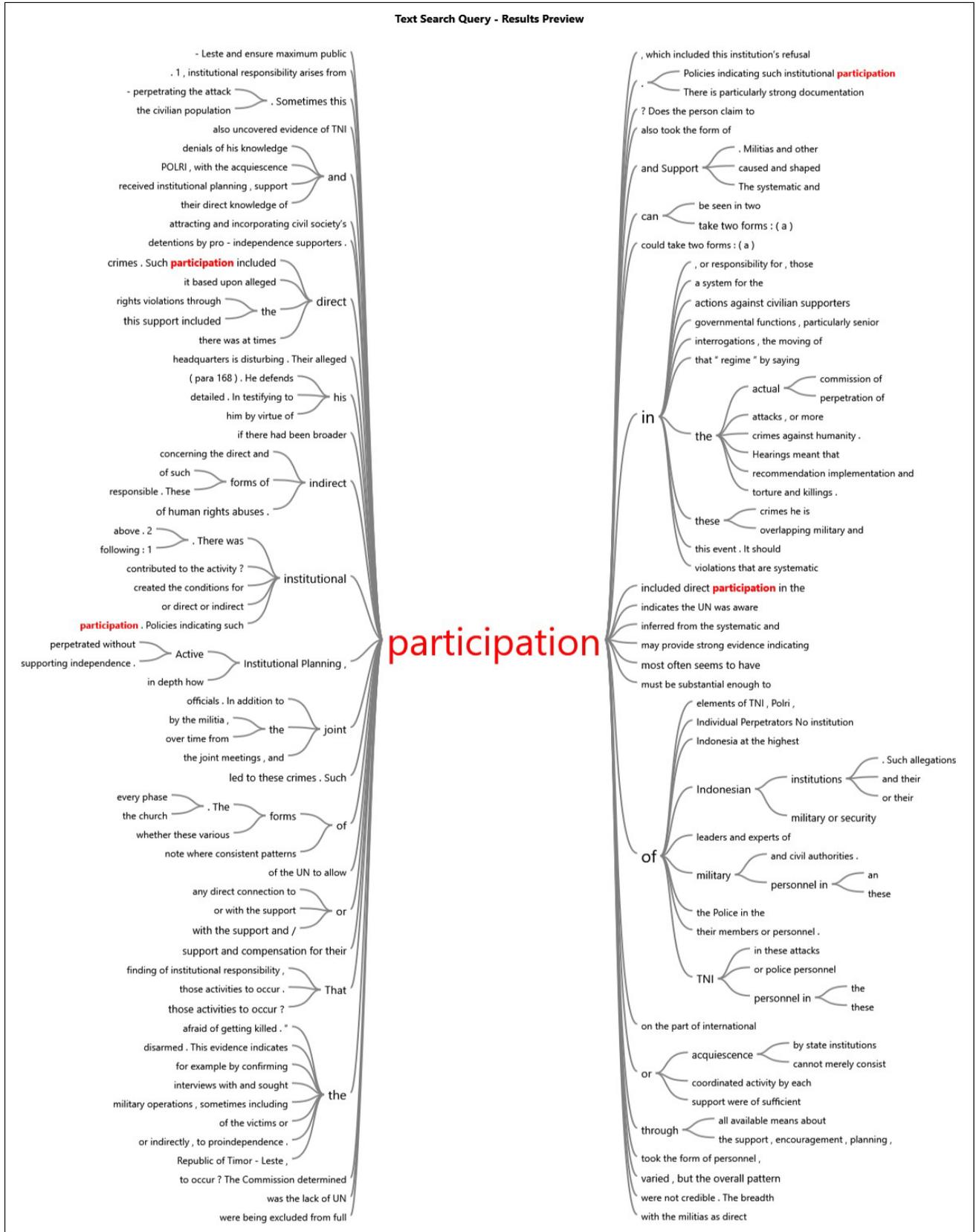
Details:

- Published in 2008 with 357 pages.
- The report is divided into three parts:
 - Part I : Purpose, Mandate and Process
 - Part II : Findings and Analysis
 - Part III : Conclusions, Recommendations and Further Steps
- The report has comparative “Analysis of the Results of the Document Review and a Fact Finding” Section in Chapter Seven.

Timor-Leste: The Final Report of the Commission for Reception, Truth and Reconciliation (CAVR) Chega! Details:

- Published in 2013.
- Pdf has 3216 pages with Five Volumes.
- Volume I is pages between 1 and 624.
- Volume II is pages between 625 and 1408.
- Volume III is pages between 1409 and 2312.
- Volume IV is pages between 2313 and 2698.
- Volume V is pages between 2699 and 3216.

References to Participation in Indonesia – Timor-Leste Report Tree Map



Name: References to Participation in Indonesia - TimorLeste Report

<Files\Indonesia-TimorLeste.CTF_Report-FULL> - § 56 references coded [1.86% Coverage]

Reference 1 - 0.04% Coverage

In analyzing the extent to which Indonesian institutions also met the criteria for institutional responsibility, the Commission concluded that the evidence was sufficiently clear and abundant to justify such conclusions. More specifically, the Commission found that TNI personnel, police, and civilian authorities consistently and systematically cooperated with and supported the militias in a number of significant ways that contributed to the perpetration of the crimes enumerated above. The evidence also demonstrated that TNI personnel sometimes directly participated in the operations that led to these crimes. Such participation included direct participation in the actual commission of the crimes by members of TNI units and the direction of militia operations by TNI officers who were present when the crimes were committed.

Reference 2 - 0.01% Coverage

responsibility for those gross human rights violations that were committed by these militias with the support and/or participation of Indonesian institutions and their members.

Reference 3 - 0.03% Coverage

to criteria including the following:

1. There was institutional participation inferred from the systematic and organized character of the operations resulting in gross violations of human rights that were carried out by its members, or individuals or groups acting jointly with them or under their control. The terms "organized" and "systematic" in this case refer to the definitions articulated above.
2. There was institutional participation through the support, encouragement, planning, organization, or direction provided to the perpetrators of gross human rights violations even though those perpetrators may not have been members of the institutions responsible. These forms of indirect participation must be substantial enough to justify a finding of institutional responsibility. Factors to be

Reference 4 - 0.01% Coverage

considered include the scope, degree, duration, consistency, and openness of such forms of indirect participation. Policies indicating such institutional participation may provide strong evidence indicating institutional responsibility and such policies may be inferred from the factual circumstances as described above.

Reference 5 - 0.02% Coverage

2. At the operational level, does the coordinated pattern of activity indicate which institutions took part in or contributed to the activity? Institutional participation can be seen in two forms, namely (a) the members of the institution participated directly or indirectly in the crimes; (b) the institution provides regular and substantial support in terms of organization, resources, guidance, training or planning to the perpetrator of the crime.

Reference 6 - 0.03% Coverage

by security, or military, interests.

security forces, during the final Governor's administration.¹⁶ When opportunities emerged again for the lessening of the military presence and the open expression of political dissent in 1999, government structures and processes had not sufficiently changed to prevent violence. An additional source of tension was the perception by some Timorese that they were being excluded from full participation in governmental functions, particularly senior positions in the civilian government. By the end of 1998 and during 1999, the public service was politicized in such a way over the issue of self-determination.

Reference 7 - 0.02% Coverage

2. Do those patterns of coordinated activity reveal which institutions participated in enabling those activities to occur? That participation can take two forms: (a) institutions whose members or personnel participated directly in perpetration of these crimes; (b) institutions that provided regular and substantial support, organization, resources, direction, training, or planning for the perpetrators of these crimes.

Reference 8 - 0.04% Coverage

Analysis of the Dossiers reveals both strengths and weaknesses. On the one hand the Dossiers assemble a substantial amount of evidence that supports their conclusion that gross human rights violations in the form of crimes against humanity occurred. There is also considerable evidence to suggest institutional involvement, for example through the provision of material support in the form of financial and logistical assistance, arms and munitions, transportation, etc. Other evidence suggests that at the operational level there was at times direct participation of TNI or police personnel in operations conducted by militia against presumed pro-independence supporters, at times acquiescence through tacit approval or through a failure to prevent or punish.³¹ As will be seen, however, lack of understanding of the elements of the relevant offenses and doctrines led to much of this evidence not being used in the way it could have if the legal framework of the charges had been more coherently articulated.

Reference 9 - 0.05% Coverage

The problem of the probative quality of in-court testimony was also undermined by another factor. While many of the prosecution witnesses from the TNI gave only very general testimony in favor of the defendant (for example, the unsupported opinion that they had always done their duty to protect civilians rather than specific factual instances of how they had done so), some of them had at the pre-trial stage provided investigators with important information that would tend to prove the guilt of the accused, for example by confirming the participation of military personnel in an attack and the presence of the accused. Without exception all of these witnesses changed their testimony at trial and completely contradicted their previous sworn statements to investigators. In their new testimony, they provided testimony that attempted to demonstrate the innocence and integrity of the accused. For example, Jehezkiel Berek and Sonik Iskandar, who testified for Herman Sedyono, et. al. case, and Damianus Dava, who testified for Asep Kuswani, gave these kinds of statements.⁴³

Reference 10 - 0.03% Coverage

General Adam Damiri, who operated at the Udayana level, was not accused of any direct connection to or participation in the crimes against humanity. He was charged on the basis of his failure to prevent or punish his subordinates for their alleged roles in these crimes. While there are many issues that can be raised about the treatment of command responsibility in this case we will focus only on examples of those most immediately relevant for institutional responsibility.⁴⁸ The Court appears to have based its conviction of Damiri on at least two grounds. First, the Court finds:
"that it has been proven

Reference 11 - 0.05% Coverage

The CAVR Report documents rape in connection with targeting of women related to pro-independence supporters. However, the references to victims' or witnesses' statements are often so abbreviated that they often do not provide sufficient information about the incident. Because the Document Review was not granted access to the original statements it was impossible to ascertain if those statements contained details not included in the summary references, for example about the targeting of the victims or the participation of elements of TNI, Polri, or Kopassus. The accounts of gender-based violence reflect a horrific degree of suffering on the part of the victims and reflect the relation of sexual violence to other forms of coercion in the context of political and armed conflict. However, the nature of the CAVR process results in a report where the broad conclusions about the responsibility for sexual violence are based upon the statements of victims, without the verification that an extensive and systematic investigative check on their accuracy would produce.

