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# link timor

Double  
issue

News, analysis and action in support of justice for East Timor

No.56 October 2002

## No justice for East Timor's victims

The first trials of Indonesian officials charged with responsibility for atrocities in East Timor in 1999 have ended with six acquittals and only one verdict of guilty. The outcome provoked outrage among human rights groups around the world. Foreign governments and the UN high commissioner for human rights have also criticised the trial proceedings.

**O**n 14 August, the former governor of East Timor, Abilio Soares, was convicted of failing to prevent the killing of more than 100 people and sentenced to three years' imprisonment. The next day, five Indonesian military, police and government officials accused of failing to prevent a massacre in Suai on 6 September 1999 were acquitted, as was the former Regional Police Commander, Brigadier General Timbul Silaen, who was responsible for security around the 1999 independence ballot. A UN enquiry found that at least 1,000 East Timorese were killed by pro-Indonesia militia groups that were organised and funded by the Indonesian military in an effort to influence the vote.

The trials are being conducted by an ad hoc human rights court set up in 2001. The court's mandate is limited to only a few cases in three of East Timor's 18 districts in April and September 1999. Eighteen military and civilian officials have been charged, but none of them are senior military figures.

Mary Robinson, the UN high commissioner for human rights, arriving in Dili on 23 August, said the results were 'not satisfying' in terms of international human rights standards. She said she would take up the issue with the UN Security Council.



Irene Slegt

The burnt out remains of Suai church, after the 1999 massacre

The European Union expressed concern at the Indonesian court's limited mandate and procedural shortcomings (see page 6), while a US State Department official expressed disappointment that 'prosecutors in these cases did not fully use the resources and evidence available to them from the United Nations.' The Bush administration is seeking to re-establish connections with the Indonesian military — disrupted as a result of the Indonesian-sponsored terror campaign in East Timor in 1999. At the beginning of August, US Secretary of State Colin Powell announced a \$50 million aid package for Indonesia, most of it for the police but also for military training in counterterrorism and military-civilian relations. The outcome of the trial makes it harder to justify this move.

### Also in this issue

Reactions to the Jakarta trials	2
The UN human rights commission	7
Independence dawns	8
New role for the United Nations	9
Women: A war veteran speaks	10
Mission to the militia	12
Bishop Belo on amnesty	13
Oil dispute thickens	16

# An international tribunal for the restoration of the dignity of humanity

**The leader of the Catholic church in East Timor, Bishop Carlos F X Belo, strongly criticised the failure of the Indonesian justice system to bring to justice the perpetrators of violence in East Timor. In a statement issued on 27 August, the bishop renewed his call for an international tribunal.**

**"A**t stake is the dignity of the human person, whose defense and promotion have been entrusted to us by the Creator, and to whom the men and women at every moment of history are strictly and responsibly in debt." (*Sollicitudo Rei Socialis*, #47)

The violation of the dignity and basic rights of an individual is an injustice and an act of oppression towards the entire human community. It is an act of injustice and cruel oppression towards humanity itself. Violating the dignity and basic rights of a human being does not only forfeit the dignity of the victim himself, but of the perpetrator's as well; for by doing so, he debases the image of God within himself. From this perspective, trial before a court of justice or the enforcement of justice against crimes is one form of restoring human dignity for the victim, whose human dignity had been usurped, as well as for the perpetrator, who abandons his own dignity by taking away that of another.

Therefore, we regard with hope, the international community's efforts to bring to justice the perpetrators of the 1999 crimes in East Timor. After due investigation, the United Nations' International Commission of Inquiry and the Indonesian Government's Commission to Investigate Violations of Human Rights in East Timor, referred to the series of acts of violence before, during, and after the 1999 Referendum as 'crimes against humanity'.

A principle of international law states that 'crimes against humanity' are not merely crimes against certain individuals

who are the direct victims, not just crimes against a certain nation, but are crimes committed against the whole human race. This goes without saying, that no part of the human race whatsoever, may nullify these crimes unilaterally. International law states further, that the obligation to bring to trial the perpetrators of these crimes does not belong only to the country in question, but to the entire international community as well.

However, we are presently witnessing that the trial to bring to justice those responsible for the crimes against humanity in East Timor in 1999 a trial entrusted to Indonesia by the United Nations Security Council has become an instrument to affirm and uphold not justice, but injustice. Both the civil and military officials of Indonesia who were responsible for these crimes were indicted only for 'negligence to take action to prevent the clash between two conflicting groups in East Timor society.' As such, the seriousness of 'crimes against humanity' is reduced to an ordinary criminal act. Furthermore, evidences and witnesses gathered by the Indonesian Commission and the UN International Commission of Inquiry were not used or presented at the Ad Hoc Trial Against Human Rights, in Indonesia. As a matter of fact, the judge during the trial violated Indonesian law by sentencing one of the defendants to three years in jail, whereas the law requires a minimum of at least 10 years. No wonder then that human rights groups in Indonesia consider the trial a 'sandiwara' a theatrical play in order to protect Indonesian civil and military officials.

Efforts at making justice a reality, of involvement in upholding justice, is the responsibility of every believer in God, in the truth and of all those who desire the well-being of humankind. The prophet Isaiah had proclaimed this truth long before the coming of the UN Security Council.

We would like to bring to your attention two recommendations of the

UN International Commission of Inquiry to the Security Council: (1) that the Indonesian Government was primarily responsible for the violence in East Timor in 1999 and therefore is also responsible to bring to justice the perpetrators of the violence; (2) if the Indonesian Government fails to bring the perpetrators to justice, then the responsibility to do so becomes the responsibility of the international community.

In order to uphold justice, we appeal to the international community in this case, the UN Security Council to take the necessary steps towards the formation of an international tribunal. From the start, the judiciary process in Indonesia had indicated inability to try the perpetrators of crimes against humanity, according to international standards of law. It behoves the United Nations to expose the truth of what happened after the Referendum of 1999, for the United Nations was a prime witness to it. The United Nations was present in East Timor then, to carry out its mandate to hold a referendum, giving the people of East Timor the right to self-determination.

The dignity of man transcends all. The powerful nations, with their many political and economic interests and who also have a big say in the decisions taken by the Security Council bring in their wake, many of the injustices borne by the people of East Timor and of other peoples elsewhere. Pope Paul VI, in his encyclical *Populorum Progressio* says: 'International collaboration on a worldwide scale requires institutions that will prepare, coordinate and direct it, until finally there is established an order of justice which is universally recognised. With all our heart, We encourage these organizations which have undertaken this collaboration for the development of the peoples of the world, and our wish that they grow in prestige and authority.' (*Populorum Progressio*, # 78)

We appeal to the leaders of East Timor, to listen intently to the victims' voices and

to that of their families. They are earnestly and continually craving for justice. I wish to reiterate once again what I said in our Pastoral Appeal on Amnesty (June 29, 2002) [see pages 13-16], that the victims should be our primary concern. Jesus the Noble Victim teaches us this. It is time for all the leaders of independent East Timor, to close ranks and in solidarity with the victims and their families say with one firm voice that we demand the establishment of an international tribunal of justice. The sovereign and independent East Timor nation has the right and the obligation to

fight for this international tribunal among the sovereign and independent nations of the international community.

