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Timor Gap case begins at the Hague

Hearings began at the International Court of Justice in the Hague on 30 January on the legitimacy of the Indonesian-Australian Timor Gap oil treaty. Portugal is challenging the pact on the grounds that Australia would be in receipt of 'stolen goods'.

The Timor Sea, between East Timor and Australia is believed to contain the world's 23rd largest oil field. Estimated reserves are of 5 billion barrels of oil and 50 trillion ft³ of natural gas in a 62,000 km² zone. In 1989, the Jakarta and Canberra governments concluded the 'Treaty on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia'. The deal divides any profits derived from exploitation of resources in this region between the two governments.

The area has been divided into three zones: **Zone A**, the largest section, and thought to contain the largest reserves, will be developed jointly by the two countries.

Zone B, nearest to Australia, is under the sole jurisdiction of Canberra, although 10 per cent of contractors' income tax revenue will be allocated to Indonesia.

Zone C, nearest to East Timor, is under sole Indonesian jurisdiction, with 10 per cent of contractors' income tax revenue allocated to Australia.

An agreement was drawn up in 1972 between Australia and Indonesia on maritime boundaries. The Timor Gap was left undecided because Portugal, then the colonial power administering East Timor, failed to conclude a similar agreement with Australia. This remained so after the Indonesian invasion of East Timor in 1975. The 1989 treaty was hailed by the oil industry as an innovative solution to the problem in terms of international law.

But the Portuguese government, as the UN-

recognised administering power, instituted proceedings against Australia at the International Court of Justice in February 1991, claiming the treaty disregarded the fact that East Timor was not a self-governing territory and has not been given the opportunity to exercise its right to self-determination. Portugal's, as well as East Timor's rights have therefore been violated, in its view.

Portugal is unable to prosecute Indonesia, as its government does not recognise the court's jurisdiction. But Canberra is committed to abiding by the court's ruling. It is thought the ICJ will not rule until late 1995, or early 1996.

Four-pronged attack

The ICJ is being asked to declare that Australia had no right to sign the treaty with Indonesia because the United Nations still recognises Portugal rather than Indonesia as the administering power. Australia is being asked to pay reparations.

Summary

This issue of *Timor Link* brings news of more violence and repression in East Timor, and reports of continued censure of Indonesia. We report on the background to more killings in East Timor, and on the problems brought on by Indonesia's transmigration policy. We print an eye-witness account of the new military build-up – even as the UN Special Rapporteur on Summary, Extrajudicial or Arbitrary Executions calls for a 'drastic reduction' in troop levels in the territory. We give a background to the Timor Gap hearings taking place at the ICJ, and interview with Xanana from his prison cell, and Bishop Belo's Christmas message.

Portugal's legal challenge revolves around four principal issues:

- Lisbon points out that Australia is sharing with Indonesia the resources which the latter gained illegally through conquest and annexation.
- The reference to the 'Indonesian Province of East Timor' in the treaty is invalid in international law, since Jakarta has failed to obtain international sanction for its annexation. Both the UN security council and the general assembly have condemned Jakarta over East Timor. Portugal, as 'administering power' still retains residual sovereign rights over the territory and its offshore maritime resources.
- Portugal says Australia's de jure recognition of the Indonesian annexation (December 1978), is invalid in international law because it conflicts with two unanimously adopted resolutions of the UN general assembly, including the 1974 Definition of Aggression, which states that 'no territorial acquisition or special advantage resulting from aggression shall be regarded as lawful'.
- It alleges that the treaty is null and void, as Australia would effectively be the recipient of stolen goods.

Portugal insists it is pursuing the case out of principle not because it wants to benefit from the oil if it wins. It is keen to see the court rule that Indonesia's annexation of East Timor is illegal.

Australians confident

Australia is expected to argue that the case is artificial because Portugal's real dispute is with Indonesia. Australian officials have expressed confidence in winning the case. That must certainly be the hope of the oil companies which, since 1989, have been exploring the sea bed. Eleven companies are there, including

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USX Marathon Oil, Royal Dutch Shell, Chevron, BHP Petroleum, Philips Petroleum and Woodside Petroleum.

From 1985 to 1993, 80 wells were drilled in the Timor Gap Zone of Cooperation (ZOCA), jointly administered by Australia and Indonesia. None produced any oil.

But according to Belinda Goldsmith (Reuters, 29 December 1994) two major discoveries from 11 wells drilled in 1994 and one recent discovery in waters 20 km outside the Gap have revived interest in the Timor Sea region. It is estimated that the Elang and Kakatua wells contain up to 150 million recoverable barrels of oil and that the Lamiara well contains up to 200 million barrels of light crude.

Last year the Elang-1 well, 500 km north of Darwin, flowed at 5,800 barrels of oil per day (bpd), the Elang-2 well produced 6,080 bpd and the Kakatua 1 wildcat oil well produced 8,100 bpd.

The Elang and Kakatua wells are owned 42 per cent by BHP, 21 per cent by Santos Ltd, 21 per cent by Inpex Sahul Ltd and 18 per cent by Petroz NL. Lamiara is shared among Woodside Petroleum Ltd (which owns 50 per cent), BHP (25 per cent) and Shell Development Australia Pty (part of the Royal Dutch/Shell Group, 25 per cent).

If the oil and gas field are as productive as predicted, development of the Timor Gap could triple Australia's current reserves and spare Indonesia from becoming a net oil importer by

the year 2000.

However, if Portugal won the case, the ramifications for the oil companies could be serious. According to Dr Keith Suter (*Marine Policy*, July 1993), oil companies are 'not worried about which nations in particular own the area – they find ways of co-operating with governments irrespective of their political viewpoints – but they do require certainty of national ownership in order to commence investments'.

If the treaty is declared illegal, oil exploration permits granted by the Australian-Indonesian joint authority will be declared null and void. Companies persisting in exploration could be prosecuted. If Canberra loses the case, some companies may sue the Australian government.

