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## Resistance leader captured

**Xanana Gusmao, 45, leader of the Timorese resistance and commander of its armed wing, Falintil, was arrested on 20 November 1992, having evaded the Indonesia military for the last 16 years. The Indonesian government has attempted to use his arrest to weaken the political morale of the pro-independence movement.**

Gusmao's arrest followed a dawn raid on the Dili home of the mother and sister of Abilio Araujo, the Fretilin leader based in Portugal. In line with regular practice in East Timor and Indonesia, he was taken to a military detention centre and interrogated.

Access to a lawyer was denied in contravention of Indonesia's own Code of Criminal Practice. The International Committee of the Red Cross was also denied access until 7 December. The two ICRC visitors would not comment afterwards on the condition of the prisoner.

On 24 November, Armandina Gusmao and Gilman Exposto, Xanana's sister and brother-in-law, along with two of their children, were also arrested, giving rise to fears that they would be used to exert additional pressure on Xanana.

The arrests were the culmination of an intensified campaign by the occupying Indonesian forces around the first anniversary on 12 November of the 1991 Santa Cruz massacre. Hundreds of East Timorese were detained and interrogated and, at the time of writing, it was feared that some of the detainees were still in incommunicado detention.

### Video pressure

Xanana was initially taken to Denpasar in Bali, before being moved to Jakarta. At the beginning of December the Indonesian authorities released a video, made by the Indonesian army, in which Xanana, speaking in Portuguese, recognises that East Timor belongs to Indonesia and calls on the guerrillas in the mountains to give up the struggle.

The blatantly edited video, in which Xanana appears sitting with Jose Abilio

Osorio Soares, the new governor of East Timor, shows a pallid, beaten man, clearly under extreme pressure.

The video was intended to compound the desperate sense of demoralisation felt by the East Timorese since Xanana's arrest. Xanana has been an inspiration to the East Timorese since he took over the resistance leadership from Nicolau Lobato, who was killed by Indonesian forces in 1979. The Indonesian military had been hunting for Xanana for years and his capture is a great prize. According to a recent report in the *Jakarta Post*, the military involved will be rewarded with decorations.

Xanana, along with two other survivors of an attack by the Indonesian military in 1979, had succeeded in regrouping the decimated resistance to make it an effective guerrilla army again. And in 1989 Xanana reorganised the movement internally, distancing himself from Fretilin to become chairperson of a broader umbrella structure, the National Council of Maubere Resistance,



Xanana Gusmao

which included the UDT as well as Fretilin.

Most of the time Xanana remained hidden in the mountains, coming to Dili occasionally, at night and under cover. He was interviewed face to face by the foreign media only once, in 1990, when Australian lawyer Robert Domm reached him in his mountain retreat.

### Concern

Xanana's arrest was greeted with dismay by supporters of the Timorese cause across the world. Human rights groups like Amnesty International called on the Indonesian government to allow the ICRC access to all Timorese prisoners and to permit immediate access to lawyers of their choice in accordance with Indonesia's own criminal code.

The Portuguese government issued a statement on 25 November appealing to the international community to act without delay to 'achieve the freedom and ensure the physical integrity of Xanana Gusmao, and guarantee that his rights as a human being be completely respected by the authorities of Indonesia'.

The International Platform of Jurists for

## SUMMARY

The first anniversary of the Santa Cruz massacre was marked with ceremonies in many capital cities around the world. In Dili itself, commemorations were muted, as the Indonesian military made sure that any demonstrative action was firmly suppressed. Only a few days later came the shattering news of Xanana's arrest. This issue of *Timor Link* looks at these events, and analyses the implications of the installation of East Timor's new military governor. We report on a recent conference of international lawyers who met in London in December to discuss East Timor, and reveal a new wave of repression directed at Church personnel inside the territory.

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East Timor (IPJET) wrote to the UN secretary-general quoting the fourth Geneva Convention, which Indonesia ratified in March 1961. 'Anyone arrested under suspicion of having committed a criminal offence,' the letter said, 'is not only protected by non-derogable human rights but also by the rights provided under the Humanitarian Laws of War, including those set out in articles 64-76 of the fourth Geneva Convention . . .

'We urge you to monitor his treatment so that you can advise all the member states who are signatories to the Geneva Conventions of any breaches so that they can make arrangements to arrest and bring to trial those involved in committing these breaches. This would be in accordance with the practice which member states were invited to follow in the case of Iraq's occupation of Kuwait (Security Council Resolution 674 of 29 October 1990). We urge you to bring this matter to the attention of the Security Council, where a resolution in the appropriate terms could be passed.'

For its part, CIIR appealed to the UN secretary-general to intervene personally in relation to the arrest of Xanana. 'We are sure that you share our concern that the Indonesian authorities include East Timorese participation in the bilateral talks currently taking place between the Indonesian and Portuguese governments, and that Mr Gusmao's future be seen in this context,' the letter said.

### Demoralising effect?

It is still too early to assess fully the consequences of Xanana's arrest for the resistance inside East Timor. The pro-Indonesian press has reported the widespread surrender of up to 1,000 guerrillas. This figure is somewhat at variance with the 200 or so guerrillas regularly quoted by Indonesian military sources as still remaining in the mountains.

It is likely that many of those 'surrendering' have been non-armed members of pro-independence youth and student groups rounded up in the November crackdown. They may have been forced to sign 'surrender statements' and it is feared that some may be made to testify under duress against Xanana in what is almost bound to be a show trial.

According to sources in East Timor, the detainees are being subjected to ill-treatment and intimidation. Several East Timorese businessmen have gone into hiding, as they are suspected of having supplied Xanana with his needs in his hideout.

According to the pro-Indonesian paper *Jawa Pos*, an East Timorese youth organisation, Fitun, used a bizarre oath-taking ceremony similar to those described in the article on pp.7-8 to dissolve itself in early December 1992. The youths reportedly swore, in the presence of the local military commander, Lt Col Syarifudin Zein and religious figures and community leaders, to disband, not to form a new organisation with the same guidelines as Fitun, and to join the youth organisations legally approved by the government and unified state of the Republic of Indonesia based on *Pancasila* (Indonesia's state ideology) and

the 1945 Constitution. However, it is known that the Indonesian military set up many of these organisations in the first place.