Reference 12 - 0.01% Coverage

were afraid of getting killed."

The participation of TNI personnel in these attacks was also described by many other witnesses. Some of them explained that they had fled to the church because of such attacks. Witness EE continued:

Reference 13 - 0.01% Coverage

- The TNI in Lolotoe under the command of Lt. Bambang Indra provided the militias with logistical support and compensation for their participation in actions against civilian supporters of independence.

Reference 14 - 0.05% Coverage

These conclusions are supported by the specific admissions of Jhoni França. No evidence was introduced in court to the contrary because of the guilty plea. In terms of institutional responsibility, the uncontroverted evidence points to the close integration and coordination of TNI and militia activities at the local operational level in Lolotoe. The use of the Koramil as a detention facility for individuals forcibly removed from their homes by the militia, the joint participation in interrogations, the moving of individuals back and forth from militia to TNI habitations, and the presence of TNI officers and personnel during operations and other activities was clearly indicated by the evidence given both by witnesses and by the accused themselves. In addition, the admissions of guilt made by the accused suggest an overall control by the TNI of the operations and membership of this militia group. While that contention may have been made in part to shift responsibility away from the Accused, it is nonetheless corroborated by the other evidence presented in the case, as well as by evidence presented in the other Lolotoe cases as well.

Reference 15 - 0.01% Coverage

- The TNI in Lolotoe under the command of Lt. Bambang Indra provided the militias with logistical support and compensation for their participation in actions against civilian supporters of independence. (para 93)

Reference 16 - 0.03% Coverage

part of his admission of

guilt. It undoubtedly aims to shift some of the responsibility away from him, but it is nonetheless instructive in terms of the way it portrays the cooperation of Indonesian civilian and military authorities with pro-autonomy militias. Sabino Leite notes that he was the lowest level public servant. As such, he says, he was ultimately subject to the authority of the TNI and militia, because "at that time all the rights and civil authority were taken over by TNI and militia under their regime" (para 168). He defends his participation in that "regime" by saying that he would have placed himself and family at risk if he did not "obey the orders of TNI and militia" (para 168). He states that his authority was merely symbolic:

Reference 17 - 0.02% Coverage

- It has been established beyond a reasonable doubt that there was a systematic attack against the civilian population in Lolotoe sub-district. These attacks were part of an orchestrated campaign of violence that included intimidation and threats to life, unlawful confinement, rape, torture, assaults, murders, and forced displacement. These were carried out by members of the militias, the TNI, and POLRI, with the acquiescence and participation of military and civil authorities. (paras 314-327)

Reference 18 - 0.05% Coverage

The Court itself directed its verdicts against the ten accused as individuals. As in the Lolotoe Case, however, numerous factual findings bear upon the issue of institutional responsibility. The admissions and statements by the accused themselves repeatedly pointed to the close relationship of Team Alfa and Kopassus. These admissions are corroborated by a great deal of uncontradicted testimony by significant numbers of both defense and prosecution witnesses. The context of the murder of Evaristo is particularly clear in this regard in indicating that Team Alfa functioned under the direction and orders of Kopassus in targeting civilians thought to be independence supporters for torture and death. The shared headquarters of the Kopassus and Team Alfa also points to this inference, as do the joint meetings, and joint participation in the torture and killings. The evidence and findings as to Kopassus equipping Team Alfa with weapons, transportation, operational directives, and so on, also supports these findings indicating institutional responsibility.

Reference 19 - 0.04% Coverage

9. All of the documents make findings that indicate significant and consistent support of Indonesian military and civilian institutions for the operations conducted by these militias. Some of these findings were directed to general support for the militia organizations, others for specific operations and criminal acts which they carried out. They also made findings that in some instances this support included the direct participation of Indonesian military or security personnel to support militia operations or in the form of joint TNI/militia operations. The major exception here is some of the decisions of the Ad Hoc Human Rights Court. Some of the judgments in the twelve cases make such findings and reach conclusions indicating institutional responsibility but others do not. The reasons for these differences were discussed above.

Reference 20 - 0.05% Coverage

The failure of the UN to cooperate in allowing its personnel who wished to testify to do so had two very important consequences. First, it meant that an important perspective and source of information on the violence in East Timor in 1999 was absent. The Commission's aim in conducting Hearings and Fact Finding was to hear as many perspectives as possible and to acquire the fullest range of information about and interpretations of the 1999 violence in East Timor. For this reason the Commission placed a very high priority on ensuring that it could fully inform itself as to the experiences and perspectives of UN personnel who observed or participated in key events related to both the violence and its context. The failure of the UN to allow participation in the Hearings meant that the Commission was deprived of this opportunity that might have assisted it in reaching its findings and conclusions. While the factual information available to the Commission from all of its other sources is more than sufficient to base its findings as to the conclusive truth, it would have nonetheless welcomed the opportunity to hear the perspectives of these international observers.

Reference 21 - 0.05% Coverage

gathered in the Public Hearings.

The result of this manner of proceeding had strengths as well as limitations. Its principal strength was that it provided a public forum where a wide variety of different parties could air their views and present their interpretations of the events of 1999. This is vital to a process that aims at reconciliation and friendship, for if certain parties feel that they have not participated and their perspective has not been heard, then they are unlikely to accept the results. A further strength of the manner of organization of the Public Hearings was that by permitting all the Commissioners to ask whatever questions they chose to, it enabled the publics of the two countries to see that many different analytical perspectives were being brought to bear upon the fact-finding process. This is important in assuring various public constituencies that their points of view or concerns were reflected in the Commission's deliberations. In short, the main strength of the public hearings as conducted had to do with their inclusiveness. This strength would have been furthered even more if there had been broader participation on the part of international parties and particularly the UN.

Reference 22 - 0.02% Coverage

As part of its mandate of establishing the conclusive truth as to gross human rights violations and institutional responsibility the Commission was also tasked with revealing the nature and causes of the violence so that recommendations might be adopted to ensure that it does not occur again. In order to carry out this task it is necessary to analyze the evidence bearing upon the context in which gross human rights violations occurred and the context which created the conditions for institutional participation in, or responsibility for, those violations.

Reference 23 - 0.02% Coverage

The Commission determined participation could take two forms: (a) institutions whose members or personnel participated directly in the perpetration or coperpetration of these crimes, or (b) institutions that provided regular and/or substantial support, organization, resources, direction, training, or planning for the perpetrators of these crimes. For a detailed explanation and description of the entire analytical process used in answering these two main questions relevant to institutional responsibility, see Chapter 5.

Reference 24 - 0.02% Coverage

evidentiary value in establishing facts.

- If the statement purports to report facts, does it disclose the source of the factual content? Is it based upon alleged direct participation? Does the person claim to have been an eyewitness? Factual statements that do not clearly indicate the source of the information and the relation of the person testifying to the event must be treated with great caution.

Reference 25 - 0.06% Coverage

Pamswakarsa was another mechanism for indirectly receiving funding to support the operations of the militias. For example, Domingus Soares explained to the Commission that Pamswakarsa members were given incentives on a "humanitarian" basis. Eurico Gutarres also stated that all members of Pamswakarsa received incentives of Rp. 150,000 payable directly by their leaders appointed by a Bupati's Decree. In addition, he said the Pamswakarsa members also regularly received between 5 and 10 kg of rice via this funding. Mateus Maía testified to the Commission that Pamswakarsa members were given incentives of Rp.150,000 per month.⁶¹ When he was asked if it was true this money was derived from the East Timor Regional Budget, and if the allocation had been agreed to by the DPRD, Maía affirmed that this was correct.⁶² Mateus Maía said he never distributed rice to members of Pamswakarsa, but he said it was true that at the time rice was being distributed to village heads to anticipate food supply shortages in East Timor. There are minor discrepancies here about the exact amounts and types of assistance, but all of these individuals testified of their direct knowledge of and participation in a system for the distribution of governmental resources to Pamswakarsa.

Reference 26 - 0.02% Coverage

2. Do those patterns of coordinated activity reveal which institutions participated in enabling those activities to occur? That participation can take two forms: (a) institutions whose members or personnel participated directly in perpetration of these crimes; (b) institutions that provided regular and substantial support, organization, resources, direction, training, or planning for the perpetrators of these crimes?