If Portugal wins, exploration may have to be frozen until Portugal and Indonesia have resolved their differences. It will certainly add impetus to the negotiations, and the pressure from monied interest groups may even concentrate minds which may eventually settle for a deal.

Ironically, CNRM representative José Ramos Horta, has stated that if East Timor gained independence, it would uphold the treaty, with Australia, taking Indonesia's share for itself. In reality, it may come to a compromise with Jakarta.

The Portuguese are widely believed to have the stronger case. But whether political and economic considerations are allowed to dominate the fragile articles of international law is about to be tested. ■

Terror returns to Timor

Fresh outbreaks of violence in Dili and killings in Baucau have thrown a spotlight on the Indonesia army's increasingly oppressive presence in East Timor. Bishop Carlos Belo has appealed for a restoration of civil order as daily life is gripped by a new military build-up, and intimidation and torture by the security services.

Gangs of hooded youths are reported to be roaming the streets of Dili attacking houses, throwing stones and intimidating residents. By mid February, up to 29 people had been abducted. The gangs, nicknamed 'Ninjas', appear to be acting with the connivance of the Indonesian military, which has itself been responsible for six killings in January in Liquisa. In late January, more than 100 women visited Bishop Belo to complain about night-time disturbances in their neighbourhoods. They asked him to take it up with governor Abilio Soares.

In a press release dated 1 February, the National Council of Maubere Resistance

Military steps up war of fear

This eye-witness report received in mid-January gives a shocking insight into the situation in East Timor.

'The residents of East Timor are agitated because of the activities of the Indonesian army and its intelligence, which are spying on individuals and groups and are visible almost everywhere in Dili. Armed with sticks, they patrol the streets in groups of 10-12, some wearing black jackets with an eagle's wings logo, others wearing red jackets with yellow stripes with the word *keamanan* ('security') on the front.'

'Since the incident at Becora market on 12 November, the residents – especially the youth – are worried about further persecution. There is fear of systematic arrest, torture and killings by army personnel.'

'Christmas could not be properly celebrated. Most people preferred to stay at home rather than visit relatives and friends. Only those connected with the military enjoyed privileges [to celebrate]. On Christmas Day and New Year's Day, the military engaged in provocative activities. A fully-armed riot brigade with six to eight vehicles patrolled the churches, the Vila Verde Cathedral and in Becora and Motael, provoking people attending mass.'

'On 9 January, the day of the tripartite talks in Geneva, there was widespread foreboding

of a terrible incident, recalling the bloody events of 20 years ago when Indonesia invaded East Timor. People feared this could bring economic stagnation. Anticipating the worst, residents hoarded food.'

'Because of the terror, educational activities have been suspended, as well as other governmental and private activities. Some people still go to work but there is fear on their faces. About 2,000 Chinese families have decided to flee to Australia.'

More troops

'This atmosphere is the result of military operations. Whereas previously there were 15 battalions conducting military operations in East Timor, the number increased following the Becora incident. More troops landed at the end of November – there are now seven battalions of red berets (Kopassus). Some landed secretly in Lospalos while others arrived publicly on 3 January in Dili. Along with them came heavy artillery and tanks. There was a military ceremony to welcome these new arrivals.'

'Following the new arrivals, an identity card operation has been started. This has prevented villagers from going to Dili because military personnel are blocking entry points and controlling all newcomers. This happened in Tibar, west of Dili, in Marbia in the South, and Hera-metinaro in the East. Anyone

wanting to enter is forced to undress. Anyone without ID is arrested and tortured. The controls apply only to Timorese.'

'The worst conditions have been experienced by people arrested after the November 1991 massacre, and by freedom fighters. They have been interrogated by the intelligence unit Satuan Gabungan Inteligen (SGI). They include: Mahunu, Mahudu, Alexo Cobra, Dr Mathias, Ze Manuel. Activists involved in the cathedral demonstration in Dili on 18 November last year have also been tortured. They include Bobby Xavier, 21, who lives in Matadouru; he was picked up in the night of 27 December by intelligence agents and has been in custody ever since. It has been difficult for his family to visit him. Intelligence agents are monitoring and torturing other activists. Before picking someone up, the SGI usually dispatch the local intelligence to visit the homes of the victims.'

'There has been an increase in detention and torture of members of the Clandestine [resistance movement]. Henrique Belmiro, 43, from Bairo Pita, was detained and sustained injuries to his limbs and head.'

'Conditions in Baucau, Same, Lospalos, Viqueque and Ermera are even worse. It is risky for any Timorese to make the journey to Dili. The only people here monitoring the human rights situation are two officials of the International Committee of the Red Cross.'

(CNRM) alleged that the Ninjas are being trained and funded by the Indonesian military and led by the notorious thug Labut Melo to intimidate pro-independence activists and harass opponents of Indonesian rule. This would explain the armed forces' failure to act against the gangs.

The military's inaction has led civilians to take security into their own hands, and there have been many violent clashes. Two Ninjas taken prisoner by civilians confessed to having been paid 25,000-50,000 rupiah (approx US\$23) for each night they attacked. Bishop Belo handed them over to the police and appealed to the police to maintain order.

The bishop claimed on 14 February that the military authorities had agreed to disperse any Ninjas recruited by the armed forces. He also said the military had agreed that the police would send uniformed men to patrol the streets, and that the Dili administrator would meet with community leaders to co-ordinate security for targeted neighbourhoods.

Time will tell whether the Indonesian authorities will stick to this agreement. *Voice of America* reported on 15 February that 12 masked men had been arrested. Indonesia's largest newspaper Kompas reported that the 12 had confessed to 'spreading rumours that they were linked with the military'.