### Torture denials doubted

General Try Sutrisno, commander of the Indonesian armed forces, has denied reports that Gusmao was tortured. But Mario Carrascalao, who was recently replaced as the governor of East Timor (see p.3), did not believe him. 'Sorry, but we're not that stupid . . . I am against Fretilin, but when I saw that statement I was ashamed as a Timorese. It was an insult to my intelligence as a Timorese.' Carrascalao, as reported in the *Washington Post* of 19 December, said that the arrest of some of Xanana's close relatives had probably put him under pressure.

Timorese refugees, giving their impressions recently in Lisbon, were not taken in either. Gregorio Henriques, another resistance fighter captured by the Indonesians in 1978, was also forced to 'change sides'. He explained Xanana's conduct this way: 'It must be so as not to endanger his relatives and friends arrested at the same time as him, and to not put the resistance and his own life at risk . . . To resist you have to be alive. If he died he would not be able to fight on.'

For some Timorese, the spirit of Gusmao's resistance may live on despite his arrest. Donaciano Gomes, also living in Lisbon, said: 'The person they captured was Jose Alexandre Gusmao, not "Xanana". Xanana is already in the soul, the body and the spirit of the Timorese People.'

In a letter received in Britain at the end of November, Timorese exiles living in Bali described themselves as 'a little broken-hearted with the news of Xanana's arrest' and fearful of his recantation at the hands of the military. But they affirmed their confidence that their people would continue their struggle under new leadership.

The resistance has apparently chosen Ma Honu, who was second in command to Xanana, as their new leader.

### Trial opens

Xanana's trial opened in Dili on 1 February. Some reports suggested that he would be charged with subversion, which carried the death penalty, while others claimed that he would be tried under Indonesian criminal law, which might spare him death, but condemn him to life imprisonment.

*Jawa Pos* reported on 14 December that lawyers from the Indonesian Foundation of Legal Aid Institutes and Ikadin, the Bar Association, were ready to defend Xanana. The Jakarta-based Legal Aid Institute offered its services, which, according to Indonesian newspapers, were turned down by Xanana. The AFP and AP news agencies reported on 5 January that an Indonesian lawyer called Sydjono had been appointed to represent Xanana — by the Indonesian police.

# Xanana — A censored voice

**'I don't know for certain what happened, but for the past seventeen years, if any prisoner spoke in the way that Xanana has spoken, it happened as a result of torture.'**

Bishop Belo, *O Publico*, 4 December 1992

The release of the video tape of Xanana's recantation was followed by another media appearance in early December when Xanana Gusmao was shown on Portuguese television in an interview with João Gabriel, a Portuguese journalist based in Jakarta.

Gabriel was surprised to be allowed to see Xanana, but there were around three dozen people, including high-ranking military officers, present throughout the interview. He had been given permission to conduct the interview on the basis that the Indonesians would be given access to it before it was broadcast: he decided to take the risk. According to Gabriel, however, the Indonesians' attempt to censor the interview, presumably hoping to use it as propaganda to demoralise the resistance, was not successful. Gabriel, interviewed about his conversation with Gusmao by Adelino Gomes for *O Publico*, affirmed that the interview refuted the image propagated by the previous video of Xanana speaking with Osorio Soares.

Xanana, asked about his acceptance of integration with Indonesia, apparently said: 'I am replying in a way which, if I were free, I would not.' But this was later deleted, along with another eight minutes of film by the five Indonesian censors present.

According to Gabriel, Xanana made every attempt not to repeat what had been said at the Soares interview and made skillful use of 'pregnant pauses' to indicate his lack of assent to the remarks he was making. We reprint below an extract from the transcript of the interview and contrast this with a statement he made recently, prior to his capture (see box).

**Q:** *Are you rejecting a past, almost half of your life, the principles which you defended all these 17 years?*

**A:** *I am not a conformist, but I think that . . . (hesitation), I think that . . . (hesitation), I should agree with the facts.*

**Q:** *Do you agree that, at this stage, integration is best for Timor?*

**A:** *Yes, individually . . . (hesitation). I think so, because I have nothing to do any more with (silence) . . . with other contexts.*

**Q:** *With regards to Portugal, do you think it was and continues to be the guilty part in relation to the situation in East Timor?*

**A:** *I excuse myself from answering that because it is a question that concerns Portugal itself . . . (hesitation). At this time I . . . (hesitation) do not hold the same*

# EAST TIMOR: Time for change

Timor, area 7,400 square miles, is one of the easternmost islands of the Indonesian archipelago and lies 300 miles north of Australia, its nearest neighbour. The western part of the island formerly a Dutch colony, belongs to Indonesia, whereas East Timor was for more than 400 years a Portuguese colony.

In 1974 Portugal decolonised East Timor whose newly formed political parties began discussing options for the future — federation with Portugal, independence, or integration with Indonesia. The Timorese Democratic Union (UDT) initially favoured the first option but then joined a coalition with the nationalist liberation movement, Fretilin, to demand independence. A small third party, Apodeti, was used as a vehicle for Indonesian propaganda in favour of integration.

On 11 August 1975 the UDT staged a coup to pre-empt Indonesian threats to intervene if Fretilin came to power. In the ensuing civil war, 1,500 people lost their lives. By September 1975, however, Fretilin was in control of virtually all of Portuguese Timor, following the defection of Timorese colonial troops to the liberation movement's side.

Indonesia, like the United States, was worried by the proximity of an independent state with radical policies and continued to threaten East Timor, despite previous assurances that Jakarta would respect the right of the East Timorese to independence. In September 1975 Indonesia closed West Timor to journalists and on 7 December launched a full-scale invasion of East Timor with the knowledge of the United States and the encouragement of Australia. East Timor was proclaimed the '27th province' of Indonesia.