Reference 27 - 0.03% Coverage

The analysis of the widespread and systematic elements considered the factors of patterns, coordination, and geographical and temporal distribution. There is no need to repeat the discussion of that evidence here. The core of this analysis is to note where consistent patterns of participation or coordinated activity by each institution have been observed. If there is only evidence to show institutional involvement in a few incidents, but not consistently over time and in different areas, then there may not be sufficient evidence to establish institutional responsibility. Therefore, this section will only highlight the areas where evidence of institutional responsibility was significant and sustained across the different forms of testimony received.

Reference 28 - 0.04% Coverage

The military, as well as the Police and the Civilian government, are also implicated in a number of testimonies as indirectly participating in enabling the commission of human rights abuses. Indirect participation most often seems to have taken the form of providing various kinds of support to militia groups. In addition to

the testimony analyzed above about funding, the supply of equipment, and joint or coordinated TNI activities with the militia, there are also indications that the military, police, and also the civilian government could be responsible for encouraging, facilitating, or indirectly supporting the pro-autonomy militias. These forms of support allegedly occurred through the structural vehicle of the Muspida and also emerged in the testimonies explaining military, police and civilian official's presence in various mass rallies held by PPI,118 including the mass rally held by Aitarak in April 1999 in Dili.

Reference 29 - 0.05% Coverage

In summary, the Commission considered the conflicts between testimony alleging the failure of the TNI to prevent violence and testimony alleging various ways in which institutions acted to try to fulfill their obligations to prevent and halt human rights violations. One of the most apparent limitations of the latter kind of evidence is its failure to account for the widespread and systematic commission of crimes in East Timor in 1999 or for credible testimony concerning the direct and indirect participation of military personnel in these crimes. Another is the self-serving nature of these blanket denials of any TNI role in these events. A limitation of the evidence alleging a failure of the TNI and other institutions to prevent gross human rights violations arises from the limitations in the fact finding process itself. That is, the lack of a mechanism for corroborating such allegations or for eliciting the kind of detailed, specific, and factual evidence that could support their credibility and accuracy. Thus, while a good deal of the evidence is credible and suggestive, it is often not sufficient in itself to establish the conclusive truth about the events and institutions in questions.

Reference 30 - 0.06% Coverage

FINDING Summary of Institutional Responsibility

In Chapter 5, the focus of the analysis was determining institutional responsibility through evidence which was compiled mostly about the operational level of institutions' actions. In this present section of the report the Commission examined patterns of operational level evidence, but also conducted interviews with and sought the participation of leaders and experts of each institution to hear their perspectives on institutional responsibility. The purpose in gathering this additional contextual information was to ensure that all parties in the conflict were heard and their perspectives considered in a balanced way. Furthermore, this contextual information regarding institutions' perspectives can assist the Commission in identifying the most effective corrective measures to recommend in order to prevent future human rights violations. Therefore, adding this additional layer of testimony regarding context and institutional responsibility, can be considered one of the procedural strengths of the fact finding process. In its implementation, the Commission could have benefited from more specific information, including documentation of orders or plans provided by witnesses, about preventative and punitive measures taken by their institution throughout the period of 1999.

Reference 31 - 0.09% Coverage

The report enhances the understanding of patterns of weapons distribution and disbursement, because it shows that militias were in practice sometimes allowed to keep their weapons, even after they had been surrendered. The fact that UN Police were aware of this practice, and participated in the guarding of these weapons at the militia headquarters is disturbing. Their alleged participation indicates the UN was aware that disarmament was occurring, but was ineffective. Since there is documented proof that Aitarak committed human rights violations leaving from their headquarters with weapons in the post-ballot period, this report also means that UNAMET Police advisors were either not willing, or not able to prevent Aitarak's use of these weapons.

Other documents provide further evidence of the way in which Aitarak obtained and used their weapons. In a letter dated 26 May 1999, Eurico Gutteres requested the release from official duties of 37 policemen and civil servants to assist Aitarak in its organizational efforts.²² He attached to this request a list of these individuals, including name, office and personal identification number. The letter is copied to the governor, Danrem, head of Parliament and the Head of the Police. The significant element of this letter is that it indicates Police could be expected to participate in Aitarak's pro-autonomy activities, despite the international agreement that required their neutrality. Furthermore, it makes preventative efforts, such as having police guard the weapons at the Aitarak headquarters above, meaningless. If members of the Police are members of Aitarak, and Police are given the immediate control of the weapons, then the overlap in membership means the militias were not effectively disarmed. This evidence indicates the participation of the Police in the activities of Aitarak and the telegram indicates the knowledge of Police that disarmament has been ineffective.

Reference 32 - 0.06% Coverage

Targeting of Pro-Independence Supporters

The previous two sections have described systematic patterns of support by Indonesian institutions for militias engaged in violence against civilians associated with the pro-independence cause. This section focuses upon the systematic and organized manner in which militias targeted civilians and perpetrated gross human rights violations against them. It also provides examples of the way in which Indonesian institutions were linked to or involved in the perpetration of such crimes. The Document Review provided many detailed and credible examples of patterns of such gross human rights violations and others were described by witnesses who testified in the Fact Finding process. Other individuals who appeared before the Commission alleged that violence against civilians was spontaneous and not carried out in a planned or systematic manner, or with the support or participation of Indonesian institutions. Such allegations were typically general in nature rather than specific and based upon direct knowledge as an eyewitness to the events. This section and the following one provide some examples of the kind of evidence relied on by the Commission to support findings on the systematic patterns by which independence supporters, perceived or actual, were targeted.⁷²

Reference 33 - 0.06% Coverage

From this series of questions it can be ascertained that the victim perceived his political identity was shared with the other victims, and that political identity was the cause of his attack. His testimony is an eye witness account and the fact that he was an eyewitness is credible, especially in light of the injuries he received. His testimony is consistent and provides details that would have been known by him by virtue of his participation in this event. It should be noted that although these aspects of his testimony are fairly strong, there are limitations in regard to his ability to clearly identify all the victims in terms of their political identity. Further, more information is necessary to conclusively show that the perpetrators also perceived that they were targeting victims based on political ideology. Because the public hearings process did not allow for multiple and sustained question and answer sessions, and they only heard from one victim witness in this case, the Commission heard no other witnesses that could corroborate this testimony. Baquin is nonetheless a credible witness and his testimony should be accorded considerable weight. It was also not contradicted by any other witness appearing before the Commission who had personal knowledge of the killings.

Reference 34 - 0.01% Coverage

The statement of Witness I, on the other hand, is coherent and detailed. In testifying to his participation in these crimes he is also testifying against interest. His testimony highlights some of the most significant “systematic” elements of the events of 8 September.

Reference 35 - 0.04% Coverage

A comparison of the testimony from the SCU and from the Commission’s hearings indicates the following. First, there is considerable consistency in these different SCU witness accounts from participants in the attack and the testimony of the victimwitness, Baquin, as to the chronology of events and the manner in which the attack and the subsequent killings were carried out. The SCU statements also corroborate Baquin’s belief that pro-independence supporters were targeted. Second, the SCU’s method of investigation allowed for cross-checking, corroboration, repeated questions when necessary, and analysis of various accounts of the same events. The testimony obtained through these methods can be used to evaluate the statements of Baquin and Lopes. Such a comparative evaluation supports the credibility and accuracy of Baquin’s testimony and suggests that Lopes’ denials of his knowledge and participation were not credible.

Reference 36 - 0.01% Coverage

directly or indirectly, to proindependence.

The participation of TNI in these attacks was also described by many other witnesses. Some of them explained that they had fled to the church because of such attacks. Witness EE continued:

Reference 37 - 0.03% Coverage

Investigations by KPP HAM also uncovered evidence of TNI participation in the attacks, or more specifically, the destruction of the evidence related to the attacks. These investigations involved the excavation of mass graves in Alas Village, Kobalima District, Belu District, East Nusa Tenggara. A TNI member reportedly revealed in an interview with KPP HAM investigators that one day after the attack, he, as Danramil of Suai, brought 27 corpses with a Panther, a Kijang and a mini bus (mikrolet) to bury them at the aforementioned site. These details were allegedly admitted by him to the KPP HAM investigators without providing any justification or plausible explanation.¹⁰⁰

Reference 38 - 0.06% Coverage

This pattern of coordinated activity required planning, a high-degree of organization, and considerable logistical support. The witnesses’ testimony makes clear that TNI and Police personnel were involved in virtually every phase. Sometimes this involvement took the form of direct co-perpetration, for example in attacks on villages or acts of sexual violence. In other cases the involvement took other forms, such as standing guard outside the door while women were raped by militia. The Indonesian authorities provided the detention facilities, including public and military facilities. The civilian authority was also involved, as many witnesses described the Suai Bupati as playing a key role in the detention process after the attack on the church. The forms of participation varied, but the overall pattern was one of support and cooperation produced by the same long-established close institutional connections described above between Indonesian institutions and Timorese proautonomy groups at the operational level. The strong evidence of these patterns of institutional organization and cooperation make clear that violence such as that occurring at Suai was not random, not spontaneous, and not simply the product of retaliatory dynamics. Rather, this evidence supports findings of sustained and coordinated institutional activity at a level sufficient to justify findings of institutional responsibility for the crimes described above.

Reference 39 - 0.03% Coverage

All but one of the documents make findings that indicate significant and consistent support of Indonesian military and civilian institutions for the operations conducted by militias, including operations that targeted civilians and involved the perpetration of gross human rights violations. In some instances this support included the direct participation of Indonesian military or security personnel to support militia operations or in the form of joint TNI/militia operations. The major exception here is some of the decisions of the Ad Hoc Human Rights Court. Some of the judgments in the 12 cases make such findings and reach conclusions indicating institutional responsibility but others do not. The reasons for these differences were discussed above.