Tensions in Baucau

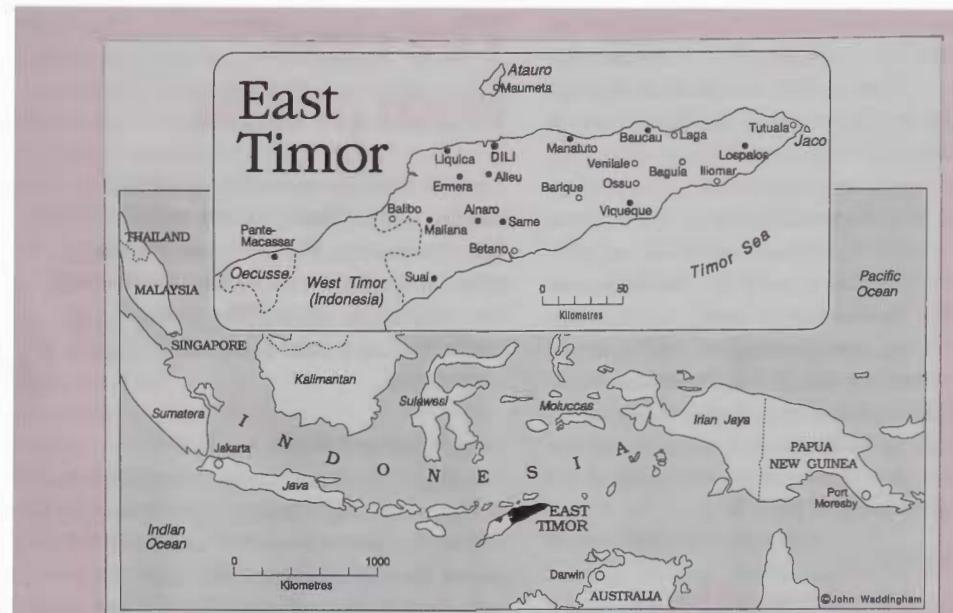
The eastern town of Baucau has been the focus of particularly serious tension over the past few months.

On 12 November, an incident in which East Timorese youth attacked migrant traders from Sulawesi led to an East Timorese, Mario Vicente, being killed in Becora market. Riots broke out and the market and adjacent houses were burned down.

The unrest drew a pastoral letter from Bishop Belo, who appealed to the East Timor provincial government to reflect on how far its development programme benefits local people, especially the poor. He asked the government to 'try to listen to the voices from the hearts of small people and the youth in every case' and entreated the military to avoid violence.

Catholics in the area have complained of being shadowed by the security forces since late September, with services and prayer meetings subject to heavy surveillance. Activists from Laga Village, Baucau district, told Hong Kong-based UCANEWS (793B Nov 17/18 94): 'Every night at nine o'clock they approach the gates of the church and the rectory. In the darkness we see the silhouettes of their bodies and the machine guns in their hands.' In another village the military had imposed a night curfew to 'maintain stability'.

The Bishop's letter seemed to have gone unheeded, however, as two more young people, Armindo Ximenes and Domingos Muhamad were gunned down by soldiers on 7 January while demonstrating outside the church of San Antonio de Baucau. The demonstrators were protesting the destruction by Indonesian soldiers of a picture of Christ. Soldiers opened fire on the



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, Fretelin, 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 Fretelin came to power. In the ensuing civil war, 1,500 people lost their lives. By September 1975, however, Fretelin 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 it 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-determi-

nation 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 great disappointment in East Timor, the delegation was forced in October 1991 to call off its visit.

On 12 November 1991 Indonesian troops shot and killed up to 300 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 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.

crowds, and in addition to the two dead, more than a dozen were in hospital with serious gunshot wounds. Bishop Belo travelled to Baucau to calm the rioting, warning that the situation there was considerably worse than in Dili.

The incident occurred only two weeks after the report by UN Special Rapporteur on Extra-judicial, Summary and Arbitrary executions. Bacre Waly N'Diaye said the Indonesian government had done virtually nothing to implement the undertakings it had given at successive sessions of the UN Commission on Human Rights to improve the rights situation in East Timor. N'Diaye said the conditions remained in place for further serious massacres like that of November 1991. ■

Transmigration policy denounced

Resistance leaders have attributed recent violent clashes in East Timor to the influx of thousands of immigrants from Indonesian islands in search of employment and a better livelihood.

Following a pro-independence demonstration in early January at the university of East Timor, in which 24 youths were arrested by the Indonesian security forces, governor Abilio Soares spoke of the need to reduce the flow of transmigrants to the territory.

The National Council for Maubere Resistance (CNRM) has also expressed its growing concern about this problem, to which it attributes the recent clashes in the Baucau area. On 9 January, the CNRM denounced the 'illegal population transfer policies of the Jakarta government, aimed at changing the demographic composition of the East Timorese population ... pursued in gross violation of accepted international norms on population transfers in occupied territories'.

The CNRM lamented the displacement of East Timorese from their ancestral lands and marginalisation from economic life, exclusion from public service jobs, and difficulties in obtaining higher education.

'Protection and favouritism by the authorities have encouraged many newcomers to treat the local population and its cultural and religious values with disdain,' said the council. 'This has repeatedly been denounced in recent months by local leaders, such as provincial parliament representatives, former pro-integrationists and Church members. As a result, previously unknown ethnic tensions are now widespread in East Timor, adding yet another tragic dimension to the suffering of the East Timorese people under the brutal Indonesian military occupation.'

'To compound the seriousness of the situation,' the statement continued, 'legitimate protests by the local population are used by the military as excuses to further repress and even massacre the local population.' ■

The view from prison

Xanana Gusmão secretly recorded an interview with Radio Macau on 26 January. The interviewer, Pedro Sousa Pereira, asked questions sent to Xanana through the resistance, which then delivered to Radio Macau a tape containing Xanana's responses.

Long haul for talks

Xanana said he is willing to participate in a meeting among Timorese promoted by the United Nations and to return again to Cipinang prison after the meeting. He reiterated that he would not accept exile and that the Indonesian generals would never be 'stupid enough' to accept his return to East Timor in freedom.