We hear from various quarters that a demand for an international tribunal of justice is unrealistic. This is truly a political consideration. From a consideration of law, an international tribunal is the most realistic venue to bring to justice the perpetrators of crimes against humanity, so that the people of East Timor, especially the victims of the 1999 violence and their families may finally be given the justice they deserve.

Furthermore, is it not a proven fact that what is politically unrealistic today may become realistic some other time? The Referendum to self-determination of the East Timorese people attests to this. How much more important is the dignity of a human being compared to any worldly consideration whatsoever?

May this rapidly changing world, where values shift constantly, enable mankind to fight for respect for human dignity just as the Lord himself gave His life out of respect and love for His entire human creation.

## A travesty of justice

**Several British non-governmental organisations have criticised the outcome of the Jakarta trials. Among them were CIIR, the Catholic aid agency CAFOD and the British-based Indonesian human rights group Tapol. The three organisations demanded the immediate establishment of an international criminal tribunal for East Timor and insisted that the international community must provide long-term support for investigation and prosecution of serious crimes that had taken place there.**

**T**he proceedings in all the current Jakarta trials have been a travesty of justice aimed at protecting senior Indonesian army officers and covering up the truth of what happened in East Timor,' said CAFOD's East Timor Programme Officer, Clare Danby.

The verdicts are the first in a series of trials of 18 military and police officers, civilian officials and militia members accused of involvement in crimes against humanity in East Timor. The Indonesian government has been under intense pressure to prosecute military figures and their collaborators responsible for the mayhem surrounding the 1999 independence ballot.

"Those charged are only expendable scapegoats. They may bear some responsibility for the appalling violence, but the military masterminds who planned and orchestrated the campaign of brutality are enjoying immunity from

prosecution courtesy of the Indonesian authorities," said Danby.

She added: 'Now that Indonesia has failed to bring the real perpetrators to justice, the international community must live up to its responsibility for justice by setting up an international tribunal and fully supporting East Timor's serious crimes process. Senior figures in the Indonesian military and government must face trial, otherwise they will be quite literally getting away with murder.'

All the trials featured weak indictments and the false portrayal of events as part of a conflict between two violent East Timorese factions, in which the Indonesian security forces were essentially bystanders. Prosecution counsel often acted as if they were representing the accused. Evidence of the essential elements of crimes against humanity, including that needed to prove a widespread and systematic attack on the civilian population, was deliberately ignored.

The likelihood of the trials producing an accurate record of what happened in East Timor was severely reduced by, the court's limited mandate, inadequate protection for witnesses, and a highly intimidating atmosphere in the courtroom. Senior generals watched the proceedings, while noisy demonstrators led by notorious militia leader Eurico Guterres made their presence felt outside.

CAFOD, CIIR and TAPOL linked the lack of justice for East Timor and continuing human rights violations in Indonesia. The organisations fear that if

the international community fails to live up to its promise of justice for East Timor, it will be rubber-stamping impunity. What happened in East Timor is now happening in Aceh and West Papua, with abuses by the very military personnel who were responsible for the carnage in East Timor.

The resumption of US military ties with Indonesia depends partly on justice for East Timor. The organisations say it will be a tragedy if the international community not only accepts these show trials, but rewards Indonesia by re-engaging with the military and selling them more arms.

A UN Commission of Inquiry into the 1999 violence expressed the view that 'ultimately the Indonesian army was responsible for the intimidation, terror, killings and other acts of violence'. It recommended the establishment of an international tribunal when it reported in January 2000.

# The Indonesian tribunal: Justice or diversion?

At last Indonesia's human rights tribunal has begun passing verdicts on the 18 military and civilian officials accused of crimes against humanity in East Timor. James Dunn assesses its significance.

The first to be sentenced was Abilio Soares, the last Governor of East Timor under Indonesian rule. Although the sentence of three years' imprisonment (if it withstands appeal) may be appropriate, the terms in which it was delivered are deeply troubling. Soares was accused of having permitted the violence, not of helping to organise it.

The tribunal was established following a damning report on the violence that erupted in East Timor in 1999 by a special Indonesian human rights commission team (KPP HAM). However, the decision to establish it was unpopular with most Jakarta politicians, many of whom retained a smouldering resentment at the humiliating loss of East Timor. This resentment, based on a serious misunderstanding, created distorted accounts from the Indonesian armed forces (TNI) of what lay behind the violence in East Timor in 1999, and who was responsible.

Senior generals resisted the proposal for a tribunal from the outset, for it was bound to increase popular demands for comprehensive reform of the armed forces. But thanks to international pressure and demands from Indonesia's courageous NGOs — those most concerned at the TNI's capacity to evade reform — an Indonesian special court was established, albeit after long delays, and with obvious reluctance and a limited mandate.

The first concern is justice for the victims, the people of East Timor. In a highly organised operation in September 1999, 74 per cent of all buildings were destroyed or severely damaged, and well over half the population was deported or forced to flee to the mountains. In the months leading up to the arrival of the international intervention force (INTERFET) more than 1,000 East Timorese were murdered, and many more suffered torture or sexual assault.

The outcome of these trials will have a wide-ranging impact. First, it will affect Indonesia's relations with the new Democratic Republic of East Timor, as well as the Canberra-Jakarta relationship. If the tribunal were to lead to a full exposure of the TNI's role in setting up the militia, the United Nations and Australia would be exonerated from blame for the loss of Indonesia's 27th province. It would confront the Indonesian political establishment, and the rest of South East Asia, with the indisputable facts of the TNI's brutal past. But by confining its investigations to a period between April and September 1999, the tribunal's terms of reference have closed off the trail of responsibility, shielding the senior generals who set up the militia as an instrument of violent intimidation.

## The accused

The tribunal has been dealing with four specific crimes against humanity committed between April and September 1999. Many Timorese were killed before April, and some after INTERFET arrived in September. Two of the worst incidents, the massacres in Maliana and Oecussi, in which TNI officers played leading roles, were not brought to the attention of the tribunal.

Only a handful of senior officers — regional commander, Major General Adam Damiri, the East Timor territorial commander, Colonel Tono Suratnam (now Brigadier-General) and Police Chief Timbul Silaen (who has also been promoted) — were indicted. Major General Syafrei Syamsuddin, who drew up the plans for the militia para military force, and Major General Zakky Anwar Makarim, who acted as the link between the field operations and TNI headquarters, were not. Nor was Major General Hendropriyono, now Indonesia's intelligence chief, a key player in intelligence aspects of the TNI's militia operation.