Reference 40 - 0.02% Coverage

A significant limitation of the hearing process was the lack of UN participation, which included this institution's refusal to allow its personnel to testify, despite repeated invitations by the Commission to do so in either their individual or official capacity. This meant that an important perspective and potential source of information on the violence in East Timor in 1999 was absent. It also meant that the

Reference 41 - 0.02% Coverage

In addition to Indonesian military personnel, members of the Police and the civilian government indirectly participated in enabling the commission of human rights abuses. Indirect participation most often seems to have taken the form of providing support to militia groups, such as funding, the supply of equipment, and joint or coordinated TNI activities with the militia.

Reference 42 - 0.04% Coverage

- This close cooperation was facilitated by the clear overlap between military, paramilitary and militia leadership structures and membership. Historically, the pattern of this cooperation and overlap arose from the way in which the TNI organized armed civilian defense groups in East Timor prior to 1999. Thus, the systematic and institutionalized organization of the provision of weapons and of the organization and operational integration of militia and TNI activities may be traced back to the Sishankamrata system, and its variations, elaborated in Chapter 4 above. Such cooperation may have been enhanced by the personal and psychological connections that developed over time from the joint participation in these overlapping military and paramilitary formations in furtherance of shared political objectives.

Reference 43 - 0.03% Coverage

- While the primary perpetrators of this violence were typically pro-autonomy militias, they often can be shown to have operated with the support, assistance, and sometimes direction and co-perpetration by members of the Indonesian police, military, and civilian government. TNI personnel participated directly in various operations and attacks directed against the civilian population. Sometimes this participation took the form of personnel, who might also be members of the militia or paramilitary groups involved, simply co-perpetrating the attack. Sometimes this participation also took the form of active planning or direction of the operation by TNI officers who were in command at the local level.

Reference 44 - 0.04% Coverage

clear that TNI and Police personnel were sometimes involved in virtually every phase. The forms of participation varied, but the overall pattern was one of support and cooperation produced by the same long-established close institutional connections described above between Indonesian institutions and Timorese pro-autonomy groups at the operational level. The strong evidence of these patterns of institutional organization and cooperation make clear that violence, such as that occurring at Suai or Passabe, was not random, not spontaneous, and not simply the product of retaliatory dynamics. Rather, as seen above, this evidence supports findings of sustained and coordinated institutional activity at a level sufficient to justify a conclusion of institutional responsibility for these crimes.

Reference 45 - 0.03% Coverage

Active Institutional Planning, Participation and Support

The systematic and widespread nature of the violence in 1999 could not have been perpetrated without active institutional planning, participation and support. Militias and other institutions worked together in support of common political goals that encompassed violent attacks against the civilian population as a means to achieve their aims. Militia groups in East Timor in 1999 acted as well-structured institutions. Militias in East Timor were not completely un-organized, loose affiliations that were responding to provocations spontaneously. Militia leaders and their members capably coordinated and executed specific plans of violence in order to achieve political objectives.

Reference 46 - 0.02% Coverage

Although the evidence is not yet conclusive, it appears that there were also some acts of violence, committed by pro-independence supporters which also received institutional planning, support and participation. There is particularly strong documentation for such acts in the form of illegal detentions by pro-independence supporters.

Participation of Individual Perpetrators

Reference 47 - 0.02% Coverage

Thus, under its mandate, the focus of the Commission's inquiry into the conclusive truth has been to examine in depth how institutional planning, participation and support caused and shaped the conflict in 1999 and its outcomes (see previous point, on active institutional planning). The other causes of conflict listed above should be considered in greater depth in the future by historians and other bodies concerned with identifying factors leading to conflict in East Timor.

Reference 48 - 0.05% Coverage

The pro-autonomy groups perpetrating attacks directed against supporters of independence did not act spontaneously or alone. In many instances they functioned with the guidance and support of government institutions. The commission determined that there were co-perpetrators of gross human rights violations from the military in a number of specific cases, as well as the police and civil service. There were also numerous instances where Indonesian military officers planned, prepared, or directed military operations, sometimes including the participation of TNI personnel in the operation. In some cases they also provided

other forms of material support, such as transportation or the use of local military facilities for illegal detentions or other forms of mistreatment of civilians. There also were numerous instances of shared or overlapping membership at the operational level between militias, the security forces, and civil government officials. In addition to joint participation with the militias as direct perpetrators, organizers, or commanders, the Commission also identified the military and civilian government engaged in the formation and support of the militia groups in a number of ways, including but not limited to:

Reference 49 - 0.08% Coverage

As explained in detail in Chapters 3 and 5-7, as well as in 8.1, institutional responsibility arises from participation or acquiescence by state institutions in criminal or unlawful conduct. In order to support a finding of institutional responsibility, that participation or acquiescence cannot merely consist of isolated or occasional incidents, small in scale and only involving a few members of state institutions. Institutional responsibility arises from the support of, acquiescence in, or direct or indirect institutional participation in violations that are systematic and occur repeatedly over a period of time, in a number of places, and which follow regular and organized patterns of perpetration. Under such circumstances these institutions must accept responsibility for the conduct of their members because the degree of their institutional connection to the perpetration of these violations is so great that it cannot be excused as the isolated actions of a few individuals or "rogue elements." In applying the conceptual framework elaborated in previous chapters the Commission focused on two central questions. The first question asks whether, at the operational level the evidence is sufficient to ground findings of patterns of coordinated activity over time and in multiple locations. The second question focuses on the institutional actors who are connected to these patterns of activity. It asks whether the evidence of those patterns also reveals which institutions participated in enabling those activities to occur. That participation can take two forms: (a) institutions whose members or personnel participated directly in perpetration of these crimes; (b) institutions that provided regular and substantial support, organization, resources, direction, training, or planning for the perpetrators of these crimes.

Reference 50 - 0.04% Coverage

In analyzing the extent to which Indonesian institutions also met the criteria for institutional responsibility, the Commission concluded that the evidence was sufficiently clear and abundant to justify such conclusions. More specifically, the Commission found that TNI personnel, police, and civilian authorities cooperated with and supported the militias in a number of significant ways that contributed to the perpetration of the crimes enumerated above. The evidence also demonstrated that TNI personnel sometimes directly participated in the operations that led to these crimes. Such participation included direct participation in the actual perpetration of the crimes by members of TNI units operating within militias as well as direction of the operations by TNI officers who were present when the crimes were committed.

Reference 51 - 0.02% Coverage

perpetration of these crimes because their members provided regular and substantial support, organization, resources, direction, training, or planning for the perpetrators of these crimes. It then weighed the evidence to assess whether these various forms of participation or support were of sufficient duration or scope to ground conclusions of institutional responsibility.

Reference 52 - 0.01% Coverage

The Commission analyzed all of the evidence from the Document Review and the Fact Finding to determine which institutions were involved in gross human rights violations through the direct participation of their members or personnel. It also examined the evidence to determine which institutions were connected to the

Reference 53 - 0.02% Coverage

In regard to Timorese pro-autonomy militias, because of the Commission's forward looking perspective in formulating its conclusions and the recommendations that are based upon them, the Commission concludes that Indonesia bears state responsibility for those gross human rights violations that were committed by these militias with the support and/or participation of Indonesian institutions or their members.

Reference 54 - 0.05% Coverage

IX : RECOMMENDATIONS AND LESSONS LEARNED

The reason for the constitution of this recommendations implementing body is not to necessarily create a new, or "post-KKP" commission. Rather, the aim of this body is simply to ensure that there is a well-defined system that will be committed, focused and accountable for achieving the goals of these recommendations. Furthermore, many of the recommendations will require highly specialized expertise to enact, such as legal issues regarding assets, or the design of formal reconciliation processes. Special attention must also be paid to attracting and incorporating civil society's participation in the recommendation implementation and monitoring process. If there is not a particular body that is specifically charged with this task of implementing and managing recommendations, as well as monitoring their effectiveness, there is a much lower likelihood that these suggested actions will be taken, and can succeed. The degree to which the peoples of the two nations can mutually benefit from the relationship of friendship will very much depend on whether these recommendations are efficiently and sustainably implemented.

mistakes of the past so

Reference 55 - 0.02% Coverage

4. The democratic transition in Indonesia since 1998 and the international recognition of the independence of Timor-Leste in 2002 have provided the momentum for both countries to strive for those objectives. The prompt recognition of the Democratic Republic of Timor-Leste, the participation of Indonesia at the highest level during the celebration of the 20 May 2002 and the establishment of diplomatic relations signify the spirit of reconciliation and the magnanimity of our peoples.

Reference 56 - 0.01% Coverage

d. Hold public hearings at any place outside of Denpasar, Bali in Indonesia or Timor-Leste and ensure maximum public participation through all available means about the location and date(s) of the public hearings;

Name: References to Participation in TimorLeste CAVR Report

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Reference 1 - 0.01% Coverage

Part 1: Introduction - Chega! | 25

4. It accepted that establishing the truth and accountability for past human rights violations was a necessary step towards achieving justice and restoring the dignity of victims. 5. It understood that reconciliation and healing would be difficult and lengthy processes. They would require the continuing active contribution of families, communities and other organisations engaged in similar work. It therefore aimed to create partnerships rather than to be a stand-alone institution. It would strive to work for reconciliation and to contribute to the continuation of such work beyond its own mandate. 6. It acknowledged the importance of ensuring that women played a major role in the reconciliation process. This entailed that women should be recruited to the Commission and that female community members should be able to participate in its activities. The Commission recognised the existence of practical, cultural and economic barriers to women's participation, which it would strive to overcome. 7. The Commission recognised the rich diversity of East Timorese culture as it is lived and expressed in different communities across the country. It would seek to incorporate the strengths represented by traditional values and practices in its work. 8. The Commission would strive to be accessible to East Timorese people across the country and in Indonesia and to the wider international community. This would require working in the remotest regions of the country and in local languages, as well as in English, Portuguese and Indonesian.