The invasion and annexation of East Timor has been brutal: up to 200,000 people, a third of the population, have died as a result of Indonesian rule. But the majority of Timorese have not accepted subjugation; Indonesia has been unable to eliminate the desire of the East Timorese for self-determination and

an armed resistance movement still remains in the hills.

Although the invasion has been condemned by successive UN resolutions, the international community has done little or nothing to implement them, given the major economic and geopolitical interests of the United States, Japan and particularly Australia in the region. Indonesia's crucial strategic location and regional status — it has the world's fifth largest population, and large reserves of oil and other natural resources — have all encouraged the world to downplay East Timor's agony.

In recent years, however, several events have combined to break East Timor's isolation and bring its continued occupation to international attention. In 1989 the Pope visited the territory and in 1991 the planned visit of a parliamentary delegation from Portugal, still considered the administering authority of East Timor by the UN, created huge expectations of change. To huge disappointment in East Timor, the delegation was forced in October 1991 to call off its visit.

On 12 November 1991 Indonesian troops shot dead up to 200 East Timorese civilians during a funeral procession held at the Santa Cruz cemetery in Dili, the East Timorese capital, for a victim of repression. Witnessed by foreign journalists, the Santa Cruz massacre provided indisputable evidence to the outside world of Indonesian atrocities.

The Santa Cruz massacre has forced governments around the world to criticise Indonesia's brutality, injecting new impetus into diplomatic efforts to bring about a solution to East Timor's suffering. Since 1983 the UN secretary-general has been entrusted with the achievement of a settlement to the dispute; and with the post-Cold War era providing a new international climate for negotiations, Indonesia faces increased pressure to reach a solution with Portugal and the East Timorese under the auspices of the UN.

*position . . . as when . . . as some time ago . . . I have nothing to do with that. I think that Portugal . . . should also reconsider its own position (silence).*

**Q:** *Do you support integration?*

**A:** *Well it depends on Portugal . . . I have nothing to do with Portugal.*

**Q:** *Has the resistance in Timor finished?*

**A:** *I cannot say, can I? I cannot say . . .*

**Q:** *But about the appeal you made for the members of the Falintil to surrender, do you think that the Indonesian authorities are sincere about the amnesty that has been promised?*

**A:** *I cannot make any statement on that subject . . . (hesitation). I made the appeal, now all depends on them. They were not fighting for me, they were not fighting for me.*

'Suharto has no right to talk about the North's arrogance when he continues, arrogantly, to ignore UN resolutions on the questions of East Timor, when he arrogantly refuses dialogue with the Timorese.

'We now appeal to all of you, presidents of fraternal Lusophone countries, dignitaries of the NAM member countries, to support the just fight of the Maubere people so that, in Jakarta, we remind President Suharto of the prevailing illegal situation in East Timor and remind the Indonesian leaders to put an end to the bloodshed provoked by the military occupation of the territory.

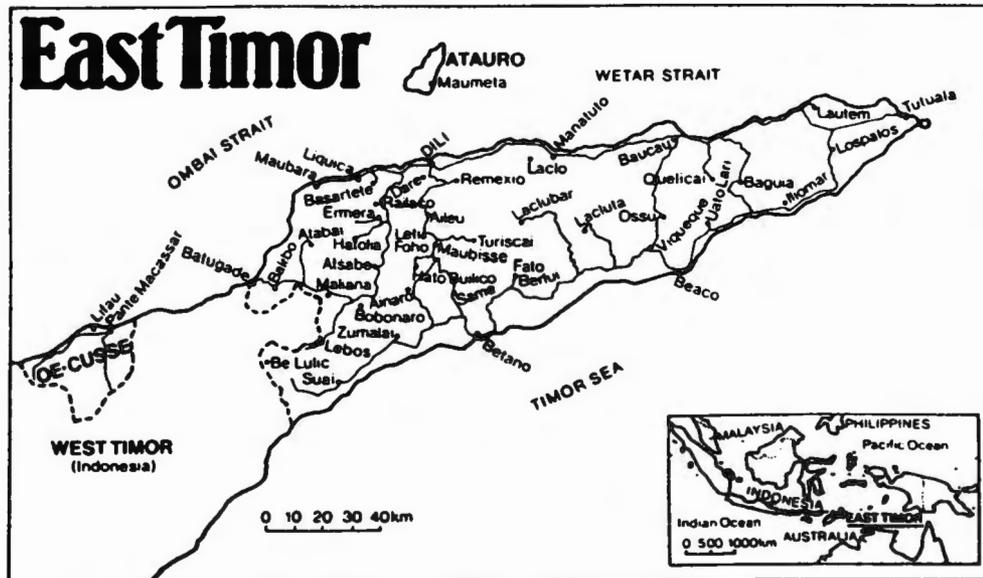
'We continue to struggle via the political path for a solution. I will state here that, within this indifference on the world's part, I place the hopes of our people in the joint action, both firm and consistent, of the international groups of solidarity with East Timor . . .'

*(Statement to Non Aligned Movement Summit, Jakarta, September 1992)*

## New governor appointed

On 18 September Jose Abilio Osorio Soares was inaugurated as the new governor of East Timor. He replaced Mario Carrascalao, who had completed the maximum of two five-year periods in the post. TIM KELL argues that, despite appearances, the way Soares was installed marks a return to the previous Indonesian policy of direct appointments.

Not only did the process by which the new appointee was chosen make a nonsense of Indonesian claims that East Timor has achieved self-determination; it also highlighted the failure of Jakarta's attempts to re-shape the political landscape of the territory to its own ends. With the appointment of Abilio Soares, that failure



would appear to have led to a change in Indonesian strategy.

### 'Popular aspirations'

Whereas previous governors had been picked directly by Jakarta, on this occasion the regional assembly (DPRD) in Dili was involved both in the initial short-listing of candidates and in the final choice of appointee, in accordance with standard Indonesian practice. However, given that the decisions of the DPRD at each stage were subject to central government scrutiny and approval, the change was more one of form than of substance.