In his view, the negotiations between Durao Barroso and Ali Alatas were making 'little progress, due to Indonesia's inflexibility'. Xanana said the resistance has still time to 'ripen' its strategies for a possible future dialogue among Timorese, but that 'nothing can be expected from a meeting that is oriented, in principle, to explore ideas'.

Indonesia accepted the dialogue among Timorese, said Xanana, because 'it failed in its attempt to grant Abilio Araujo the legitimacy necessary to engage in "reconciliation". Jakarta had to do it to preserve the concept and the group and, in doing this, had to accept the existence of the Timorese resistance.'

Human rights plea

Xanana said the UN should send a permanent mission to East Timor. He described the latest UN report on the human rights situation in East Timor as a 'magnificent precedent' because it proved the need to investigate the actions of the Indonesian occupying forces, in particular regarding the November 1991 Santa Cruz massacre.

'I believe the UN has renewed motivation to continue to press Jakarta to open East Timor to independent groups,' he said. 'The next session at the Human Rights Commission this February and March will have fulfilled its duty if it gives full consideration to the report of Mr N'Diaye.'

Xanana emphasized that, in his opinion, 'Jakarta does not want the solution indicated in the UN documents'. He added that to the Indonesian government an 'acceptable solution' means 'the international community should accept the occupation as sovereignty'.

He reaffirmed his confidence in the efforts of the UN secretary general and said that Portugal was still firm in its defence of the territory's right to 'self-determination and national independence'.

'We have noted progress in the efforts of the UN secretary-general and we believe in the integrity of the present UN envoy and the rightful representatives of the East Timor case,' Xanana said. 'Each UN initiative will deserve our complete support, so that we can put an end

to the suffering of our people in its search for a comprehensive solution that is fair and acceptable internationally.'

The role of the church

'The most cynical state in the world,' is how Xanana described the Vatican in its actions relating to East Timor. But he expressed deep appreciation for the East Timorese church and said he wished to meet with Bishop Belo. Regarding Bishop Belo's Christmas message, which said no leaders have proven themselves capable of unifying the East Timorese people (see page 8), Xanana said the Bishop was entitled to express his opinion. He attributed Belo's statement to his sadness at the division among East Timorese factions.

'There are always people ready to sow disunity among us. Belo has all the moral, and even political, authority to express his feelings, thus alerting our people to all of us when we behave irresponsibly or naively.'

'When Belo appeals to the people to embrace the New Testament, he does so as the leader of the church, with the intention of preserving unity inside the fatherland. All the confusion generated around the term "Timorese people" is the work of the leaders in the diaspora, removed as they are from East Timor's reality,' said Xanana.

'In the political context, the church has an enormous role in influencing our people because it is in daily contact with the population.' Xanana added that if the Timorese priests were pro-integration, the church would not have the influence over the people it has today.

Call for discipline and unity

Commenting on the recent incidents in East Timor in which the youth have been main protagonists, Xanana said he considered them as the 'logical and natural continuity of a living process – living because it lives in the blood of our people, whom no one should try to fool'.

He appealed to the youth to 'maintain always the high spirit of struggle and always keep firm the spirit of organisational discipline'.

Xanana took the opportunity to call for solidarity from the Timorese in Macau. 'As your fellow-countryman and brother, I appeal to all of us to modify our attitudes and turn our thoughts to the need to remain firmly united [cerrarmos fileiras] so that we can liberate our fatherland.'

Prison life

Xanana explained that Cipinang has for the past 11 years included a section called the Tim-Tim block, meant exclusively for Timorese prisoners. Four other Timorese activists are currently held in the Tim-Tim block, but Xanana's cell is in a different section and he is in contact with the other activists only during Friday mass. He is forbidden to visit the Tim-Tim block.

Although describing his cell in Cipinang as 'spacious, with room to grow plants', Xanana said his days were 'terribly monotonous and at times going by incredibly fast'. He added that he is well treated by the prison guards, who 'understand the difference between a criminal

and a political [prisoner].

He said he thinks about 'many things', especially about the Timorese issue, 'my people's resistance, the mighty efforts of the brave guerrillas, the diplomatic struggle, the politics of the different governments that contribute to Indonesian inflexibility, the political situation in Indonesia itself, the incapacity of the Timorese in the diaspora to accept that, given the cir-

cumstances, we must strive to understand the real needs of the liberation struggle'.

He added that he also thinks about 'the tireless efforts of all those activists around the world who have made this struggle their own in the name of truth and justice.'

'When I think of this, looking ahead at the ever greater demands upon us, I feel smaller than ever.' ■

DIPLOMATIC NEWS

Geneva promotes all-inclusive talks

The latest round of UN sponsored talks in Geneva established the basis for meetings that include pro- as well as anti-integrationist Timorese.

The United Nations secretary general Boutros Boutros Ghali held a fifth round of meetings in Geneva on 9 January with Portuguese foreign minister Durao Barroso and his Indonesian counterpart Ali Alatas. According to the final communique, discussions 'focused on the secretary general's initiative to facilitate the convening of an all-inclusive intra-East Timorese dialogue, on a set of issues to be addressed in future talks and on confidence-building measures'.

Boutros Ghali had sent a mission to Jakarta, Dili and Lisbon at the end of 1994 for consultations prior to the present round of talks. He also sent a representative to a meeting of pro- and anti-integrationist East Timorese in Chepstow, Wales, in September organised by Indonesia's London embassy (*Timor Link* 31, page 5).

The secretary general saw this meeting as initiating 'the first in a series of consultations with East Timorese groups and personalities of different political opinions'.

Starting point

According to the UN, the aim of the dialogue between the East Timorese will be to 'provide a forum for continuing the free and informal exchange of views to explore ideas of a practical nature that might have a positive impact on the situation in East Timor and assist in the establishment of an atmosphere conducive to the achievement of a solution to the question of East Timor.'