Reference 2 - 0.01% Coverage

56. Regional Commissioners were the representatives of CAVR and the National Commissioners in the districts. Local communities were able to directly relate to Regional Commissioners who were selected to work in their home districts, while at the same time offer support to CAVR teams in neighbouring districts. This assisted significantly in facilitating community participation in the programmes of the Commission.

Reference 3 - 0.01% Coverage

64. The Constitution of Timor-Leste recognises two official languages, Tetum and Portuguese, and two working languages, Indonesian and English. Many other languages and dialects are used across the country. The need to work in many languages was a major challenge for the Commission and in preparing its Final Report. Despite these challenges the Commission sought the greatest degree of participation by encouraging people to use the language they felt most comfortable speaking.

Reference 4 - 0.01% Coverage

122. There was no precedent for the CRP, in Timor-Leste or anywhere else. It drew heavily on traditional justice practices as well as the principles of arbitration and mediation, and aspects of both criminal and civil law. The views expressed during the community consultations conducted by the Steering Committee strongly influenced the design of the programme. This was evident in the decision to include such elements as local spiritual practices, confession and forgiveness, and participation by local leaders. Victims were also offered the opportunity to address perpetrators directly, while perpetrators were obliged to admit and

apologise to victims and their community. Finally the design established a direct formal relationship with the Office of the General Prosecutor and the District Courts of Timor-Leste.

Reference 5 - 0.01% Coverage

174. The Commission took some initiatives to encourage women's participation in its field activities. Following an internal policy requirement, there were women in all district statement-taking teams. Women were also encouraged to provide statements and thereby contribute to the Commission's truth-seeking objective. At the close of field operations only 21.4% of deponents who provided statements were women. Many men came forward to give statements about human rights violations against female family members, but many women testified about what had happened to their fathers, brothers, husbands or sons during the conflict.

Reference 6 - 0.01% Coverage

176. Those who do not comply with these requirements while participating in fighting are not entitled Prisoner of War status if captured,²³⁸ and also forfeit their civilian status as a result of their participation, becoming a legitimate target. They are sometimes referred to as "unlawful" or "unprivileged combatants". They may be tried and punished for their participation in the fighting. However, importantly, although civilians are not permitted to join in the fighting without complying with these requirements, they are always permitted to act in self-defence.

Reference 7 - 0.01% Coverage

81. Political participation in the individualistic Western democratic tradition remained the privilege of the elite groups who developed the parties. The political process following the Carnation Revolution was rapid, and without civic or political education many ordinary East Timorese people made choices about party membership or affiliation based on local allegiance and conformity rather than party principles or policies.⁷³

Reference 8 - 0.01% Coverage

132. On 26–28 June, Antonio de Almeida Santos, Portugal's minister for interterritorial coordination, met UDT and Apodeti members and Indonesian diplomatic observers in Macau. Fretilin objected to the participation of Apodeti and Indonesia, and boycotted the meeting. Fretilin suspected that the meeting was part of a Portuguese strategy to hand Timor-Leste over to Indonesia:

Reference 9 - 0.01% Coverage

interests only to the extent

that it recognised that both Apodeti and Jakarta had standing in the process. The result of the meeting was Decree 7/75, which set out: a structure for a provisional government with participation by all parties; a timetable for elections in 1976; and an end to Portuguese sovereignty in 1978. It also formed a legislative basis that blocked Indonesian efforts to secure integration as a directly agreed outcome of decolonisation. However, in a retreat from the CDT's May recognition of the right to independence, Decree 7/75 only recognised the right to self-determination.

Reference 10 - 0.01% Coverage

149. On 11 August, from their base in Aileu, Fretilin submitted a list of 13 conditions for their participation in negotiations to the Portuguese administration. They included the disarming of UDT and entrusting security to East Timorese soldiers, on the grounds that the police had proved themselves to be unreliable.169

Reference 11 - 0.01% Coverage

paid, but only received some "reward" for their participation. Nor were they well fed. Many died during the arduous march across rugged terrain.506

Reference 12 - 0.01% Coverage

384 | TNI endorsement of the militias 385 | TNI participation in militia activities 385 | The provision of training, weapons and operational support 386 | Joint TNI-militia operations 386 | Provision of financial and material support by the TNI and other agencies

Reference 13 - 0.01% Coverage

18. During the early years of President Soeharto's New Order regime this territorial structure was consolidated and enlarged. ABRI became the core of the regime, and through its territorial structure was able to use a range of methods to ensure its dominance. It institutionalised consultations with high-ranking members of the civil administration and the police called Muspida (Musyawarah Pimpinan Daerah, Regional Leadership Consultation) at provincial and district levels, and Tripika (Tri Pimpinan Kecamatan, Sub-district Leadership Triumvirate) at the sub-district level. In other areas, the New Order presented a largely civilian face to the world. For example, it exhorted the public to pledge allegiance to the state through ensuring public participation in the

Reference 14 - 0.01% Coverage

TNI participation in militia activities
129. The close connection between

Reference 15 - 0.01% Coverage

133. Joint operations commonly involved the presence of TNI troops when militia attacks took place, with the TNI troops in position behind militiamen and firing only in their defence.153 One such militia operation where TNI troops were present was the Liquiçá church massacre in April 1999. The participation of TNI members became less frequent after the arrival of UNAMET in June 1999, though it did continue during the weeks leading up to the ballot, including in such high-profile instances as the attack on the UNAMET office in Maliana (Bobonaro) on 29 June 1999. Widespread joint TNI-militia operations resumed after the 29 August ballot, in September 1999, once international staff had been forced to flee the districts and were either under siege in UNAMET headquarters in Dili or had left the country.154

Reference 16 - 0.01% Coverage

34. Portugal joined the UN in 1955. An amendment in 1951 to the Portuguese Constitution of 1933 abolished the Colonial Act of 1930 and incorporated the colonies as "overseas provinces". The indigenous inhabitants were not consulted about this change in their de jure status. Portugal abstained when the General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960, refused to report to the UN under Chapter XI of the UN Charter, and resisted other UN initiatives including Security Council resolutions in 1963 which criticised it for non-compliance and upheld Portuguese Timor's right to self-determination. The Salazar-Caetano regimes insisted that Portugal was a "pluri-continental" state in which its peoples exercised self-determination through participation in the Portuguese political process. The Portuguese Prime Minister, Dr António de Oliveira Salazar, also believed that the global decolonisation process was being driven by Third World and communist countries intent on the disintegration of Western Europe and that the West was appeasing the majority through the UN.¹⁷

Reference 17 - 0.01% Coverage

156. The two officials focused on promoting East Timorese participation in the negotiations. At their suggestion the Secretary-General obtained permission from Indonesia for a Special Envoy, Amos Wako, then Attorney-General of Kenya, to meet

Reference 18 - 0.01% Coverage

237. To avoid upsetting the Indonesian Government, Ambassador Ford elected to inform officials that he had another engagement that day. When the Indonesian Government sent another invitation requesting his participation in a mission to verify popular support for the integration petition, the British Foreign Secretary, Anthony Crosland, added another reason for ruling out any association with the process:

Reference 19 - 0.01% Coverage

385. The decision to use the system, however, was to prove correct. The issue was kept on the UN agenda, but spared a potentially fatal vote in the General Assembly, and some hope of a diplomatic solution was kept alive until the winds of change finally turned in Timor-Leste's direction in the 1990s. The Resistance kept the focus clearly on the UN and gave increased attention to other UN forums, particularly the annual meetings of the UN Commission on Human Rights in Geneva and the UN Special Committee on Decolonisation in New York, both of which allowed for debate on self-determination. In addition to lobbying and making its own statements, the Resistance encouraged civil society participation to considerable effect (see section on international civil society below, paragraph 429-526).

Reference 20 - 0.01% Coverage

Conference for Asia and the Pacific on Timor-Leste, held in Manila. The conference called for direct East Timorese participation in talks to resolve the conflict.

Reference 21 - 0.01% Coverage

The Right to Self-Determination

advantage. At the fourth AIETD in 1998, José Ramos-Horta, with support from UDT and Fretilin, gained majority Timorese support for direct participation in UN-sponsored talks between Portugal and Indonesia. Jamsheed Marker reported that, at the same time, Western and UN diplomats began to engage in direct consultation with Xanana Gusmão in prison and with other Resistance representatives. Dialogue had finally been conquered.*

Reference 22 - 0.01% Coverage

* In Europe, for example, this included tours by Portugal-based Timorese who campaigned through Europe dancing, singing and displaying the culture of Timor-Leste. Other examples are the participation of East Timorese diaspora women in the World Conference on Women held in Nairobi in 1985, the follow-up conference in Beijing, the UN Commission on Human Rights, Asian church gatherings, and advocacy to the Australian, New Zealand and other governments.