As the commander of the East Timor Operations Execution Command (Kolakops), Brig-Gen Theo Syafei, pointed out, Indonesian law stipulated that the candidate with the least number of votes in the DPRD's gubernatorial poll could become governor if he was deemed best able to represent the President and the interests of the central government. Abilio Soares himself said that he and his colleagues in East Timor left the choice of the best person for the job entirely to the central government.

In the event, Soares won an overwhelming number of votes in the assembly, but it was doubtful whether his victory reflected 'popular aspirations', as claimed by Indonesian officialdom. The chairman of the DPRD in Dili, Antonio Freitas Parada, said that the assembly had sounded out public opinion in making its initial selection of candidates but failed to mention that, as part of the process, the Kolakops had submitted their own list of four candidates for consideration by the DPRD.

It was clear whose aspirations the new governor really represented when, following the assembly's final vote, Theo Syafei acknowledged to journalists that Soares had been readied for the job by the army.

The most important conduit for 'popular aspirations' in East Timor, the Catholic Church, appeared to have little or no opportunity to make its views known. General Syafei had told Bishop Carlos Ximenes Belo that, as the Vatican's representative in East Timor, he should ensure that the diocesan authorities in Dili should not comment on the selection of a new governor, as this could be construed as interference in Indonesia's internal affairs.

### Enduring political divisions

The appointment of Abilio Soares, a founding member in 1974 of the diminutive, pro-integration, Timorese Popular Democratic Association (Apodeti), appears to mark a shift in Indonesian strategy in East Timor.

In the first few years of Indonesian rule, Apodeti members were favoured with numerous bureaucratic sinecures and the first two governors were from the group's ranks. The appointment of Mario Carrascalao as governor in 1982, however, indicated that the Indonesian government was turning instead towards former members of the Timorese Democratic Union (UDT), of which Carrascalao was a founder

and which had stood for an independent East Timor before some of its members opted for integration with Indonesia late in 1975.

Under Carrascalao, people from the ranks of both the UDT and Fretilin, who were better educated and more experienced in administration (from the days of Portuguese rule) than their Apodeti rivals, won advancement as Indonesia sought to improve the quality of the territory's administration and to present a better image of an 'integrated' East Timor to the outside world.

This approach has not paid dividends for the Indonesians and 16 years of 'integration' have failed to break down the political divisions created in East Timor in 1974-75. Indeed, attempts to draw into the Indonesian fold those who had opposed integration have succeeded only in importing these divisions into the regional administration and in giving supporters of independence the opportunity to undermine Indonesian rule from within.

Carrascalao apparently grew impatient with East Timor's enduring political antagonisms and, while committed to integration, chafed at the bit of military domination and bureaucratic obstructionism. He made no secret of his frustration.

### 'Two-headed people'

Whereas the appointment of Carrascalao stemmed in part from concern over the standard of civil administration in East Timor, the selection of Abilio Soares is a purely political move and marks a return to the pre-1982 days of strictly figurehead governors.

Soares' immediate task is to legitimise the purge of the regional administration

instigated by the military authorities and targeting what Theo Syafei calls 'two-headed people' — those who enjoy the benefits of civil service posts but simultaneously agitate against Indonesian rule. Plans for a shake-up of provincial government offices, to be handled by the vice-governor (a Javanese colonel) and the regional secretariat, are already being made.

Also, the long-standing policy of speeding up the retirement of incompetent East Timorese government employees is being abandoned, a move likely to favour Apodeti loyalists still occupying posts in the administration and to slow the recruitment of young East Timorese graduates and school-leavers, whose allegiance to the Indonesian state is still in doubt.

Soares, a close friend of President Suharto's son-in-law, Lt Col Prabowo Djohadikusumo, and dubbed the 'red and white governor' after the colours of the Indonesian flag, is undoubtedly one-headed. Though he has spoken of informal negotiations between East Timor's opposing forces, he insists on all sides accepting integration.

The bitter legacy of the territory's internal conflict in 1975 (when Fretilin held him captive and executed his brother Jose, then secretary-general of Apodeti), also means that he is unlikely to be well-disposed towards his old foes. This would suit Indonesia's military hardliners, who say that they will countenance neither truce nor talks with the resistance.

Whereas the first year of Mario Carrascalao's governorship saw a ceasefire and negotiations between the Indonesian army and Fretilin, his successor appears to have been appointed with different purpose in mind.

## Tight security for massacre anniversary

Security was tightened in East Timor from October onwards in anticipation of the first anniversary of the Santa Cruz Massacre.

Large numbers of East Timorese were reportedly picked up by the military if their ID card revealed they were not in their designated district, or if their ID cards were missing.

On 6 November, Amnesty International was refused permission to visit the territory, the Indonesian authorities saying that such a visit 'would create problems for the Timorese people'. A delegation of Australian parliamentarians had also been refused entry.

Indonesia's refusal to admit Amnesty flew in the face of its undertaking at last year's session of the UN Human Rights Commission to facilitate access to East Timor to human rights organisations.

However, permission was granted on 9 November for Mr William Treat, a member of the UN Sub-Commission on Human Rights, for a two-day visit.

In Dili mourners were allowed to scatter

flowers on the graves of the dead in Santa Cruz cemetery, having first registered with village chiefs, but high security made any other activity impossible.

In Britain's House of Commons a cross-party early day motion was tabled expressing concern at the level of security in East Timor and calling for greater access to the territory (see International Round-Up).

For its part, the Portuguese government issued a statement which listed the advances which Lisbon claimed the Timorese cause had made since the Santa Cruz massacre. The latter had made world headlines and 'awoken the conscience of the world'. Portugal highlighted the changes in position of the EC, the suspension of US military training aid to Indonesia, the UN Human Rights Commission's discussions, and a number of resolutions passed by international organisations and movements.

Lisbon's statement went on to lament the lack of real impact this had had for the people of East Timor, and the fact that

human rights organisations were still not allowed to enter. It called on the international community to stand by its principles of human dignity and sovereignty. 'It is imperative to find a negotiated and peaceful solution which allows for the implementation of the decolonisation process... in full observance of its [East Timor's] cultural and religious identity and the legitimate rights of its people. This includes the freedom of choice of its political destiny, in accordance with the United Nations charter and the resolutions adopted by the Assembly General and the Security Council on this question'.