'The dialogue will not address the political status of East Timor and will in no way constitute a parallel negotiating track or be a substitute for the ministerial talks under the auspices of the secretary general.'

The talks will be an improvement on recent initiatives, which have failed to consult all shades of East Timorese opinion. But without facing the substantive political questions on East Timor, talks alone will not break the log-jam. They have, nevertheless, been welcomed by East Timorese representatives as a first step forward.

The communique pressed Indonesia again to improve the human rights situation in East Timor, 'in particular with regard to access to East Timor, the early release of the East Timorese imprisoned and to the full accounting of the persons dead or missing as a result of the violent incident in Dili of 12 November 1991'.

The sixth round of talks between foreign ministers under the secretary general's auspices will be held on 19 May in New York. In the meantime, discussions will be held through Boutros Ghali's representative. ■

The Commission's consensus statement of 1994 charged him with investigating the Indonesian government's efforts to account for people still missing after the massacre at Santa Cruz.

N'Diaye's objectives were to: collect more information about the Santa Cruz massacre, to gather reliable information about the right to life since the Dili killings and to assess the Indonesian government's fulfilment of the international legal standards concerning the use of force by law enforcement officials and the Government of Indonesia's obligation to investigate all allegations of summary executions, to bring the perpetrators to justice, compensate the families of victims.

The rapporteur met with Indonesia military and government officials, spent four and a half days in East Timor, interviewed Xanana Gusmão in Cipinang Prison and prisoners in Becora and Balide prison in Dili. N'Diaye also met Catholic clergy including Bishop Belo.

He concluded that the Indonesian police

investigation of the Santa Cruz event was 'not thorough'; that the 'conditions for an independent and impartial investigation were not present'; and that forensic examination and criminal investigations were inadequate and that no autopsies were performed. None of the members of the commission of inquiry was independent of the government and they lacked the technical expertise to carry out the investigation. N'Diaye felt Indonesia's newly created National Human Rights Commission would not be allowed to deal with the case. Neither the military nor the police authorities had taken any serious steps to find the missing and victims' families had not been compensated.

Inappropriate sentences

Special criticism was reserved for the trials which followed the 12 November events. Military personnel prosecuted for the Santa Cruz killings appeared before military courts. N'Diaye said: 'A system which places the task of correcting and suppressing abuses of authority by members of the army in that same institution will not easily inspire confidence'.

His remarks on the trials concur with those of many human rights groups. 'The inadequacy of the charges and the inappropriately light sentences [eight to 18 months] imposed by the court martial on the few members of the armed forces accused [of] having been implicated in the 12 November 1991 incident, are in no way a fulfilment of the obligation to punish perpetrators, and thus to provide a deterrent for the recurrence of a similar tragedy.' On the contrary, the rapporteur felt the sentences illustrated what little importance Indonesia law officers attach to the right to life.

N'Diaye concurred with a 1993 Human Rights Commission resolution, that it was the victims of the Santa Cruz Massacre who were blamed for the killings. Organisers of the demonstration received sentences of 15 years to life. 'The disparity [between the military sentences and those of the East Timorese] is more illustrative of an implacable determination to suppress political dissent than a genuine commitment to protect the right to life and prevent extrajudicial executions.'

The report makes a dozen recommendations. Most important, it urges the Indonesian government to conduct proper investigations into the Santa Cruz killings, which he says should not be considered 'a thing of the past'. N'Diaye urges Indonesia to create a civilian police force under the authority of a prosecutor. He says 'no confidence-building measures can be effective and no solution to the problems facing East Timor can be found before justice has been done. An end should be put to impunity enjoyed by the members of the Indonesian armed forces responsible for abuses.' He recommends that a civilian judiciary have jurisdiction over cases.

Oppressive climate

N'Diaye notes the atmosphere of fear and suspicion prevailing in East Timor which mitigates against families challenging the authorities to look for their missing relatives. 'A

HUMAN RIGHTS

Where is the justice?

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions visited East Timor from 3-13 July 1994, where he found the Indonesia authorities 'determined to suppress political dissent' rather than protect the right to life. He held out little hope of progress on East Timor until justice is done over the Santa Cruz massacre.

The special rapporteur, Senegalese jurist Bacre Waly N'Diaye, was invited by the Indonesian government in the light of the text of UN Human Rights Commission resolution 1993/97.

drastic reduction of the military presence in East Timor,' he says, 'is a prerequisite for confidence-building measures allowing the families to feel safe enough to report about their missing or killed relatives.'

N'Diaye recommends NGOs be set up and free access to international human rights organisations. An independently staffed East Timorese commission for human rights should be founded. Forced disappearances should be prevented, and political dissent dealt with according to international standards. Security forces should be trained in human rights, and the use of force restricted.

N'Diaye's final recommendation is that the Indonesian government invite the Working Group on Enforced or Involuntary Disappearances to carry out a mission. He enjoins the government to accede to the International Covenant on Civil and Political Rights and the convention against torture.

Naturally, the report was not received with any enthusiasm by the Indonesian government. Foreign minister Ali Alatas suggested N'Diaye was not well-informed. The report undoubtedly fuelled demands at the UN Commission on Human Rights to make a strong statement on Indonesia. The report will also embarrass governments around the world that had been inclined to accept the conclusions of the Indonesian government commission of inquiry into the Santa Cruz Massacre. ■

government was 'rather taken aback' by killings it had not authorised, anticipated 'vigorous protest' and halted the operation. To its astonishment, no protest came.

'If five newsmen could be executed without arousing the ire of the Western governments, then East Timor could be invaded with impunity,' Dunn said. Moreover, Western silence 'encouraged the Indonesian military to believe they could treat the Timorese roughly'. Recent research suggests that within six years of the Balibo murders as many as 345,000 Timorese died – a terrible price for silence.