Other senior officers have apparently been allowed to escape the net. Little attention has been given to Major General Mahidin Simbolon, who played a key organisational role in the campaign of destruction that followed the declaration of the independence ballot results. Simbolon is currently Indonesia's military commander in West Papua, which suggests that the Indonesian military command did not take the charges against him seriously. Although these officers, and General Wiranto, former head of the armed forces, were implicated in the KPP HAM report, they were excluded by the Tribunal's prosecutors. Including them would have implicated Indonesia's top military commanders in a conspiracy to sabotage the UN-monitored plebiscite.

## The court

There is considerable scepticism, in Indonesia as well as abroad, about what this tribunal will achieve. None of its judges is an expert in the law on crimes against humanity. Nor are there human rights specialists among the prosecutors. The TNI general staff has engaged in blatant intimidation, with senior officers turning up in strength at the tribunal sessions, as a mark of support for the indicted military officers.

## The arguments

Defence lawyers argued that the TNI were merely responding to an international conspiracy to mislead East Timor's people and detach the territory from Indonesia. The UN intervention, they said, had provoked conflict between Timorese groups. They also claimed that the United Nations, not the Indonesian military, was responsible for security — a cynical claim in the light of persistent Indonesian refusal to allow in a peacekeeping force.

Prosecution arguments followed similar lines, so that the thrust of the charges was not that the defendants were

behind the abuses, but that they had failed to prevent them from taking place.

If the outcome of the trials reflects the argument that international interference was to blame for the events of 1999, Australia could be tagged as scapegoat. Such a result would also be a shameful slight on the work of the United Nations, especially the UN mission which organised the ballot. Indeed, the legitimacy of the entire UN intervention could be called into question.

### The need for exposure

The militia operation was essentially a conspiracy by senior officers of Kopassus, the special forces. Wiranto knew and approved of it, even if he was not directly involved.

The Indonesian political establishment — and the international community at large — must acknowledge the existence of this conspiracy and find some way to expose those responsible. If Indonesia's military command, and Kopassus with its

appalling past record of human rights abuses, are untouched by the tribunal's findings, it could pose a serious setback to democracy in Indonesia and to regional security. For this reason we need to keep some form of international tribunal on the agenda, or perhaps an international judicial enquiry, so that this serious case of state terrorism can be properly investigated.

## Short verses for an infant nation

Reflections from a visit to East Timor 4 weeks after its Independence

By Fr Chris Hughes

Fr Chris Hughes wrote 24 verses for the 24 year long occupation of East Timor. We do not have space for all of them, but are delighted to print a selection. The full collection is available from Fr Chris Hughes: Chris.Hughes@ushaw.ac.uk

**These verses are dedicated to the wonderful, brave, generous and inspiring people I met and their loved ones living and dead.**

### 1. Burdens

*At first I was amazed that for a nation that had the worst experience of genocide of any people or nation in the 20th century (over 35% of the people were killed during the Indonesian invasion) that people do not seem so traumatized. But with the elderly there is a quiet joyless demeanour expressed. This was especially evident I thought with the women.*

Women with ease balance  
Great loads. Spirit mapped by face  
Points to memory's burden,  
Cumbersome and always held.

### 6. A Nation's Paschal Mystery

*It is the Liberation Theologian Jon Sobrino S.J. who talks of a Crucified People developing the work of Jurgen Moltmann who talks of a Crucified God. I would want to*

*say that the East Timorese are a crucified yet risen people, remembering that resurrection is the 'first fruits' of the completion of the Kingdom of God. The final completion and fulfilment of their history and of God's vision for them like our own is long way from being finished.*

Golgotha transcended time to  
This post-colonial space.  
Yet people dare and  
Glimpse an empty cave.

### 10. Uncertain ending

*The people of Timor are free but their economy at a GDP of \$ 300 per annum is the poorest in Asia. They are recovering from a traumatic past with little resources and training. Will they make progress or will it collapse into a corrupt anarchic aid-squandering nation which aid workers I met had had met elsewhere. The precariousness of East Timor's situation was symbolised by the image referred to. If there are laws on safety belts or safety helmets they are certainly not kept!*

Motorbike speeding on,  
Perilously perches parents  
And child, fate your only  
Shell. Another journey waiting  
Destination's safe embrace

### 21. To the Government

*I got the impression that the Government has a well-thought-out structured plan, very systematic with a strong vision (with inevitable glossy brochure) but I was told that many Timorese especially those not in Dili feel that all these plans have not come from the wishes or needs of the 'ordinary' Timorese.*

Tombstones inscribe the past  
Let 'entrusted' be your screensaver.  
Plans policies proclamations blossom.  
Whose soul soil holds their roots?

### 24. Lessons

*A positive reflection from my time is that for all that the Indonesians threw at the East Timorese, with the implicit support of the world community for so many years, with so many advantages, the East Timorese overcame it. A negative way is that all the effort the Indonesians made, all the lives lost including 20,000 Indonesian troops, all the manipulation and propaganda and intimidation, all a complete waste of time. Will we ever learn?*

Bullets bombs barbarism ingrained this  
Land, yet impotent to a people twenty  
Four years in destiny's womb. Sense  
salvaged  
If we know 'Domination' pronounced  
'Futile'

# Reactions to the Jakarta trial verdicts

An international outcry greeted the first verdicts in the trials of Indonesian officials charged with responsibility for violence in East Timor in 1999. We reprint a selection of extracts.

## Human rights defenders

'The trials before an ad hoc human rights tribunal in Jakarta of officials implicated in the 1999 crimes in East Timor are not only failing to do justice: They have turned truth on its head and added insult to injury.

'Now an international tribunal has the best prospect of obtaining the strongest evidence of the Indonesian military chain of command that was operating during the violence, which exists in Australian intelligence intercepts. The case for an international tribunal is unanswerable. It may also appear to be politically inconceivable — but then, so was statehood for East Timor, which next month will be admitted to the United Nations as an independent country.'

Ian Martin, Washington Post,  
27 August 2002

'If Indonesia is to fulfil its international obligation to provide a credible remedy for the gross human rights violations committed in East Timor both the weaknesses of Indonesia's judicial system and political resistance to holding perpetrators of human rights violations to account must be simultaneously addressed.

'In view of the serious problems with the trials in Jakarta, Amnesty International and JSMP believe that it is also the moment for the UN to review its decision not to pursue the recommendations of its own International Commission of Inquiry on East Timor to establish an international criminal tribunal. The crimes committed in East Timor during 1999 were of such a serious nature that they cannot go unpunished, but the prospect of Indonesia being able to fulfil its responsibility to deliver a credible and effective justice process is now remote. Credible alternatives must therefore be sought.'

Amnesty International and Judicial  
System Monitoring Programme,  
15 August 2002

## The European Union

'The European Union has been following

closely the trials of the Indonesian Ad Hoc Human Rights Tribunal on East Timor and is concerned that the proceedings, so far, have not taken full account of the violence that took place in East Timor in 1999. The European Union has noted with concern the limited number of victims that have been summoned to testify, as well as the absence of witnesses from UNAMET and independent observers who were in East Timor at that time.