In the United States the *Boston Globe* of 18 November carried an editorial remembering the anniversary. It affirmed that the United States had 'a special obligation to insist that Suharto honour the United Nations' repeated calls for Timorese self-determination'.

## Reebok Award for prisoner

Fernando de Araujo, currently serving a nine-year prison sentence in Indonesia for his work for human rights in East Timor, is one of four people to receive the annual Reebok Prize for human rights. The Reebok Foundation described him as 'working in an environment of repression, intimidation and fear' and acting as an invaluable source of information of human rights abuses for international human rights groups'. He was awarded his prize, a cheque for US\$25,000 for his organisation, in absentia.

The Reebok Foundation said the award 'recognises people on the front lines of human rights work who, early in their lives

and against great odds, have significantly improved the human rights conditions of the people in their communities'.

## Constancio Pinto escapes

Constancio Pinto, an East Timorese activist who was a leading organiser of the demonstration in Dili on 12 November 1991 which preceded the Santa Cruz massacre, escaped from Indonesia and reached Macao in October 1992. He is now based in Lisbon, where he has been joining with human rights groups in their solidarity activities.

## UN talks: little progress

In December the new Portuguese foreign minister, Durrao Barroso took part in the second round of UN-sponsored talks to take place with Indonesia in 1992. He referred to the talks as 'three-way' rather than two-way, as Portugal sees the role of the UN secretary-general in the settlement of the East Timor dispute as crucial.

The arrest of Xanana Gusmao made the negotiations all the more sensitive: Jose Ramos Horta, the external representative of the East Timorese resistance, had called for 'total diplomatic confrontation' with Indonesia and for Portugal to abandon the talks if Indonesia did not 'act in good faith'.

The talks took place on 17 December with the two foreign ministers having separate meetings with UN Secretary-General Boutros Boutros Ghali before meeting together.

Indonesia's foreign minister, Ali Alatas, described the talks as 'constructive', but admitted that the positions of the two countries were diametrically opposed. Barroso said they were 'very frank, very long, but there was no progress', with Indonesia continuing to block discussion of the possibility of a referendum being in East Timor to settle the territory's status.

Despite the lack of progress, the ministers agreed to meet again with the UN secretary-general in Rome on 20 April. But it is hard to see how this process can produce results, and other approaches are being discussed by all sides. Ali Alatas is said to favour settling the issue through a vote at the UN, while General Syafei, East Timor's military commander, is reported to have said that the talks should be called off and the Vatican brought in as a mediator. However, the Vatican has no formal diplomatic standing in the discussions as they have been conducted so far.

The fact that the next talks will be in Rome may facilitate church involvement,

although Jose Ramos Horta has been assured that the reason they are taking place there is entirely because it suits the diary of Boutros Boutros Ghali. Durrao Barroso's hopes of progress at these talks remain low 'because Indonesia is refusing to budge'.

## International lawyers' conference

**An international conference, organised by the Catholic Institute for International Relations (CIIR) and the International Platform of Jurists for East Timor (IPJET), gathered together some 80 lawyers and East Timor activists from around the world on 5-6 December to discuss Indonesia's occupation of East Timor from the standpoint of international law. IPJET general secretary, PEDRO PINTO LEITE, assesses the weekend's discussions.**

Held at London's Law Society, the conference, as well as being aimed at British jurists, was also attended by representatives from Australia, Belgium, Colombia, East Timor, Finland, France, India, Indonesia, Japan, Kashmir, Macau, Namibia, Netherlands, Portugal, Puerto Rico, South Korea and the United States.

The international nature of the conference — 'Indonesia's Occupation of East Timor: Legal Questions' — was borne out by the fact seven of the speakers and discussants, all members of IPJET, were from the countries named above. They considered a wide range of legal questions concerning East Timor's occupation.

### Systematic abuses

Professor Roger Clark of the Rutgers Law School in the United States presented an overview of the occupation. 'Human rights

violations,' he said, 'are, in a sense, matters of detail. The whole system of Indonesia's presence is illegitimate... The real gravamen of the case against Indonesia is in the arguments based on self-determination and on aggression.'

Lauri Hannikainen of the University of Lapland, Finland, demonstrated how the rules of *Jus Cogens* were violated by that aggression and occupation, and concluded: 'All law-abiding states should help, encourage and pressure the United Nations to react with consistency to gross violations of peremptory and other basic principles and norms of international law.'

This informative session was followed by animated discussion from the floor.

A paper by Professor Garth Nettheim of the University of New South Wales, Australia — read, in his absence, by Michael Ellman, vice-president of the International Federation of Human Rights — analysed in detail the gross human rights violations committed by Indonesia in East Timor. Nettheim made clear his 'hope for an end to the policy of military repression, restoration of civil and political rights, and some form of movement towards a political solution. For without a political solution, the horrors of the past 17 years seem certain to continue.'

Meanwhile, a paper by Daniel Machover, a solicitor from London, called for the application of international humanitarian law in the case of Indonesia's occupation of East Timor.

Professor François Rigaux of the University of Louvain-la-Neuve, Belgium, Susan Marks of Emmanuel College, Cambridge, and Shambhu Chopra, president of the Indian Society of Human Rights, made comparative analyses between East Timor and the cases of Western Sahara, Kuwait and Goa respectively. The audience was reminded that the first two cases (particularly Western Sahara) were very similar to East Timor and that accordingly, for the sake of legal and political coherence, the solutions (holding of a referendum, sanctions against the aggressor) should also be similar.

### The case against Australia

The next two sessions dealt with the substantive issues and the procedural aspects of the East Timor case filed by Portugal against Australia before the International Court of Justice in The Hague (ICJ). Ana Gomes, second secretary of the Portuguese embassy in London, and Peter Zoller of the Australian High Commission in London, introduced the position of their countries in the case.

Professor Roger Clark strongly criticised the Australian position and concluded: 'There is a considerable body of state practice . . . to the effect that recognition should not be granted to the acquisition of territory obtained by illegal force.'