Reference 23 - 0.01% Coverage

470. In November 1987, Christians in Solidarity with East Timor (CISSET) organised the first Asia-Pacific civil society consultation on Timor-Leste. Held in the Philippines, it stressed the need for East Timorese participation in the search for a political settlement. In Canada, following the earlier work of the Canada Asia Working Group and Indonesia East Timor Program, the East Timor Alert Network (ETAN) was set up in 1986 on the initiative of Elaine Brière. It was one of the few organisations to address the responsibility of the private sector towards human rights in Timor-Leste. In 1997 it produced a video, *The Sellout of East Timor*, which included a hard-hitting critique of Canadian business links with Indonesia. Brière's striking photographs of Timor-Leste taken in 1974 were used by organisations in many countries.‡

Reference 24 - 0.01% Coverage

East Timor Committee from Australia.

473. NGOs also increased their input to the UN Commission on Human Rights in Geneva, both its Sub-commission on Minorities and its annual debate on self-determination. This was often thankless as few governments referred to Timor-Leste in their statements or welcomed being approached in the Commission coffee lounge. In addition, civil society advocates had to endure being criticised by the Indonesian Government before the world body for making unfounded claims based on political objectives. Civil society representation varied from year to year. NGOs who spoke up for Timor-Leste at the 1987 session of the Sub-commission on Minorities were Pax Romana, Pax Christi International, National Aboriginal and Islander Legal Service, and Human Rights Advocates. Civil society interventions were often collaborative exercises based on inputs from NGOs in various parts of the world. International NGOs accredited to the UN sometimes sacrificed their speaking rights to allow East Timorese representatives to speak in their name or provided funding. Community Aid Abroad (CAA) and the Australian Council for Overseas Aid (ACFOA) funded José Ramos-Horta's participation in the UN Sub-commission in August 1991. It resulted in a visit to Timor-Leste by the UN Special Rapporteur on Torture that year.

Reference 25 - 0.01% Coverage

Xavier was eventually tried and

sentenced to three years in Kupang Prison.⁷⁰³ Alexio Cobra was detained first to provide a witness statement but was soon also charged and tried for his participation. He was also sentenced to three years in Kupang.⁷⁰⁴ The Portuguese visit was eventually cancelled and no demonstration took place at this point.

Reference 26 - 0.01% Coverage

described how some were released:

They separated us because their investigation revealed that the participation of some was incidental...[They] continued the investigation at night...Then they separated us from the other detainees [around 70]. They released [most of] the detainees after the investigation proved that their participation was incidental.⁷⁷¹

Reference 27 - 0.01% Coverage

684. Paulo dos Santos, a former clandestine member, told the Commission that on 2 January he was arrested by four TNI marines in Ainaro. They ordered him to step out of a public minibus and then took him to the marine base in Cassa (Ainaro, Ainaro). He was beaten and kicked until he was bleeding from his ears and he lost consciousness for about an hour. At midnight, with his thumbs and his big toes tied together and blindfolded, he was taken to a building near the Cassa River. He recalled his experience: They held me for two days, beginning with interrogation about my participation in independence activities. Because I was afraid, I told them everything I had done. A member of the marines warned me: "Don't be involved again in demonstrations related to the referendum like what happened in the SP II incident, where the youth beat the SGI commander, when Bishop Belo inaugurated the Chapel at SP II." I said that I wouldn't be involved in such activities. After two days, my uncle Agustinho Sarmento, the Sub-district administrator of Hato Udo, came and got me out [of detention] and took me to Hato Udo where I hid for one month.⁹²⁶

Reference 28 - 0.01% Coverage

57. 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. 58. 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. 59. 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. 60. 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.

Reference 29 - 0.01% Coverage

143. Some specific military operations involved the forced recruitment of civilians. Operation Kikis, as discussed above, for example, required forced participation of civilians on a mass scale (see also Vol. I, Part 3: History of the Conflict); the Tombak (Spear) Troops, as discussed below; forced searches for civilians' family members in the forests and hills; night watch duties in specific communities; as well as forced participation in local civil defence and militia structures.

Reference 30 - 0.01% Coverage

157. The mass recruitment campaign that provided the civilians used in Operation Kikis was unprecedented, involving the local civilian administrative structures that had been established to complement the militarised administration that effectively controlled the territory. Participation was compulsory, and the Commission received a number of reports of torture against civilians who refused to take part.171

Reference 31 - 0.01% Coverage

65. Some persons arrested and tried were in fact directly involved in organising the clandestine movement supporting independence. Others were only peripherally involved, having given food or other minor support to pro-independence fighters. Some others had in fact not participated in supporting the independence movement in any material way. The manner of conducting the interrogations and fabrication of evidence during the trials meant that it was impossible for the court to ascertain exactly what participation the various defendants had actually played. Their decisions were based on the picture formed during the distorted interrogations and trial preparation and conduct.

Reference 32 - 0.01% Coverage

rather than revealed the truth.

231. In the same way, the trials of the East Timorese defendants held a veneer of superficial respectability. Although the written indictments and judgments might indicate that the process had been respectable, almost every step in between was fundamentally defective. Evidence was fabricated, witnesses intimidated into lying or not appearing, defendants tortured into signing confessions. If the evidence before the court is biased, selected only to favour one side, then the court must "legitimately" come to a decision that is in accordance with the material that it has considered. The Commission finds that the strategy employed in the Santa Cruz trials was to ensure that the evidence produced to the court supported only one possible conclusion. To ensure the desired outcome, evidence was manipulated and fabricated, which required the participation and compliance of everyone involved in the trials.

Reference 33 - 0.01% Coverage

403. On the day of the demonstration, protesters who suffered serious gunshot wounds and beatings at the demonstration or injuries from torture and ill-treatment when they were detained, were taken to the Wirahusada Hospital (Lahane, West Dili) for medical treatment. Some of the uninjured protesters were interrogated while others were taken to Polda. Some were subsequently released because their participation was considered marginal while others were released after their families intervened on their behalf. After their discharge, those treated at the Wirahusada Hospital were taken to Polres and interrogated along with the other detainees.

Reference 34 - 0.01% Coverage

9. 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.

Reference 35 - 0.01% Coverage

14. 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

Reference 36 - 0.01% Coverage

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 members of 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.

Reference 37 - 0.01% Coverage

24. 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.

Reference 38 - 0.01% Coverage

119. The greatest impact on child members of the militia is thought to relate to their emotional well-being. Not only have they experienced the usual trauma associated with * He later denied direct participation in the rape. UNICEF, p. 65.

Reference 39 - 0.01% Coverage

173. While most former child guerrillas describe their participation as voluntary, one deponent reports that at 17 he was forcibly recruited in 1976: In 1975, when we ran to the forest and heard that the Indonesian forces had entered Timor-Leste, a friend of ours of the same age - he was already a commander - forced me to join with Fretilin as a night watchman. They ordered other Fretilin [members] to capture me to join as a Fretilin member. After that they brought me to the military barracks, then they gave a weapon to me and I became a member. I didn't know how to hold a weapon then, so I pressed [the trigger] while on watch and the weapon went off. They came and caught me and then punished me by tying me up from night until 4.00am the next day before they let me go. The people that caught me were from the Fretilin military command. They caught me in Nakroman [Lacluta, Viqueque]. They took back my weapon and gave it to someone else and then sent me to look for food.†

Reference 40 - 0.01% Coverage

of money or in food.

25.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. 26.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. 27. Those recruited often came from the most disadvantaged segments of 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. 28.The Commission did not find any evidence that Indonesia took steps to support the physical and psychological recovery of these children or their social reintegration.

Reference 41 - 0.01% Coverage

World Conference on Human Rights:

Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and the full participation in all aspects of their lives.²

Reference 42 - 0.01% Coverage

It was not just women unconnected to the military who were forced to take part in the programme. The military also drove up the number of acceptors by making women from within its own structures participate. Just because a woman was a member of Persit did not mean that she did not have to take part in the programme. On the contrary, she would be a front-line target, subject to both direct and indirect pressures to ensure her participation.¹⁰³

97. Natalia dos Santos was the wife of a member of Infantry Battalion 744, Saturnino Maubuti, when in 1979 she was told she had to enrol in the family planning programme. Natalia was brave enough to argue with an army doctor from Java, pointing out that as a childless woman her participation should not be mandatory. However, when the doctor told her that those were the rules, she realised that continued resistance could, at the very least, put her husband's career at risk. For almost 20 years she was prescribed various forms of contraception, all of which had unpleasant side-effects. Now and again, she furtively stopped using the contraceptives in an attempt to get pregnant or to end the discomfort they caused. On two occasions, she did get pregnant. On the first occasion she miscarried; on the second she was forced to have an abortion after a doctor diagnosed a "thin womb". She felt free to abandon birth control only after being evacuated to Atambua, West Timor (Indonesia) after the 1999 referendum, when the programme was no longer being strictly implemented. In her interview with the Commission, she summed up her experience:

Reference 43 - 0.01% Coverage

institutional rewards to those involved

238~1 | The role of members of the Indonesian police 238~2 | collaboration and participation of officials of the Indonesian local and central government

Reference 44 - 0.01% Coverage

of the formal security structure

23~70~ | Participation of TNI personnel in militia groups 23~71~ | Violations committed by members of the TNI together with militia groups

Reference 45 - 0.01% Coverage

23~8~1~ | The role of members of the Indonesian police 23~8~2~ | Collaboration and participation of officials of the Indonesian local and central government 23~8~2~ | Command responsibility within the TNI 23~8~4~ | The central role of Major General Zacky Anwar Makarim

Reference 46 - 0.01% Coverage

37. 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.