'The European Union has also noted that important evidence made available from investigations in East Timor was not taken into account to substantiate the cases before the Ad Hoc Human Rights Court.

'The European Union fears that failure to produce such relevant witnesses and evidence will jeopardise the credibility of the Tribunal's verdicts. Furthermore, the European Union continues to be concerned at the limited jurisdiction of the Ad Hoc Human Rights Tribunal.

'Finally, the European Union would like to underline that only by bringing the perpetrators of serious human rights violations and crimes against humanity to justice can trust in the judiciary be enhanced. The European Union urges the Indonesian authorities to ensure that the proceedings of the Tribunal takes place in conformity with the rule of law and in full respect of the international human rights standards.

'The Central and Eastern European countries associated with the European Union, the associated countries Cyprus, Malta and Turkey, and Liechtenstein and Norway, EFTA countries members of the European Economic Area, align themselves with this declaration.'

Brussels, 21 August 2002

## The East Timorese women's network

'From the stories we have gathered from all over East Timor, we have a picture of the horrifying level of crimes committed. Women have been interrogated, abused, raped, forced to be sexual slaves; women have carried a great burden from the loss

of children and husbands who were either killed or disappeared.

East Timorese women and all victims and families of victims are still waiting for justice. Many of the women we work with ask us "when will this justice come?"

'We are committed to the campaign for an international tribunal for East Timor because we know that this is the only way we will see true justice. [...] We demand the establishment of an international tribunal for East Timor and pressure the international community and the UN Security Council to fulfil their responsibility regarding the crimes against humanity in East Timor. Only by acknowledging the truth of what has happened and ensuring justice will we be able to educate the people of the world and prevent future crimes against humanity.

We reject the existence and entire process of the Ad Hoc Human Rights Tribunal in Jakarta because this court has ignored the true nature of the crimes that happened in East Timor both before and after the 1999 popular consultation.

[...] Our government has not given priority to the issue of justice; instead our government leaders discuss and plan for amnesty and pardon as a way to resolve past serious crimes cases. We ask that the High Commissioner for Human Rights push our government to respect and put forward our demands for truth and justice for all victims.

Letter to Mary Robinson, UN high  
commissioner for human rights, from REDE,  
the East Timorese women's network,  
25 August 2002

## United Nations

'They all want justice and they all believe it will only come through an international tribunal.

'If the government fails to make justice, then the United Nations will take other alternatives.'

Mary Robinson, leaving East Timor after  
a three-day visit on 25 August 2002

# Swimming against the tide

Joao da Silva Sarmiento gives an East Timorese perspective on the 58th session of the UN Commission on Human Rights

I went to the Human Rights Commission to lobby the government delegations, liaise with other activists, and report back to non-governmental organisations (NGOs) in East Timor. The East Timorese NGO Forum nominated me to go. I was the only East Timorese lobbyist there, and as the experience was entirely new, I felt rather nervous.

Being effective in Geneva is not as simple as ordering coffee. It was difficult, but it was valuable.

My lobby agenda was to ask the government delegations to pay attention to the chairman's statement drafted by the European Union for discussion with the Indonesian government. We, the East Timorese NGOs, wanted to make sure that it was at least no weaker than the statement agreed at the previous year's session. We were keen to see language emphasising the need for the trials in Jakarta — of generals involved in the violations of humanitarian law in East Timor in 1999 — to be conducted to international standards. We wanted to challenge the limited jurisdiction of the trials, and to see some acknowledgement of the recommendations of Mary Robinson's March report to the commission. In the report, she urged the international community to reconsider the establishment of an international tribunal if trials in Indonesia failed to deliver justice. We also raised the question of witness protection.

The entire session was dominated by issues completely unrelated to East Timor: the Middle East Crisis, the India-Pakistan standoff, the fall-out from the 11 September attacks in the United States, and so on. East Timor already seemed to

be a 'resolved issue' in the minds of most of the diplomats. It was therefore difficult to draw attention on our concerns. Second, the emerging regionalism in the United Nations, the block on promotion of human rights by groups such as the Like Minded Group — undemocratic governments that band together to support each other and head off non-governmental criticism of their actions.

The Indonesian side wanted to bury the East Timor issue. The problem was worsened by the foreign policy of the East Timorese government, which does not want the issue of justice to complicate its bridge-building. I think this represents a threat to peace building and encourages cycles of violence in both Indonesia and East Timor. These fundamental issues cannot go unresolved.

The European Union expressed support for justice in East Timor, but the UN mechanisms dealing with human rights violations are very limited. States have begun to hesitate to name and shame violator countries, for fear of retaliatory assaults by the Like Minded Group.

Some people said that we should not blame the United Nations, but its members. Many of them are undemocratic. As I became more familiar with the discourse, I realised that the Human Rights Commission is more a demonstration of power by certain member states than an equitable mechanism.

Normally NGOs are given space to present the voices of victims, but they were severely constrained this year by lack of time. This undermined the validity of the proceedings.

## Recommendations

The NGO Forum should:

- Lobby the East Timorese government to support the campaign for an international tribunal. This should be a national priority to respond to justice issues in East Timor, especially for the victims.
- Network widely with East Timor support groups internationally to cultivate support for the NGO delegation at the UN commission.
- Prepare thoroughly for the commission, with lobby statements and briefings for the solidarity groups.
- Ensure that at least two activists (a gender-balanced delegation), preferably with an understanding of human rights, law and diplomacy, go to lobby at the United Nations. Such a delegation would get a much wider picture of the human rights situation around the world, and would be able to open up to the idea that other countries have human rights problems too.
- Initiate a coordinated working group on the international tribunal in East Timor with a clear mandate to collect data on human right violations, and establish links with international solidarity groups.
- The NGO Forum should set up a diplomacy and lobbying training programme with the International Service for Human Rights.

The East Timorese government should:

- Raise human rights issues in the regional forum of the Association of South East Asian Nations (ASEAN) and the Asia-Europe Meetings (ASEM).

## Extracts from the Chairperson's statement read out at the 58th UN Commission on Human Rights

The Commission recalls and reaffirms the Chairperson's statements on the situation of human rights in East Timor made at previous sessions and in this connection welcomes the important steps taken by the Government of Indonesia to bring to justice the perpetrators of cases of gross human rights violations in East Timor in the period leading up to and immediately following the popular consultation held in August 1999, notably the establishment and the

commencement of the work of the Ad Hoc Human Rights Court. The Commission recalls the commitment of the Government of Indonesia to bring to justice, in the context of respect for international standards of justice and fairness, those responsible for violations of human rights and humanitarian law in East Timor. The Commission encourages the Government of Indonesia to take further steps in the investigation of the murder of journalist Sander Thoenes and

expresses the hope that the perpetrators of the murder will be brought to trial.