Gerry Simpson of the University of Melbourne, Australia, focused on the jurisprudence of the ICJ; in other words, how the court had dealt with the issues at stake in the case of East Timor in previous cases: 'It seems that East Timor's right to self-determination is unassailable. The ICJ is obliged to encourage its implementation and should not regard the political sensitivity of this issue as an impediment to affirming this right,' he said.

Iain Scobbie of the University of Dundee analysed the possible procedural implications of Indonesia's absence and came to a promising conclusion: 'Given the unfolding of the Court's jurisprudence on cases which implicate third state interests, it would appear that any involvement which Indonesia might have in the case cannot prevent the Court proceeding to determination of the merits.'

Finally, Christine Chinkin of the University of Sydney, Australia, expressed in her paper the feelings of the conference: 'It is hard to escape the conclusion that expediency and the desire to have a share in the maritime resources of the territory have fashioned Australia's position on East Timor rather than principled application of norms of international law'.

### Self-determination: A legal right

The second day of the conference opened with a session on the right to self-determination of the East Timorese, the very heart of the issue. Professor Paula Escarameia of the Institute of Social and Political Sciences, Lisbon, adopted a theoretical but clear approach to the implications for the East Timor issue of the absence of a well-developed and properly defined legal concept of self-determination. The significance of the absence of such a concept was borne out by her short and metaphorical assertion: 'It was partly due to our legal vocabulary that a genocide was committed in East Timor.'

Bill Bowring of the University of East London then examined the jurisprudence of the ICJ in relation to self-determination and concluded that the principles developed by the Court were of direct application in the case of East Timor. The final speaker, Sasha Stepan, an attorney from Melbourne, Australia, made a powerful plea for the right of self-determination of the East Timorese and strongly criticised Australian policy on the issue. She was the fourth Australian jurist at the conference to criticise her own government.

The conference ended by linking the legal reflections of the previous sessions with future political action. Chaired by Ian Linden, CIIR's general secretary, the session's panel included Barbedo de Magalhaes of Porto University, Peter Carey of Trinity College, Oxford, John Taylor of the South Bank University, Jose Ramos Horta, special representative of the Council of Resistance of the Maubere People, Carmel Budiardjo of Tapol, and myself, as IPJET general secretary. All the speakers stressed that legal argumentation was a weapon of paramount importance in the political struggle for a just solution for the problem.

## British arms

It is believed by many human rights groups that British Aerospace has concluded its deal to sell 24 Hawk aircraft to Indonesia and that a second deal was signed at the end of the January. It still refuses to confirm this. Indonesia has announced that it intends to purchase 144 of the aircraft, enough for six squadrons. In view of the deal's sensitivity, it is believed that it has been concluded without announcement in order to avoid an outcry. It has also come to light that 12 Indonesian pilots and mechanics have received intensive training in the use of the Hawk in Britain. The six squadrons of aircraft will cost Indonesia US\$1.5 billion, making Britain Indonesia's largest arms supplier.

The Hawk aircraft, while not a 'strike aircraft', may be used for reconnaissance and to provide close cover for troops. The Indonesian forces are conducting operations against armed resistance in Aceh and North Sumatra as well as East Timor. Reconnaissance equipment will therefore be necessary.

In the House of Commons on 12 January Alice Mahon MP (Labour) asked the government to confirm the sale and whether he felt any shame that 'despite the lessons of the Gulf, the British Government is continuing to sell arms to a murderous dictator'. But Minister of State for the Armed Forces, Archie Hamilton, refused to elaborate on contacts between the two countries' defence ministries and replied: 'The point of selling Hawk aircraft to Indonesia is to give jobs to people in this country. There is no doubt in my mind that a Hawk aircraft can do nothing to suppress the people of East Timor. The aircraft is not suitable for the purpose, and we have guarantees from the Indonesians that the aircraft would not be used for internal suppression'.

Supporters of the East Timor cause in both houses of parliament kept up a constant stream of questions to the government between October and December. They were invariably met with minimal and evasive replies.

As far as questions regarding aid and trade were concerned, the stock response was that 'the best way to influence human rights policy in Indonesia is by staying in there and maintaining our trade, and by discussing with them the matters on which we

disagree, especially bearing in mind that in the first six months of this year we had £170 million of trade with Indonesia, which is double last year's amount'. (Minister of State Hon. Mark Lennox-Boyd replying to Labour MP John Battle on 28 October).

Alice Mahon asked the Prime Minister on 5 November if the government would ask the Indonesian government to stop repressive actions in East Timor around the 12 November massacre. The reply: 'The Indonesians are already fully aware of the views of the British government and of our European community partners.' Again on 9 November she asked Prime Minister John Major if he would review the government's opposition to an arms embargo against Indonesia. His answer: 'No I do not believe a review is necessary.'

Jim Cousins MP (Labour) asked Foreign Office minister Alastair Goodlad 'what steps he had taken as chairman to refer the question of human rights in East Timor to the European Foreign Affairs Council'. The reply: 'None. European Community ministers have considered and expressed a view on this subject, most recently in the presidency's statement to the 47th session of the UN General Assembly'.

Overseas development minister, Baroness Chalker, also came under pressure in the House of Lords on 9 and 12 December when Labour Lords Rea, Judd and Archer asked him to account for Britain's lack of pressure on the Indonesian government in relation to its human rights record. She emphasised the government's view that Indonesia's human rights record was improving, but remarked: 'We shall continue to work . . . and to make sure that they realise that no torture is acceptable, no genocide is acceptable and that none of the reports that we have been reading should ever have any foundation, although we believe that some of the reports may be exaggerated.'

Baroness Chalker went on to disassociate arms sales with human rights abuses. 'The problem that exists in Aceh and the problems generally which exist with regard to human rights in Indonesia are not in any way related to Indonesia's determination to buy arms — not necessarily from this country but in order to have its own defence force'. She concluded: 'We shall do all we can to decrease arms sales.' The Hawk deal seems a strange way to begin.