Reference 47 - 0.01% Coverage

59. 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 Balibó 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 Balibó Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

Reference 48 - 0.01% Coverage

123. Women who had surrendered were forced to take part in military operations, usually to cook or to perform other services. In some cases, women were subjected to torture, rape and sexual slavery during their participation in these military operations.

Reference 49 - 0.01% Coverage

131. The participation in and acceptance of such practices by military commanders and civilian officials, the widespread knowledge that rape and sexual torture was officially condoned, the use of military and official facilities for these purposes, and the 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 members of Hansip or low-ranking local civilian officials would forcibly procure women and pass them on to the military commanders in return for increased status and rewards.

Reference 50 - 0.02% Coverage

Part 8: Responsibility and Accountability

to develop a coherent policy on the future of the territory; and the succession of governments that came to power after the revolution saw the decolonisation of Portugal's African empire as a primary responsibility. Although Portugal did eventually devise a broadly acceptable timetable for the decolonisation of Timor-Leste, all of these factors contributed to its failure to do so in a timely fashion. Moreover, it did not seriously attempt to offset its weak position vis-à-vis Indonesia by making a firm commitment to the principle of self-determination or by taking steps to internationalise the issue. • Due to centuries of arbitrary rule and the exclusion of the East Timorese people from participation in government, the legacies of Portuguese colonialism included weak respect for the rule of law and poorly developed state institutions. • A host of factors neutralised the colonial army's capacity to intervene in events. These included: low morale among the Portuguese-born conscripts in the territory, the running down of troop strength, the determination not to shed another drop of blood for the colonies, the ambivalence of some conscripts and men to the principle of political neutrality at a time when the colonial wars in Africa and the revolution in Portugal had had the effect of radicalising the Portuguese armed forces, and the politicisation of East Timorese conscript and regular soldiers • The political inexperience of the Fretilin and UDT leaderships prevented them from seeing the dangers of a descent into violence and the urgency of finding common ground. Instead the youthful leaders of these political parties used violent rhetoric against their political opponents, encouraging their members to resort to actual physical violence. • The absence of key institutions, including those of civil society and an independent media, and the failure of existing non-governmental institutions, including the Catholic Church, to rise above politics meant that where they played any role at all it was to exacerbate rather than calm tensions. • Indonesia's role in destabilising the situation in Portuguese Timor from 1974 through a range of actions that included assistance to Apodeti and the manipulation of internal politics through its contacts with elements in the UDT leadership further heightened tensions. • For a variety of reasons, of which the most important was a desire not to alienate Indonesia, all the international and regional actors who might have restrained Indonesia refused to make it clear from the beginning that a forcible Indonesian takeover of Portuguese Timor would be an unacceptable violation of the principle of the right to self-determination.

Reference 51 - 0.01% Coverage

298. Members of the Apodeti, KOTA and Trabalhista parties share in the responsibility for the invasion of Timor-Leste by Indonesia by their political actions in the signing of the Balibó Declaration and for their participation as "Partisan" troops in the Indonesian invasion of Timor-Leste.

Reference 52 - 0.01% Coverage

383. The military training in Atambua led to participation of the members of Apodeti, known as "Partisans", with Indonesian military personnel in covert military action inside Timor-Leste from August 1975, and larger-scale military operations that resulted in the Indonesian occupation of towns and territory from October 1975. During this period members of Apodeti participated in Indonesian military actions which included the attack on Balibó on 16 October 1975.

Reference 53 - 0.01% Coverage

405. For almost the entire period of its rule in Timor-Leste, Portugal created an environment that was utterly inimical to the realisation of the right to self-determination. No effort was made to achieve an even minimal level of East Timorese self-government, and democratic values were not upheld either in theory or in practice. Under the Salazar-Caetano regime, Portugal:

- Neglected the Timorese economy and thereby helped create an international perception of Timor as an economically unviable territory that would be incapable of subsisting as an independent state
- Failed to prepare the East Timorese people for self-government by permitting broad-based political participation or otherwise instilling democratic values
- Refused to recognise that Article 73 of the United Nations Charter applied to Timor-Leste as a non-self-governing territory and failed to comply with its obligations under that provision. *

Reference 54 - 0.01% Coverage

and Red Dragon [sic].³³

Participation of TNI personnel in militia groups

Reference 55 - 0.01% Coverage

497. The Commission considers that the TNI's almost total failure to investigate or discipline any of its members for their actions in Timor-Leste in 1999, despite ample evidence of the direct involvement of TNI troops in violations, indicates that the senior levels of the organisation did not consider that these violations should be punished. Taken in combination with the other evidence of direct and indirect participation discussed above, the Commission concludes that the TNI personnel who committed violations were not punished because in participating in the violence they had been acting in accordance with, not in contradiction to, their orders.

Reference 56 - 0.01% Coverage

Collaboration and participation of officials of the Indonesian local and central government

Reference 57 - 0.01% Coverage

4. 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 *lisant*[†] were incorporated into the procedure, varying according to local custom.

Reference 58 - 0.01% Coverage

18. In the absence of any formal mechanisms operating at the village level, some communities had sought to resolve outstanding disputes through traditional processes adjudicated by local spiritual leaders. The Community Reconciliation Process was an attempt to draw on the high regard in which these customary practices were held, and fuse them with the legal principles on which the emerging state of Timor-Leste was founded. The resulting mechanism combined direct participation by local leaders, perpetrators, victims and community members with formal requirements involving the OGP and the courts. It was hoped that this combination would not only assist in safely reintegrating perpetrators into their communities, but also reduce the pressure on the formal justice system, contribute to the fight against impunity, and help to settle residual anger caused by the political conflict.

Reference 59 - 0.01% Coverage

Hearings were presided over by a panel of three up to five local leaders, including a Regional Commissioner of the CAVR who would act as chair. At the hearing the perpetrator was required to make a formal public admission, and could be asked questions by victims and community members. Traditional lisan procedures and the participation of spiritual leaders were incorporated into the process in accordance with local custom. After hearing from all parties the panel would decide what appropriate "acts of reconciliation" the perpetrator should perform in order to be accepted back into the community. These acts might include community service, an apology or the payment of reparations. If the perpetrator accepted the panel's decision, an agreement would be drafted in simple terms. It would then be forwarded to the appropriate District Court, where it would be formalised as an Order of the Court. On completion of all required "acts of reconciliation" the perpetrator was automatically entitled to civil and criminal immunity for all actions covered in the agreement.

Reference 60 - 0.01% Coverage

IV, Part 9: Community Reconciliation

to raise awareness of the CRP programme and to encourage prospective deponents to give statements. CRP staff spent much of their time with potential deponents, explaining the process, exploring the possible benefits and drawbacks of participation, and helping them write their statements.

Reference 61 - 0.01% Coverage

- The primary aim of the CRP is to assist reconciliation between perpetrators, victims and their community.
- The CRP procedure relies on the voluntary participation of all parties.
- The methodology is facilitation of an agreement with the perpetrator, with the participation of the victims and their families, community leaders and the wider community.
- The victim and other interested parties must have an opportunity to be heard.
- The hearing should provide an opportunity for all parties to witness the perpetrator's confession.
- Hearings must be non-violent, and, in preparing for the hearing, steps must be taken to avoid the possibility of physical conflict.
- Hearings should be alcohol-free, so as to prevent emotions running out of control.
- The process should recognise the healing potential of understanding the political context that predisposed people to commit crimes.

Reference 62 - 0.01% Coverage

Lisan would have allowed the elders of his community to facilitate a hearing between him and his community, but because his actions harmed members of two separate communities, the negotiations would have had to involve both sets of lisan leaders or risk being perceived as biased in favour of either the deponent or his victims. The Commission made a judgement that involving both groups would lead to confusion and potential conflict. Consequently it decided to proceed without the participation of either group of elders. A resolution was reached in a hearing in Fatululik on the 14 February 2003. At the hearing V made a full confession and a public apology which was, after questioning, accepted by the victim. He also donated a cow that was slaughtered and eaten at a communal meal after the hearing.

Reference 63 - 0.01% Coverage

Manufahi Ermera Bobonaro Covalima Oecussi

been expected considering that Covalima is a border district and was severely affected by the violence in 1999. The district team responsible for Covalima considered that the relatively low rate of participation was due to the fact that less perpetrators of harmful acts had returned to Covalima from West Timor compared to other districts. National staff monitoring reports on the district also found a lack of cohesion among the district team members, which affected the implementation of the CRP public information programme.

Reference 64 - 0.01% Coverage

years at the time they committed the acts deposed. Affiliation and participation in militia groups, arson, assault, illegal incarceration and the destruction of property were the acts most often included in deponents' statements. A smaller proportion of cases concerned deponents giving support or supplying information to the Indonesian occupying forces, and unresolved issues arising out of the political conflict of 1974-76. The CRP did not deal with any cases in which the deponent directly participated in murder, rape or torture. However, a small number of cases were proceeded with in which deponents admitted to being present at the time in which "serious crimes" were committed.

Reference 65 - 0.01% Coverage

113. Sometimes the victims and the wider community joined the deponent in carrying out the agreed task. In such cases, the perpetrator did the work as a compulsory part of his or her agreement, while the victims and community members participated voluntarily as a demonstration of their good faith and belief in the process. The joint participation of perpetrators and victims in a common community service project was a graphic demonstration of the power of the CRP to bring previously polarised parties together.