In this regard, it underlines the importance of bilateral international assistance, as well as of technical cooperation, between the Government of Indonesia and the Office of the High Commissioner for Human Rights, to enhance the capacity of the human rights courts.



# Independence dawns

Independence day celebrations in East Timor on 20 May brought smiles and hope, not only to the East Timorese, but to people all around the world. On a planet convulsed by conflict, war, starvation and suffering, here at last was a happy occasion. Congratulations flowed in to the East Timorese foreign ministry and the president's office and lyrical speeches were made at the UN Security Council. Government representatives as well as private citizens were out to enjoy every moment of the euphoria.

In Timor, the celebrations continued for the whole month.

As midnight chimed on 19 May, the ceremonies began, fittingly with a Mass concelebrated by Archbishop Renato Martino with East Timor's bishops, Carlos Felipe Ximenes Belo of Dili and Basilio do Nascimento of Baucau.

A peacekeeper lowered the blue flag of the United Nations, which has administered the territory since 1999, and a platoon of East Timorese soldiers from the new defence force raised the black, red and gold flag of the Democratic Republic

of East Timor to the sound of the new national anthem.

Shortly afterwards, Xanana Gusmão was sworn in as president. He arrived at the proceedings with Indonesian president Megawati Sukarnoputri — whose very presence at the events had caused considerable anger in some military quarters in Jakarta. The other foreign dignitaries present included former US president Bill Clinton, officially representing the United States, Australian premier John Howard, and Portuguese president Jorge Sampaio.

## To be ourselves

### Excerpts from the inaugural speech of President Xanana Gusmão

If 92 countries are gathered here today it is because the settlement of the question of East Timor was the responsibility of the international community.

Therefore your presence here is the most eloquent testimony of the universal values enshrined in the charter of the United Nations and is equally an unequivocal affirmation of the rights of the fundamental rights of peoples.

To the Secretary General of the United Nations, Doctor Kofi Annan, we wish to express our most sincere gratitude for the personal commitment to the Timorese cause.

We wish to extend here a word of profound friendship to all those in the world who endeavoured to understand us and above all who administered the process.

The list of acknowledgements would be long and it would make a special reference to the courage of [former Indonesian] President Habibie, the efforts of [Australian] Prime Minister John Howard and the decisiveness of [former US] President Clinton.

### On relations with Indonesia

[Addressing Indonesian President Megawati Sukarnoputri] "We warmly welcome your presence here among us, not only in your capacity as head of state of the brotherly and neighbouring

country with which we share common borders, but also as a symbol of the democratic yearnings of the brotherly people of Indonesia.

The Indonesian people and the Timorese people have endured 24 years of difficult relations. Today we all agree that the strains in our dealings were the result of a historical mistake which now belongs to history and to the past. And this past... should not continue to stain our spirits or to hamper our attitudes and conduct.

### On Portugal, the former colonial power

I would like to pay a public tribute to the

Portuguese authorities, for having turned East Timor and its people into a national cause of their own.

I would also like to thank each and everyone of our brotherly Portuguese-speaking countries for their affection, their political support and solidarity, which epitomised our brotherhood and which helped strengthen our relations in difficult times.

We hope you [Portugal] and our CPLP [Community of Portuguese-Speaking Countries] brothers will stay by our side throughout this process, which is a difficult but also an exciting one, of our independence and self-determination.



East Timor's new government greets independence

Irene Slegt

### On the future

Today, you are witness of the resolve to build democratic foundations of development for the entire Timorese society. And today, you are witnesses to the hope for the future based on the active and permanent struggle against poverty in all its forms.

Today, with humility — and before the international community — we take upon ourselves the obligations towards our people. We wanted to be ourselves, we

wanted to take pride in being ourselves — a people and a nation.

Today, with your assistance, we are effectively what we have always striven to be. Today we are a people standing on equal footing with all other people in the world. To the international solidarity we extend a profound word of thanks from our people. We continue to count on you to receive other forms of support, geared towards alleviating the hardships of our most needy populations and to the

strengthening of the ties of friendship among people.

Our independence will have no value if all the people in East Timor continue to live in poverty and continue to suffer all kinds of difficulties. We gained our independence to improve our lives.

Independence! As a people, as a territory, as a nation! One body, one mind, one wish!"

Irene Slegt



Euphoria sweeps East Timor: Independence Day crowds

## A new role for the UN

**W**ith the arrival of independence, the United Nations is no longer the administrator of East Timor, but it will remain in the country in a supporting role.

On 17 May, the UN Security Council formally established the UN Mission of Support in East Timor (UNMISSET), which replaces the UN Transitional Administration (UNTAET). The head of the new mission, Kamallesh Sharma, former Permanent Representative of India to the UN in New York, arrived in East Timor on 19 May.

Security Council Resolution 1410 (2002) states that UNMISSET will provide assistance to core administrative structures critical to the viability and political stability of East Timor. The mission will also provide interim law enforcement, help develop the police service and contribute to external and internal security.

The UN fifth committee (administrative and budgetary) approved an allocation of \$292 million gross for the new mission, as recommended by the Security Council's Advisory Committee.

This is 8 per cent less than the amount the Secretary-General proposed (\$318.49 million) and 30 per cent less than UNTAET's budget for the previous year approved the Advisory just prior to independence day.

Initially, UNMISSET will have 1,250 civilian police and 5,000 soldiers, including 120 military observers. The mission's civilian component includes focal points for gender and HIV/AIDS, a Civilian Support Group of up to 100, a Serious Crimes Unit and a Human Rights Unit.

# A war veteran speaks

Bisoi's diminutive frame and fine features contain a tough, resilient spirit. She fought with the resistance to the Indonesian occupation, and is one of the women guerrillas awarded a special honour by the President and First Lady at the Women's Fair in the Independence Day celebrations on 20 May. Catherine Scott interviewed her in Dili three weeks later.

**T**he role of women in the Armed Forces for the Liberation of Independent East Timor (Falintil) is open to hot debate and different participants give different versions of events. The gender of the story-teller is a strong influence.

According to Bisoi, many male guerrillas do not recognise the part played by women in the *Organização Popular Mulher Timorese* (OPMT — Popular Organisation of Timorese Women), the women's organisation within the independence movement, Fretilin.

Women played various roles in the resistance, explains Bisoi. Some were in the mountains with Falintil, and some were in the clandestine and diplomatic fronts, which came later. She herself went to the mountains in 1975. Many women returned to the cities in 1979. 'Only a few women remained with Falintil after that,' says Bisoi. 'They wanted to stay with their husbands. Some were single. Some were just girls. The women who remained after 1979 had a very isolated existence. Many died; some were captured.' In 1983, there was an uprising in Viqueque which culminated in a massacre at Kraras. After that, many women went back to the mountains — including Bisoi.