A petition containing over 300 signatures urging the British government to end arms sales was sent to the Foreign Secretary Douglas Hurd in December. The signatures were gathered at CIIR's stall at the 'Global Partnership' Christmas Market, held in London in November.

## Clinton hopes

Hopes are said to be running high among members of Fretilin that President Bill Clinton will press Jakarta for East Timor's self-determination. Resistance representative Jose Ramos Horta spoke of his confidence that 'with a Clinton administration, the Americans will detach

themselves from the current military dictatorships in Indonesia and will move more aggressively in support of independence in East Timor'.

One of President Clinton's election campaign promises was 'to make American foreign policy focus more on humane values and democracy.'

Before the US Congress adjourned in October 1992, it gave final approval to an amendment co-authored by Republican senator Tony Hall which cut US\$2.3 million from the foreign aid bill in military aid to Indonesia for the 1993 fiscal year. (See also *Timor Link* No.24 p.7). The amendment cited Indonesia's pattern of abuses against the East Timorese. It was the first time that Congress had cut aid to Indonesia because of East Timor.

An editorial in the *Washington Post* of 5 December accused Indonesia of competing for the title of Asia's leading colonial power. It drew attention to the regime's mistreatment of Xanana Gusmao and suggested that 'a wise Indonesian government would deal with Mr Gusmao in a political process. Short of that it would ensure him due process.' The editorial referred to the UN talks as a format for Indonesia to 'let East Timor choose its future'.

#### Eminent persons appeal to UN

More than 50 eminent church leaders, politicians and academics signed a joint statement on East Timor calling on the UN secretary-general and the international community for renewed action to end human rights violations in East Timor. The statement, signed among others by Bishop Desmond Tutu, was handed in to the UN immediately before the talks between Portugal and Indonesia in New York on 17 December.

The statement was to gather further signatories for the current session of UN Human Rights Commission in Geneva. The signatories commit themselves to 'doing everything in our power to ensure that the people of East Timor will be guaranteed the right to life, the right to peace, and the right to justice, which is their entitlement'.

#### European Parliament resolution

The European Parliament passed a resolution on 17 December calling for representatives of the UN Committee on Human Rights (which oversees implementation of UN human rights treaties) and Amnesty International to be given immediate access to East Timor and to Indonesian prisons. The resolution also warned Indonesia that repeated violations of human rights and international law might damage relations with the EC.

#### UN human rights workshop in Jakarta

A workshop on human rights in the Asia Pacific region was held in Jakarta on 26-28 January by the UN Centre for Human Rights in collaboration with the Indonesian government. The workshop had originally been scheduled for December 1991, but had been cancelled following the Santa Cruz massacre.

Human rights groups, many of which, like

Asia Watch, had not been invited, protested at the holding of the workshop in Indonesia to the Indonesian government. It was seen as an attempt by Jakarta to make a name for itself on the human rights scene — an Indonesian has just been made a vice chairperson of the UN Human Rights Commission — and Indonesia made a special point of inviting Amnesty International, which has been banned from Indonesia for the past fifteen years. Some attendees felt that the meeting was intended by at least some Asian governments, not least the hosts, as a substitute for the stalled Asia regional preparatory meeting for the World Conference on Human Rights.

The conference gave President Suharto a further opportunity to reiterate Indonesia's position that the obligations of individuals towards society and the state should be equal to the responsibilities of the state in terms of individual human rights, and that 'international cooperation pre-supposes as a basic condition respect for the sovereignty of states and national identity of people'.

#### Oil companies line up

Seven of the world's largest oil companies

are preparing to invest large sums of money in the exploration of the Timor Gap between Australia and Indonesia. The treaty permitting the drilling, which was concluded between the Indonesian and Australian governments in 1989 is, however, being contested by Portugal at the International Court of Justice.

In December Lisbon presented to the court the final papers of its case against the Australian government. Australia has until late 1993 to submit its case against Portugal, after which a hearing date will be set, probably in 1994.

Oil analysts estimate that output from the area could reach 200,000 barrels per day by 1995. Eleven exploration contracts have been awarded, and 45 wells will be drilled at an estimated cost of US\$345 million.

USX Marathon oil was the first to start drilling on 7 December. It holds a 70 per cent stake in a well, while Australia's Santos Ltd and Korea Petroleum each have 15 per cent. It is thought that in 1993 more companies will start drilling, among them, Phillips Petroleum Company, Woodside Petroleum Ltd, Petroz NL, Enterprise Oil PLC and Royal Dutch Shell.

## Eyewitness account

**E.M. visited East Timor recently. He writes under a pseudonym to preserve his identity and for security reasons is unable to name anyone he met.**

Arriving in Dili, you gain a sense of how cut off East Timor is, its isolation compounded by an apparent atmosphere of lazy calm. But as you walk the streets, soldiers pick you out with their eyes as you walk. No sooner have you escaped the inspection of one military gaze, you are captured by another.

The army seems to outnumber people on the street. Soldiers are the only ones who can walk erect, boldly for all to see. As an outsider with previous knowledge of the situation in East Timor, you can only guess where the East Timorese are, huddled in their homes, planning, keeping the fires burning so that one day they will be free.

From the voices that are willing to speak to you, you learn that people are frightened. So many people have disappeared and the November 1991 massacre at Santa Cruz has shaken everyone. The army remains undefeated and its added column of spies apparently outnumber each East Timorese family two to one.

Here oppression has a darker, hidden meaning. It is the silences that speak of the blood and pain of struggle. Romantically, East Timorese activists in the outside world may want to hear of defiance, struggle and victories. But while such resistance exists, it is not immediately apparent in everyday life; the smoky heat seems laced with terror and silence.

Walking the streets of Dili, in the wide

open spaces, the large roads clear for the trucks, you feel you are walking in the footsteps of the dead — the 200,000 Timorese who have been killed for wanting to be free and who have left the streets of Dili with their shadows and ghosts.

Despite its beauty and calm, it is a fearful place. There is a poignant sense of unnaturalness screaming in the background. On the streets people are too frightened to talk to you; talking to you means a visit from the army. I remember the face running away scared as I asked for directions. Those who do speak to you could be spies ready to trap you. Walking along the water's edge, the tranquil fishing boats are under the mighty presence of the military ships with their guns pointed inwards towards the bay.