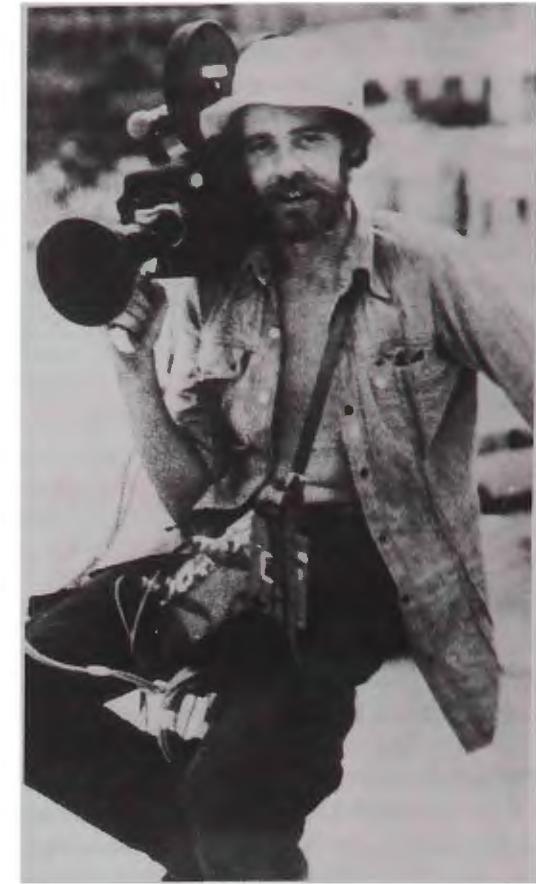
Until John Pilger's and David Munro's *Death of a Nation* was screened in the UK in February 1994, Tolfree says, her family 'did exactly what the government hoped we would do'. Now, following her address to the UN Decolonisation Committee (*Timor Link* 30, page 4), Tolfree is emerging as a formidable campaigner.

In November, the Australian High Commission gave her a statement made on 7 June 1994 by foreign minister Gareth Evans. Responding to questions in the Australian Senate, Evans admitted the newsmen were executed during 'a major military invasion'. He claimed nothing more could be done and that 'detailed protests, notwithstanding some suggestions to the contrary, were of course made' at the time.

Indonesian foreign minister Ali Alatas was reported by the *Melbourne Age* (10 December) to have told an Indonesian parliamentary hearing that the newsmen died in crossfire between Indonesian troops and Fretilin. This is the first time Indonesia has openly admitted it had troops in East Timor at that time. Tolfree has asked for a full transcript of the hearing.

British MPs cornered

Senior British Labour and Conservative politicians have a problem. Tolfree has seen several Foreign Office letters dated after 7 June,



Brian Peters arriving back in Darwin after his first visit to East Timor, in 1975. He carried with him an appeal from the president of Fretilin, Xavier do Amaral, calling on the Australian people to help East Timor in the face of impending invasion.

reiterating the long-discredited nonsense that the newsmen died in a UDT/Apodeti attack on Balibo. In a letter to Lord Avebury on 4 August, foreign secretary Douglas Hurd dismissed 'speculation over the years about the circumstances surrounding the deaths of Mr Peters and his colleagues'. Although Hurd inherited the Balibo cover-up from Harold Wilson's government, he cannot afford to ignore the

Stern words from UN human rights watchdog

As *Timor Link* went to press, we heard that a strong Chairman's Statement had been made at the UN Commission on Human Rights. The consensus statement – made with the acquiescence of the Indonesian government, whereas a resolution would have been made without it – presses the Indonesian government to honour earlier commitments to improve the human rights situation.

The 1 March statement reiterates the commission's continuing deep concern over reports of human rights violations in East Timor, welcoming the visit last July of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. It calls on Indonesia to live up to undertakings made in consensus statements at its 48th and 50th sessions – implying that Indonesia had not yet done so.

The statement continues to pressure Indonesia to account for people still missing after the Santa Cruz Massacre, urges continued co-operation with the Red Cross,

and enhanced access for human rights groups, humanitarian organisations and the media to East Timor.

Most important, the statement welcomes the Indonesian government's agreement to invite the UN High Commissioner for Human Rights to visit the territory this year, along with a number of other thematic rapporteurs and working groups of the commission.

The statement also welcomes the outcome of the fifth round of Geneva talks, and stresses the importance of continuing the effort to promote confidence-building measures between the Indonesian and Portuguese governments.

However, as indicated in the text of this year's declaration, the Indonesian government has considerable ground to cover before it can be said to have lived up to the contents of previous consensus statements. Human rights groups will be carefully monitoring progress on the present one.

Balibo: Action at last?

An Early Day Motion tabled in the House of Commons on 14 February calls for a proper inquiry into the killing of two British and three other television newsmen at Balibo in October 1975. But, as British human rights campaigner Hugh Dowson explains, there is a 20-year conspiracy of silence to overcome.

EDM No.607, tabled by Labour MP Roger Berry and Liberal Democrat MP Don Foster, expresses concern but does not guarantee a debate. That even this initiative has taken so long is no surprise. In November 1994, East Timorese external resistance spokesman José Ramos Horta lamented Britain's 'complicity with the Indonesian dictatorship [which] goes back 20 years, when two British journalists were murdered. The British Foreign Office did everything to cover up the murder of its own nationals'.

Costly silence

'The killings at Balibo have a special significance,' Timor specialist James Dunn told Maureen Tolfree last October. Tolfree is the sister of British journalist Brian Peters, one of the murdered newsmen. The killings, said Dunn, were ordered to prevent Indonesia's covert operation being compromised. The Suharto

careful work of researchers of the calibre of Jill Jolliffe and Dunn (neither of whom accepts the version depicted in *Death of a Nation*). Hence the EDM and Tolfree's request for an appointment with Hurd.