Bisoi wants the role of OPMT to be acknowledged in the new East Timorese constitution — as Falintil itself is. In parliament many of the male politicians allege that the call for women's rights comes from abroad and is a foreign imposition. This could not be further from the truth, according to Bisoi. 'OPMT has been calling for women's rights since 1975. We want recognition of this fact.'

There is a need for much more documentation of how OPMT fought for women's rights in the jungle, she says. 'In the difficult times there was no food, but many refused to go back to the city — they stayed put. We can be as patriotic as men, you know. We knew we could do as men did: we stayed. We wanted to show

that women, too, had a strong sense of duty.'

## Women in Falintil

Asked how women were treated by the male fighters, Bisoi says: 'When we were attacked by the Indonesian army, people died, regardless of their gender or age. The commanders encouraged us to take the children back to the city. All the men in the mountains were Falintil soldiers. Injured soldiers, the children and the sick were put in what we termed 'nucleos'. These were overseen by women who were responsible for security, and for hunting for food. Life was very basic — we were lucky to possess three changes of clothes each, and had a bath about once a month. We got our clothing quite often from the bodies of Indonesian soldiers we had killed. Uniforms were first given to the male Falintils — they fitted better, and in any case the men, especially the commanders, did not want to give us uniforms.'

A typical attack plan involved two assault groups, with women allowed only in the second. Their aim was to recover weapons lost by the first group if it met resistance. They were also supposed to scoop up booty. If they came under attack they were supposed to shoot. The priority was to recover weapons, not bodies. Until 1991 they attacked Timorese villages — ordinary people. If the people offered no resistance, Falintil just stole material. If they did resist, the guerrillas would shoot them. After 1991, they stopped this practice, as the clandestine movement had been organised and was supplying their needs.

According to Bisoi, the commanders drew up plans for the raid in secret, and disclosed them only at the last minute. This prevented captured guerrillas divulging plans under torture. No one refused to participate.

Bisoi calmly admits to killing several Indonesian soldiers. One day, in

Matebian, she was tired and looking for a place to sleep. She put aside her machine gun and sat, half-hidden by vegetation, filing her finger-nails with a knife. Suddenly she was surrounded by about 15 Indonesian soldiers. They were tracking her, following her footprints, but had not yet caught sight of her. Grabbing her gun, she sprayed them with bullets. 'I must have killed at least five, but I did not really have time to look back and see. I had to run fast.' Another group of soldiers ran after her, but she got away.

She also killed an East Timorese spy who was giving information to a militia group in Baucau. 'The male Falintils handed him over to the women to kill.' Did she regret it? 'This was a war,' she says. 'It's either them or you. We would confess to the Timorese priests and they would absolve us.' She was clearly at peace with herself about it.

Discipline in Falintil was tough; it had to be. 'We practised self-criticism, both men and women, to resolve our differences. We could not afford to have fights and disputes going on between us. If things remained tense, a third party mediator would try to help'.

## Religious beliefs

Most Falintil fighters were influenced by a mixture of traditional indigenous religious beliefs superficially overlaid, in some instances, with Catholicism. Everybody believed in the magical powers of *biro*, a traditional medical talisman. It was different for different people, but no one could betray their own *biro*. '*Biro* is like a miracle,' explains Bisoi. 'Some carry samples of earth from Mount Ramelau and Mount Matebian mixed together. For others it is a piece of wood, or a piece of bone from an animal he has hunted. If you put it around your neck, you cannot touch people.' Everyone had their own set of beliefs attached to the *biro* — it is a kind of eternal vow which cannot be broken without bringing bad luck upon oneself.



Irene Slegt

Falintil day, 20 August 1999. Bisoi (right) records resistance leader Xanana Gusmão speaking on a satellite phone from his prison cell in Jakarta.

The *biro* is the link with the spirit world. But *biros* can be cancelled by significant events. Such an event was independence. Many Falintil fighters who had vowed not to marry have now married.

### Motherhood

Bisoi had a child by a Falintil commander who later returned to his first wife. The usual practice was for women guerrillas to place their newborns in the gardens of village convents. If they died, they were unlucky. If they survived until morning and were found by the sisters, they would be adopted and cared for in orphanages. So it was with Bisoi's daughter, Lekas, whom she gave to an American nun who raised her in West Timor. She saw her daughter only twice until last year, when they were reunited.

Bisoi was shot during her pregnancy, and the bullet lodged in the wrist of her unborn daughter. Miraculously, the pregnancy continued to term. The bullet remains in Lekas' arm today. Bisoi herself has eight bullets in her body. She will shortly have four of them removed. The

rest, in more difficult areas, must wait until she can afford surgery in Darwin.

### Falintil after 1999

Falintil had difficulties after 1999. While they were in the jungle, the clandestine movement helped them. But after the disruption of 1999, they no longer had this assistance they had come to depend on. 'It was easy for NGOs,' says Bisoi. 'But the Falintils, especially the women, had no external sources of funding.' Sometimes she would go to sell plants in the market to raise cash.

### Reconciliation and the dangers of fragmentation

Bisoi regrets the divisions that seem to have emerged with independence. 'Now the people should be more united. But instead what held us all together seems to have dissipated. People are no longer working together.'

Reconciliation, she says, is as important among the women as among the men. 'Uneducated women do not think too much but they do understand what reconciliation is. Being well educated

does not automatically mean you have the capacity to be more united. We had a Women's Congress last year, but we have not put the ideas which came out of it together yet. Already there is fragmentation. It's as though every woman wants to preserve her own interests.'

According to Bisoi, if the government fails to act quickly on women's rights, women will take things into their own hands. The military war is finished, but the civil war might not be. 'It's still possible that women will kill women, men will kill each other, and that women will fight against men.'

At the Women's Fair for Independence Day awards for women Falintil fighters included white tee-shirts. But, says Bisoi, 'Women Falintils wanted RED tee-shirts — it would have shown that we are not scared to continue fighting if that is what is needed.'

Bisoi believes it is important for women to put their strategies together and set the agenda. The question is how will they do this, who will take a lead and whether others will accept that lead and move forward.

# Mission to the militia

**Maria Lourdes Martins Cruz trained in the 1980s to be a Canossian Sister, but the restrictions placed on her by the order and the wider church never suited her. Mana Lou, as her friends call her, left before her final profession and set up Maun Alin Iha Kristu — a secular institute based in Dare, East Timor.**

Inspired by the liberation theology of Gustavo Gutierrez and others from Latin America and the pedagogical methods of Paulo Freire, her aim was simple: to train young women to work with the poorest of the poor in remote East Timorese villages, and to teach practical skills: healthcare, animal husbandry, and so on. It is a vision to which she is still dedicated today, doggedly arguing with those among her novices who want to soften and adapt the image of the order.

Often accused by the local clergy of trying to be a priest, Mana Lou, now 40, has been single-minded in responding to her vocation. Her centre in Dare is flourishing, and she is becoming known throughout the world as a woman of action as well as vision — a true Christian leader.