Reference 66 - 0.01% Coverage

hearings began later than expected.

131. The national CRP office also underestimated the time and effort needed for communities to become familiar with what was an entirely new concept. As familiarity increased during the life of the field programme, so did the level of community participation.

Reference 67 - 0.01% Coverage

132. Further, although all categories of participants in the CRP programme, including victims, indicated that they had benefited from participation, more consideration could have been given to the role and contribution of victims. The Commission recognises that no process can hope to heal victims' wounds or compensate them for what they have lost. The CRP gave victims a voice and some degree of accountability for harmful acts that otherwise would not have been dealt with. However, the "acts of reconciliation" required of perpetrators in general delivered only token reparations. Some victims also reportedly felt indirect community pressure to reconcile with the perpetrator.

Reference 68 - 0.01% Coverage

158. The CRP was able to finalise a far greater number of cases than would have been possible if the same amount of resources and time had been devoted to the formal justice sector alone. It was also able to focus on repairing community and individual relationships, and tailor sanctions to suit each case. 159. Participants often expressed their appreciation that the CRP hearings were held in their home communities. Victims and community members had an opportunity to participate in a full sense. By contrast, court hearings are usually held in major centres and villagers who attend court hearings face formidable economic, logistical and psychological obstacles. The participation of the general community and the role of traditional leaders, church leaders and other respected persons, also added a strong sense of ownership to the CRP. Agreements reached had the force of all of these respected local institutions behind them as well as that of the law.

Reference 69 - 0.01% Coverage

161. Participation in formal justice mechanisms is often a humiliating procedure for victims. They must give evidence alone, may be closely questioned or cross-examined on details of their experience and are forced to relive painful memories. In contrast victims in the CRP hearings were afforded a place of honour. They were accompanied by family or friends as well as trained Commission support staff. The victims were able to express their feelings and had a direct role in deciding the fate of perpetrators. Victims interviewed by the Commission reported feeling that their community held them in higher esteem as a result of the CRP.

Reference 70 - 0.01% Coverage

JR described how he had tried during his years of service in the Indonesian police to protect the communities he had worked in. He had warned them of impending military or police operations and deliberately failed to pass on information to his superiors about the location of Falintil fighters and their clandestine supporters. Through his participation in the CRP hearing, JR was hoping to clear his name as a collaborator and become a respected police officer.

Reference 71 - 0.01% Coverage

25~21~ | Sub-district victims' hearings 25~22 | Box: A Sub-district Hearing: Natarbora 25~23~ | Impact of participation on victims 25~25~ | The impact of public hearings

Reference 72 - 0.01% Coverage

25~44 | Community profiles 25~44 | Background 25~45~ | Selection process 25~46~ | Box: Community discussion eases historical tensions 25~48~ | Participation 25~49 | Community profile methodology 25~5~0 | Sketch maps 25~5~9 | Impact

Reference 73 - 0.01% Coverage

72. Tables 2 and 3 above both indicate that outreach to women was less effective than to men. NGO Coalition teams noted that, even when women attended focus group discussions they seldom spoke or simply agreed with what was said by their husbands or leaders. The NGO Coalition thought that there were several factors explaining women's limited participation. One was Timorese patriarchal culture, in which the woman's role does not extend beyond the family. Reconciliation was seen as a political issue to be dealt with by men. Women also generally had lower levels of education and poorer health than men, as well as often being the victims of physical and psychological abuse.

Reference 74 - 0.01% Coverage

88. Community Reconciliation Process (CRP) hearings sought to help heal relationships in a community, partly through restoring the dignity of victims. These hearings were not initiated by victims, but by those who had harmed their communities. They were not technically dependent on the consent or participation of a victim. Nevertheless, the Commission aimed to make these hearings a process that would heal victims as well as repairing relationships within the wider community.

Reference 75 - 0.01% Coverage

A Sub-district Hearing: Natarbora

Natarbora is a sub-district in the remote interior of the south-eastern Manatuto District. The Commission district team for Manatuto worked in this sub-district from February to May 2003. The Subdistrict Hearing to mark the close of the community's participation in Commission activities was held on 12 May 2003, and was attended by a large number of community members.

Reference 76 - 0.01% Coverage

with communities across Timor-Leste.
Impact of participation on victims

Reference 77 - 0.01% Coverage

as documented in this survey⁴
. Given that their participation

Reference 78 - 0.01% Coverage

138. Because the workshops were to involve intensive work with victims, it was clear that they would reach only a small number of people. Criteria for participation were therefore drawn up, which focused mostly on the vulnerability of the victim and the judgment of district Commission staff that he or she would benefit from such a process.

Reference 79 - 0.01% Coverage

forward in its Final Report.

159. The workshop concluded with a ceremony of reflection, sometimes a Mass, at which participants were awarded certificates for their participation and contribution.

Reference 80 - 0.01% Coverage

Bobonaro District, 24 November 2003.

Participation

Reference 81 - 0.01% Coverage

men also attended and spoke.

203. All district teams noted that there was a lack of gender balance, both in attendance and in active participation in the discussion. Reasons given for the imbalance included the fact that women traditionally do not participate in public gatherings and that women's workload, particularly their responsibility for childcare, would keep many at home. It was thought that even when women did attend, many may have felt unable to speak in public about the violence they had experienced or did not feel comfortable speaking in the presence of their husbands.

Reference 82 - 0.01% Coverage

258~1~ | Right to participation - guaranteeing essential freedoms 258~2 | Right to participation - citizenship
258~3~ | Right to education and cultural self-determination 258~4~ | Right to health and a sustainable environment

Reference 83 - 0.01% Coverage

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.

Reference 84 - 0.01% Coverage

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.

Reference 85 - 0.01% Coverage

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.

Reference 86 - 0.01% Coverage

matters by the civil courts.

3.6. Right to participation – citizenship

Reference 87 - 0.01% Coverage

4.1.11 The Government upgrades the Office for the Promotion of Equality to a Ministry of Women's Affairs 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.

Reference 88 - 0.01% Coverage

The freedoms required for the flowering of civil society were denied for most of TimorLeste's colonial history and harshly repressed during the Indonesian occupation. Nevertheless, civil society emerged as a positive force for change both in TimorLeste 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.

Reference 89 - 0.01% Coverage

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.

Reference 90 - 0.01% Coverage

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 TimorLeste. For many this participation is difficult due to the severe hardships they still suffer due to the violations inflicted upon them

Reference 91 - 0.01% Coverage

140. Although some parts of the territory were harder hit than others, the pattern of destruction indicated that the violence against property was planned and orchestrated at a high level. Eyewitnesses from disparate towns and villages all reported that the burning and destruction was done systematically, and with either the full participation, or acquiescence, of TNI soldiers and Police (See District Summaries, par. 496, below).

Reference 92 - 0.01% Coverage

362. The official status of the militias, abundantly evident from their participation in such meetings, is further confirmed by a substantial number of official documents that

Reference 93 - 0.01% Coverage

1019. Further clarification of the concept of individual criminal responsibility in international law is found in the Tadic Appeals decision (15 July 1999) at the International Criminal Tribunal for Yugoslavia (ICTY). That decision distinguishes between participation in a crime through 'aiding and abetting' and participation in furtherance of a 'common criminal purpose.'^t
Both kinds of participation constitute

Reference 94 - 0.01% Coverage

that many of these 'managers' aided and abetted, and in some cases ordered, specific criminal acts. At a minimum, their participation took the form of furthering a 'common criminal purpose' that entailed the commission of crimes against humanity. Nevertheless, a strong argument can be made that they would not, and could not, have done these things in the absence of an overall policy, initiated and coordinated by higher-ranking officials – whom we may call the 'planners.'

Reference 95 - 0.01% Coverage

1095. On the question of what exactly should be done to give effect to these commitments, the Commission of Inquiry was very clear. It recommended that the UN Security Council should establish an international criminal tribunal, along the lines of those created for Rwanda and the former Yugoslavia. More specifically, the Commission of Inquiry recommended that: "The United Nations should establish an international human rights tribunal consisting of judges appointed by the United Nations, preferably with the participation of members from East Timor and Indonesia. The tribunal would sit in Indonesia, East Timor, and any other

relevant territory to receive the complaints and to try and sentence those accused by the independent investigation body of serious violations of fundamental human rights and international humanitarian law which took place in East Timor since January 1999 regardless of the nationality of the individual or where that person was when the violations were committed.”⁴

Reference 96 - 0.01% Coverage

6. The Commission was aware that after suffering human rights violations a large proportion of victims and their families had lived in silence, fear and isolation, sometimes for more than 25 years. Therefore the Commission had to devise data collection and information management systems that would both produce reliable historical data and promote public participation in the truth-seeking process.

Reference 97 - 0.01% Coverage

15. Despite the substantial difference in male/female participation rates in the Commission’s statement-taking process, female deponents tended to talk about violations against themselves (relative to violations against others) in roughly the same proportion as male deponents. As the following figure shows, of all the violations reported by females, 30.6% (2,939/9,605) were violations against themselves, whereas for male deponents, 35.3% (17,438/49,382) of reported violations were against themselves.

Reference 98 - 0.01% Coverage

16. The social, cultural and economic challenges faced by women may have limited their participation in the Commission’s socialisation and statement-taking processes.