In July 1975, Britain's Labour government was advised that it was in Britain's interest for Indonesia to 'absorb' East Timor quickly and unobtrusively. Oil and other key interests were at stake. In September that year, an Australian government-imposed news blackout – meant to prevent on the spot coverage of East Timor's Indonesian-sponsored civil war – was breached when Sydney's Channel 9 TV released film taken in East Timor by Peters.

His film was shown worldwide. The civil war collapsed at the end of September. Indonesia now took over the 'civil war', seizing the border village of Batugade on 7 October. Fretilin announced this invasion but Indonesia denied it. Two Australian news teams went to investigate: reporters Greg Shackleton and Malcolm Rennie, soundman Tony Stewart, and cameramen Gary Cunningham and Brian Peters.

These were the five executed at Balibo. By the time of Indonesia's full-scale invasion on 7 December 1975, only one journalist was there as a witness, Roger East, and he was soon murdered. As Jolliffe said in a *National Times* article of March 1976: 'What journalist could afford to stay after Balibo?' ■

INTERNATIONAL ROUND-UP

SOUTH EAST ASIA

CNRM sends Youth Day message

The National Council for Maubere Resistance youth section sent a message to young people gathered in Manila from 10-15 January for the Tenth World Youth Day celebration. The event was attended by Pope John Paul II, on a pastoral visit to the Philippines, and Bishop Belo.

The message called on the participants to 'remember the suffering youth of East Timor' and to remember those who had given their lives to 'defend international principles of justice and human rights'. The CNRM asked the youth to resolve to accomplish these ideals and show the strength of their solidarity for their 'suffering regional neighbours'.

South Korean network hosts Rodrigues

Fretelin's representative based in Angola, Roque Rodrigues, visited Seoul in December to raise awareness about East Timor. The Korean Human Rights Network staged a 25-strong demonstration outside the Indonesian Embassy in Seoul on 2 December. A letter was sent calling for the release of Timorese resistance leader Xanana Gusmão and a referendum on self-determination. The letter compared Santa Cruz with

the Kwangju massacre of May 1980, when government troops killed thousands of Korean pro-democracy demonstrators.

Rodrigues succeeded in attracting media attention at a time when Seoul was hosting a major human rights conference, the Asia Pacific Democratic Leaders Conference, jointly organised by Kim Dae Jung and Corazón Aquino.

BRUSSELS

Governments urged to act

The 13th meeting of European solidarity groups attracted representatives from 13 countries and three organisations from East Timor to Brussels on 27-29 January.

The groups' final communique noted the deteriorating situation in East Timor. 'As well as the severe human rights violations by Indonesian security forces, Indonesian migration into East Timor which is occurring at an increasingly high rate, is exacerbating tensions, leading to urban violence and increasing the suffering of the Timorese. We are also very worried by religious provocation by the military, which seems to be a deliberate attempt to create religious conflict.'

The groups welcomed the endorsement by the UN of all-inclusive talks between East Timorese, but deplored the fact that self-determination would not be on the agenda. They demanded the release of Xanana Gusmão, so that he could participate in the talks, alongside Bishop Belo and other prominent leaders.

The groups urged their governments to act to ensure: visits to East Timor by the UN Special Rapporteur on Torture and the Working Group on Forced Disappearance; full access for international NGOs, journalists and observers; Security Council adoption of an arms embargo on Indonesia; release of all Timorese political prisoners; withdrawal of the Indonesian forces of occupation; and the establishment of a permanent UN presence.

They welcomed the decision of Sweden and Belgium not to export arms to Indonesia and invited other EU members to follow suit.

BRITAIN

Ramos Horta in Britain

The external representative of the National Council of Maubere Resistance (CNRM) José Ramos Horta visited Britain on 31 January at the invitation of the British Coalition for East Timor. In a visit covered by The Times and the Independent newspapers, Ramos Horta went to speak to politicians, church representatives, arms manufacturers and the press.

Unexpectedly, in view of Britain's strong economic links with Indonesia, Ramos Horta was granted an interview with Alastair Goodlad, minister for foreign affairs. Clearly, the

government can no longer plead ignorance of human rights violations in East Timor and refuse to meet representatives of the resistance.

At a meeting in the House of Commons on 1 February, the CNRM representative asked parliamentarians to give more serious support to Boutros Boutros Ghali in his efforts to reach an acceptable solution to the East Timor question. Ramos Horta felt there had been recent signs of movement in the negotiations between Portugal and Indonesia, being facilitated by the UN secretary general. Conservative MP Alan Howarth denounced British arms sales to Indonesia as 'an abomination'.

Ramos Horta also went to Coventry, where manufacturing company Alvis has a deal in the pipeline to deliver 80 Scorpion light tanks to Indonesia. Company officials refused to meet Ramos Horta, who nevertheless delivered a letter and addressed a public meeting organised by Coventry Trades Council.

Ramos Horta also met Protestant and Catholic church dignitaries, including Bishop Victor Guazelli, Auxiliary Bishop of East London, and the Anglican Bishop of Coventry, Simon Barrington-Ward, who raised the question of arms sales at the General Synod of the Church of England last November.

On 3 February, 300 people packed Friends House on London's Euston Road for a meeting chaired by Dr John Taylor. The turnout highlighted the growing awareness in Britain over the Timor issue.

Church disinvests from BAe

The Catholic diocese of Westminster in December sold 11,000 shares in British Aerospace. The move followed a church investigation into sales of BAe Hawk aircraft to Indonesia. According to journalist Hugh O'Shaughnessy (Observer, 18 December), the diocese managed the shares, valued at about £46,000, for more than 60 Catholic trusts.

Church-related charities have ditched £350,000 worth of arms company stocks in the past month. Cardinal Hume held a private seminar on the ethics of the arms trade in February, which the Ministry of Defence is said to have carefully monitored.

O'Shaughnessy wrote: 'The Westminster action is part of what campaigners see as a quickening trend towards "ethical investment" and away from shareholdings in the weapons industry.' Ray Hemmings of the Clean Investment Campaign, run by the Campaign against the Arms Trade, says various Anglican dioceses are preparing motions for next year's General Synod which would seek to outlaw investment in the weapons business.