## Working with outcasts

She is also a brave evangelist. When blood-letting and mass displacement beset East Timor in the wake of the 1999 vote on independence, she risked her life to meet the militia groups over the border in West Timor. These were the proxy armies of thugs organised by the Indonesian military to defend Indonesian interests. They did not hesitate to kill and terrorise their fellow countrymen and women. Orchestrated by the Indonesian military, the militias drove some 200,000 people across the border.

Mana Lou worked with the Besi Merah Putih, a militia army that had terrorised the Liquica area and killed a large number of people in the Catholic Church there in April 1999. Some of these men were die-hard pro-integrationists with much to lose if the Indonesians left. Others had been bribed, hoodwinked, menaced and drugged. But many had also committed heinous crimes. Some of them still fear to go home lest they be held accountable for

their actions.

'The militias knew that I always talk about Jesus' says Mana Lou. They encouraged others to listen. 'Some told me that at first they felt angry. But they said "then our minds and hearts opened, and we understood that we had been the victims of politics". I tried to explain to them that God does not condemn. He loves his children and waits for them to convert. I relied a great deal upon the Bible stories. Isaiah 43 was fundamental because it talks about bringing people home.'

'From the distant east and the farthest west

I will bring your people home.

I will tell the north to let them go

And the south not to hold them back

Let my people return from distant lands.

They are my people, and I created them to bring me glory.'

Exodus 3, in which God tells Moses of his plans to deliver the Israelites from slavery in Egypt, and requests him to lead the people, also resonated with the confused and angry outcasts.

'Don't speak to us about independence!' the militia leaders said to Mana Lou. 'You see the reality,' she would reply. She would sing songs in Tetum: 'Why do you go away? Who has made a big mistake?'

It was a deliberately high-risk strategy. But, Mana Lou asserts, 'it got them to think ... I told them they had been politically manipulated. The poor people eventually said 'yes'. They realised that they had been.

'A lot of them were able to come to terms with what had happened. They reconciled with God and returned home.'

## Danger and success

There were some tense moments. 'At one point, as I stood up to lead a meeting, I was threatened by three bare-chested militia on motorbikes. They were revving the engines and I was scared. Another militia leader, who had also been a catechist, grabbed the microphone. 'My brothers' he stated solemnly. 'Remember Mana Lou is not a political woman. If you kill her now, she will be worshipped in East Timor, venerated as a very important



Mana Lou

Irene Slegt

figure, and this will make trouble with our brothers in East Timor. God sent Mana Lou.' So, instead they embraced her.

'I did not come to tell you to go back to East Timor,' she would say. 'Convert. If you don't, you will not see God OR go back to Timor. But think a little before you kill any more people.'

Some of the militias thought Mana Lou was paid by UNTAET to come and round them up.

She has not been to West Timor recently, but Mana Lou is considering another visit soon, to encourage the remaining refugees to come home. Their refugee status has been withdrawn. Failure to return soon will mean that they become Indonesian citizens and risk being moved away from East Timor altogether.

Asked whether she would have liked to be a priest, Mana Lou shrugs off the question as an irrelevance. 'I like to be itinerant,' she says. Hers is a practical faith — one which emphasises deeds over status, and which never loses sight of its fundamental mission to serve the poor at home, wherever they are.

# On amnesty and the settlement of crimes against humanity

**On 29 July, Bishop Carlos Ximenes Belo of Dili issued a pastoral appeal setting out his stand on amnesty for crimes committed during the Indonesian occupation. It is reprinted here in full.**

Today, in Timor Lorosa'e's society, there are different opinions taken regarding amnesty vis-à-vis the various forms of crimes and violations committed, particularly during the Indonesian occupation of our country. This problem is of utter importance because it is linked with high crimes against humanity done in the past, which, if left unsettled, will hinder the progress of our civil and public life. Thus, we deem it expedient and necessary to express and explain our stand regarding this matter.

The term amnesty derives from the Greek word 'amnestia' which means: an act of forgetting. This term had evolved from judicial and political practices which gave power to the head of state to pardon criminal acts committed by a person or a group of persons. A person granted amnesty is released from litigation or from prosecution, for crimes covered by the amnesty statute. Offering amnesty is regarded as clearing the person from all the infamy of his crimes in the past and makes him, as it were, a man who had never committed such crimes and is released from any responsibility, whether criminal or civil.

In the past, amnesty was granted as a gesture of a king's magnanimity and measure of forgiveness towards his subjects. Today, however, human rights has become a significant concern of the international community. Amnesty constitutes one form of settlement of human rights violations committed by government personnel in the past. Amnesty serves as a reinforcing support in a newly established democracy, in a society undergoing a transition from an authoritarian regime to a democratic one. Decision makers adopt the amnesty statute as a form of compromise to guarantee national stability and unity.

## **Basis for validating amnesty:**

It was said the prosecution of the

members of the old regime, after its fall, may destabilise the new government, especially when it has to work together with elements of the old regime. Perpetrators of heinous crimes against humanity may move against any punishment meted out to offenders by a resurgence of violence or even by toppling the new legitimate government. Therefore, amnesty may guarantee the continuity of the new democratic regime because members of the old regime are given space in the new. It can prevent officials of the old regime, particularly members of the military, from engaging in acts that may endanger the transition to democracy.

We are told that where there is reconciliation among the main groups in society and enmities in the past are put aside and forgotten, security, order, and stability among the people is guaranteed. Reconciliation is reached when perpetrators of violence in the past are given the assurance that they will not be prosecuted for their crimes.

There is the question of cost. It was said that the process for bringing to justice the perpetrators of violations against humanity, whether individuals or groups, is a long and expensive one. There are many other pressing problems that need immediate action, such as: unemployment, lack of health services, educational facilities, and the like.

There is also, as a warning, [the presence] of former perpetrators of crimes against humanity, who were also members of the old regime, who continue to wield power and can be a real threat to the process of transition to democracy, security, order, and national stability; and furthermore, because of other priority matters that need immediate action, the much needed human resources to run the courts of law and order are not available.

The historical reality in Timor Lorosa'e speaks for itself and makes the above-mentioned basis for an amnesty a very weak one. High crimes against humanity in Timor Lorosa'e happened as a direct result of Indonesian military invasion of the country. Indonesian authorities asserted its occupation of the country by

initiating powerful and repressive institutions. In order to keep the reins of power, they employed East Timorese people as stooges. The political opposition and conflict between the pro-independence and pro-integration/autonomy East Timorese was, in fact, a conflict between the people of Timor Lorosa'e, who wanted independence, and the Indonesian authorities who used indigenous East Timorese as their front, in order to maintain its occupation of our country.