Resistance in East Timor would appear not to provide the firework displays against oppression that our television screens show of the struggle taking place in South Africa or Palestine. Yet in the unremarkableness of everyday life, you get the feeling that something remarkable is taking place. Behind their silent, calm exterior and the iron curtain of surveillance, people are working clandestinely and dreaming of freedom.

When you ask them about their lives, they think you want to hear something spectacular — tales of brutal repression or of banners for freedom being unfurled every day in full view of the world. They forget to tell you of the humiliating daily reality of checkpoints, of the passes everyone has to carry, of how they are registered and counted as they enter or leave every village and town. Only after questions do they talk

about the rapes by soldiers and the babies born or women being taken away for service from husbands and children. To defend and protect themselves the East Timor desperately need our solidarity.

Towns and villages seem like islands among a sea of soldiers. Soldiers are in doorways, in shops, strutting the streets, at bus stations and on the buses. Always armed, they dominate the people into silence.

But the voices that are brave enough to trust and speak to an outsider, tell of what lies behind that silence. They talk of the East Timorese people's need for the world to devote proper attention to their continued suffering. The Santa Cruz massacre has shown them that they are still killed in spite of the presence of the world's cameras, and that, notwithstanding a momentary expression of disgruntlement, the world seems to carry on as before. How much more suffering can they endure when when the outside world does not seem to notice it?

Since Xanana Gusmao's arrest the Timorese feel it is up to the international community to draw attention to his plight during his trial. For the East Timorese, Xanana should be a focus of attention just as Nelson Mandela was in South Africa. But this is now up to us.

People spoke of the military acumen of the new Falantil leader Ma'huno Bukar. There was knowledge of three military actions by the fighters, with many Indonesian army casualties. People said that the resistance was 'alive and kicking' and giving Timorese people hope.

People said that the situation now was in some ways worse than in the past. In the past, repression had been explicit, brutal and bloody and had cost thousands of lives. Now it was more insidious, but no less pervasive. People are being stifled. Their language and culture is being taken over, replaced in schools by those of Indonesia. Thousands of transmigrants are being encouraged to work and live in East Timor, in a move which is no different from the oppressive settlement policies of the Israeli government.

Most shops are owned by these newcomers, ensuring that Timorese money goes elsewhere. The settlers come from Flores, Sulawesi and Bali, pawns to the Indonesian leadership's policy of annexation. Whole villages are transplanted with new facilities; tin roofs and artificial streets break the Timorese traditional understanding of the land of which they form part.

In a darkened room, with fear of soldiers outside, I spoke to two just released from imprisonment without trial. They had been tied upside down and tortured. Their release came only after they had made a confession and sworn an oath of allegiance to the Indonesian government. They told how Timorese traditional beliefs had been manipulated and used as a new psychological weapon. Blood is taken by syringe from Timorese under arrest and mixed with wine. They are then forced to drink the mixture and make an oath. Traditionally, the breaking of such a bond between tribes results in death. The two

former prisoners intended to fight on despite the threat of death.

Throughout East Timor people were being rounded up randomly — in Viqueque, Baucau, Manatuto, Same. The Indonesian government sought to present this as proof that people were surrendering and that the resistance was broken, in a further effort to further demoralise the Timorese and lie to the world.

The people that did speak, were telling the world to do something. But as the major international powers push for United Nations action on Iraq, Indonesia is being allowed to silence systematically East Timor.

As I left East Timor, I felt as if I was in a corridor between two worlds, that I was carrying the East Timorese people's story away. I felt for for all the exiles who could not go home.

## New Church clampdown

**Latest reports indicate that the Church and specifically priests are being targeted in a new clampdown by the Indonesian military. The military is attempting to discredit the leadership of priests among the people and to drive a wedge between the Church and the people.**

Missionaries in the Baucau area were given an ultimatum either to leave East Timor or take on Indonesian citizenship. Their residence permits will not be extended, since they have been accused of having masterminded confrontations. Among the missionaries, Fr Locatelli SDB, Fr João de Deus SDB and Fr Baltazar are obliged to report daily to the armed forces or to Baucau District military command.

### Belo disbelieves military

In a telephone interview conducted by *O Publico*, published on 4 December 1992, Bishop Belo was in no doubt as to what he felt had happened to Xanana after his arrest in November. Asked whether he thought Xanana was telling the truth, or lying in his video statement, Belo said: 'I don't know for certain what happened, but for the past 17 years, if any prisoner spoke in the way that Xanana has spoken, it happened as a result of torture.'

### Disinformation

Belo went on to reveal his anger at disinformation being spread by the military about a pastoral letter he was supposedly going to release, calling on the guerrillas to give up their arms at seven selected churches. 'It's quite false. This was cooked up by the military so that the people would believe it. There is nothing whatsoever about any church being specified for this. I have not yet taken the decision on whether to issue a Christmas pastoral letter. It's all lies. It's all military propaganda.'

He confirmed that he would not make any appeal to the guerrillas, as he feared

that they would be killed if they gave themselves up, as in 1979 and 1980. He would only relent if he was given guarantees that 'anyone who surrenders will not be tortured, will not be killed, will not disappear'. He did not believe that with Xanana's capture, the resistance would disappear: 'Xanana is not the entire people. Xanana is only an inhabitant of East Timor.' Lastly, he reaffirmed his belief that a referendum in East Timor would be the best solution.

### Priests surrender instructions

Bishop Belo did, however, issue a letter on 19 December giving priests precise instructions on how to act if guerrillas surrendered at churches. Only parish pastors and assistant priests could accept the surrenderee and they would have to make sure that the guerrilla was giving him or herself up voluntarily. Surrenderings could be made at any parish, and an official report should be made and signed by the priest and the military commander.

The bishop's letter appealed to civil and military officials to respect human dignity, to treat guerillas humanely and to avoid forcing them into decisions against their will.

There have been few independent reports of individuals taking advantage of the offer.

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