The Salvation Army is understood to have sold shares in two companies involved in the arms trade, Lucas and Thorn. George Becker, the Army's financial officer, said its investment policy followed guidelines on arms and the environment, but could not confirm or deny individual deal. ■

Bishop Belo's Christmas message calls for Timorese to unite

The following is the slightly edited text of Bishop Belo's Christmas message. It is a powerful call for unity amongst Timorese which makes no bones about foreign interference (particularly since 1974) and, for this reason, has annoyed the Indonesian military. The Indonesian authorities have never made life easy for the Bishop, and there are already reports of a renewed campaign of harassment, in which death threats will feature, as in the past.

To the clergy of the Dili Diocese, priests and nuns and Christ's beloved followers! 'Glory to God in heaven and peace on earth to people of good will!' With this anthem the angels announced the great news: the birth of the Son of God, made man. Once again, on this Christmas occasion, the faithful gathered in assembly will sing: 'Glory to God in heaven and peace on earth to people of good will!' And I hope the Loro-Sae and Loro-Monu, from Tasi-Mane to Tasi-Feto, will sing this anthem in unison, meditating well on the reality of the meaning of these words.

Yes! Let us sing 'Glory to God', because in His infinite kindness Our Father sent to the world His only Son, to be Our Saviour, Our Liberator, and Redeemer. Let us sing glory to God, because with His incarnation, Jesus has elevated human dignity which had decayed through sin, and reestablished peace and concord among the men who before lived divided and in darkness. The messianic peace announced by the prophet Isaiah became reality with the birth of the Prince of Peace.

'Peace to people of good will!' Peace is, first of all, a gift from God. But it is necessary to deserve it. We have to strive to achieve peace. And once peace is obtained, it is necessary to conserve it, to build and spread it throughout the world. Peace in the souls, in the homes, in the villages, in the schools, in the places of work, in society and in the world.

Dearest faithful of the Dili diocese: peace in the world and in Timor must be the work of all believers and the lovers of true peace. Peace demands the union of efforts, of the good will of all Timorese.

Dividers and rulers

On this happy Christmas occasion, I take the liberty of sending my Christmas message of 1994. And allow me to reflect upon the unity that must reign in the Timorese community.

Everyone says, and in all four corners of the world, that the Timorese are not united, that there is deep division among the Timorese. I

believe we all recognise that. The division among the Timorese is a negative reality. It is not a value. It is a wound, a drama, a sin in the socio-religious life of the Timorese people.

History says that since 1515, when Timor was discovered, until today, the Timorese have never lived as a united people, in harmony, in agreement and in the way of progress. Since the 14th century, we notice from historical documents, the existence of battles, fights, burning of villages, cattle robberies, murders, between the people of different kingdoms, tribes and sucos.

Economic, political and religious interests have come to increase this division even further. External forces (Portuguese, Dutch, Japanese, Australian, Indonesian) also contributed to the eternal divisiveness among the Timorese between factions or antagonistic groups. The politics of 'divide et impera' has been an effective weapon to maintain Timorese society in permanent division. The most flagrant experience of this, we have seen in our recent history, from 1974 to this day. The leaders do not understand one another ... diversity and antagonistic political proposals ...

The consequence of all this? War, division, suffering, prisons, deaths and trauma. Who gains from this situation? Timor? Certainly not! Division tends to be our 'king'. He wants to enslave the soul, the mentality, the psychology, the culture and the religious belief of the Timorese people. Division seems to want to be our destiny, our fate. And we are powerless to react against this painful plague.

Furthermore, there are no leaders that unite the Timorese. There are no political proposals able to bring together all the Timorese. There is no satisfactory outlook that unifies the aspirations of the people.

In the midst of such a huge vacuum, Jesus Christ and His Church (Mother and Teacher of the peoples) try to present moral and spiritual values of peace, of reconciliation, of justice, of love. Only the New Testament can answer the unsatisfied questions that arise in the hearts of the Timorese. The Church proclaims loud and clear: 'It is necessary to create a mentality of union and unity. Division is a sin! Union and communion are gifts from God!'

Commenting on the meaning of Christmas for each person, St. Leon the Great declares: 'Consider, oh Christian, your dignity'. Mutatis Mutandis, the Church in Timor appeals to the people of Timor: 'Live in unity, build peace and work for the common good.' In this Christmas occasion, St Leon invites all Timorese, and especially Christians, to joy, to justice, peace and love.

'Today, dearest brothers, our Saviour is born. Let us rejoice. There can be no sadness on the day when life is born, a life that destroys the fear of death and instills in us the joy of the promised eternity.'

To all, wishes of a merry Christmas and a prosperous New Year.

The Blessing of the Bishop,
Carlos Filipe Ximenes Belo, SDB Apostolic
Administrator, Dili, 8 December 1994. ■

Radio station opens in Dili diocese

Bishop Belo broadcast the first message from Dili's new Catholic radio station, Radio Kmanek-Suara Nain Feto [Glorious Timor Radio - Voice of our Lady] on 14 October.

The station broadcasts to the region immediately surrounding Dili. The programmes will go out in a mixture of Bahasa Indonesia and Tetum, and will include church news and pastoral and family issues, reflection, rural development, performances of local culture, radio drama, humour and music.

The Bishop hopes the station will uphold social communications, ethics, human values, local culture, environmental awareness and religious values, and serve all people without discrimination.

The station's executive director, Fr Domingos Sequeira, trained in London in 1993 with the assistance of the CAFOD. ■

Pope to send envoy

Bishop Belo recently met Pope John Paul II in Manila, Philippines, during the Pontiff's pastoral visit. According to the Bishop, a papal envoy is to be sent to East Timor in the near future to assess the situation. The Pope called for justice and peace in the territory, and expressed the hope that there would be no more violence. ■

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