The departure of the Indonesians and the success of the pro-independence movement during the referendum of August 30, 1999, had weakened the power of the pro-integration/autonomy faction. They no longer have the support of the people and therefore, have less possibility of being a threat to Timor Lorosa'e's independence. In the same way, the remaining Indonesian officials or military officers who are not willing to recognize an independent Timor Lorosa'e are no longer able to do acts that threaten Timor Lorosa'e's independence. Furthermore, the international community's recognition of our independence makes our country, a country protected by international law, in the face of possible foreign invasion or aggression.

Of course, the dissension and conflict brought about by the Indonesian occupation may still be a threat to the security and order among our people. For this reason, we have to exert efforts at reconciliation among the different members of our society. Reconciliation sets as a condition, mutual acceptance between the conflicting parties. In this case, mutual acceptance between the victims of violence and the perpetrators of violence. This mutual acceptance presupposes admission of guilt and an expression of remorse and a promise to avoid committing the same violations on the part of the offender. It is only thus that the victim can grant forgiveness for all the sufferings he and/or his family has to endure. Forgiveness that does not come from the victim himself is not a strong

*Continued on page 14*

*Continued from page 13*

basis for reconciliation. In fact, it may bring about more prejudice against suspected perpetrators of crimes and deeper dissension in the community.

It is true that there is a lack of skilled human resources in Timor Lorosa'e while there are many basic needs yet to be dealt with immediately. But, we must bear in mind that justice is one of these basic needs to be fulfilled; that justice was our main goal in our struggle for freedom. Furthermore, international law asserts that every independent state has the responsibility to investigate and to bring to justice perpetrators of high crimes against humanity. We are also aware that when CNRT was formed in 1998, in Peniche, Portugal, the leaders of our struggle for independence pledged that independent Timor Lorosa'e shall uphold human rights and international law.

Insufficient human and financial resources in our institutions of justice cannot be used as an excuse to forgo litigation of perpetrators of high crimes against humanity in our country. On the contrary, it is precisely for these reasons that we should strengthen our institutions of justice so that the rule of law may prevail in our land, rather than the rule of power of occupation times.

Litigation or prosecution of perpetrators of high crimes against humanity in the courts of justice will be for the government a severe warning to offenders, that violations against human rights will not be tolerated and whoever is guilty will be brought to justice. On the other hand, where impunity for offenders is allowed, so much more will the rule of law be weakened and human rights violated.

By international human rights standards, victims have a right to the truth and to indemnity, restitution, and reparation. The offer of amnesty without an initial admission of guilt from perpetrators of high crimes against humanity does not provide the victims the right to know what truly happened. Besides, the offer of amnesty by a head of state means that the state takes over the responsibility of the offender to pay indemnity, restitution and reparation to the victim. Without uncovering the truth, it is possible that the victim may not obtain any indemnity, restitution, or reparation because there is no certainty as to who the victim is, since the crime itself

has never been exposed.

In the interest of the state, cover-up of the truth may bring about unfavourable consequences. Thus, we lose the opportunity of compiling a true history of our past, risk committing the same mistake in the future and an unfavourable appraisal of our country's history. We know that a nation that does not study its history will surely repeat its mistakes. It is, precisely, when we cover up the truth of our past that we give the government, or any power group for that matter, the opportunity to deny and distort the truth. Exposing the pattern of systematic and institutional violence that took place in our country, will help to facilitate the elimination of any institutional base that supports perpetrators of crimes; it will help to create a foundation of accountability for the new government and it will help in the process of reparation and healing for the victims.

### Recommendations

After 24 years of political conflict, the Democratic Republic of East Timor is now 'a democratic, sovereign, independent and unitary State based on the rule of law, the will of the people and the respect for the dignity of the human person.' (Constitution, s. 1) During the conflict many wrongs were committed. Most of those wrongs cannot be put right. There are still thousands of East Timorese waiting to return home. We now have a National Parliament, a Government and a President who together are able to lead us to a reconciled future together in this land.

Timor Lorosa'e must look to the future — towards a life of security, peace, prosperity, and justice. Therefore, Timor Lorosa'e must be able to confront and settle her past, so that, the evils of the past will not be repeated in the future. Timor Lorosa'e society, fragmented by violence, can rebuild relationships only through peace and civility. We can rebuild relationships when we are able to accept the dark events of our past. We need to admit the truth of what happened and then we can agree together on how to build good relations. If the truth is not accepted, then the inter-relationships among our citizens will always be coloured with the dark events of the past. Memories will be difficult to erase because they involve what is held as valuable to life: children, wife, husband, relatives who had been victims of disappearances, rape,

torture, detention, murder, and other crimes.

The life of Jesus Christ teaches us that victims of suffering must be our prime concern. Victims of violence suffer more than physical pain. Their mental and psychological suffering leaves its mark throughout their lives. Jesus also teaches that the victim should initiate reconciliation. However, our religion and faith demands that he who does evil must admit his sinful action and express remorse and repentance and firm resolve not to offend or do what is evil again. It is only by doing that he/she [earns] forgiveness.

Pope John II captured the relationship of truth and justice, especially as it relates to forgiveness, in his message for the 1997 Day of World Peace. He says that there are two things required to bring about forgiveness and reconciliation, respect for the truth, and justice that is not limited to that which is right among the parties to the conflict, but looks above all to re-establish the authentic relations with God, with the self, with others. Truth prepares the ground for justice.

In light of the consideration above our **stand towards the question of amnesty** is as follows:

1. Amnesty may be granted to perpetrators of crimes but crimes not classed as heinous crimes. As a new nation, East Timor has limited resources for the investigation, prosecution and defence of those charged with past criminal behaviour. We must be fair in deciding who to prosecute and for what. Now is the appropriate time for our President, our Government and our National Parliament to close the chapter of past criminal behaviour which plagued both sides of the political conflict between 1975 and 1999. There is no need to use up precious resources prosecuting people for less serious offences which they committed in the past. However, persons who committed the most serious crimes such as mass murder, even for political reasons, should not be eligible for an automatic amnesty. They should be prosecuted unless the victims' families and the local community request the grant of a special amnesty to the accused person. The Church encourages such acts of forgiveness and reconciliation, while understanding that some victims'

families may justifiably want an accused to face trial and conviction according to law.

2. Amnesty may be granted to perpetrators of crimes beforehand, [if they] have expressed the truth; have admitted their guilt; have expressed repentance and remorse and have promised not to do the same offence again. If these offences related to the political conflict and if the offenders are still causing problems in local communities, people should approach the Commission for Reception, Truth and Reconciliation for assistance. It is time for the National Parliament to commence a proper national inquiry into the terms and conditions for the grant of a general amnesty to persons who committed serious crimes (not the most serious crimes) during the course of the political conflict.

After appropriate consultation with the public, with civil society and with the Commission for Reception, Truth and Reconciliation, the National Parliament should present the President with an amnesty law for his approval. An automatic amnesty for all past offenders would be unjust on those victims and their families who have suffered most. It would also risk our new nation falling into denial and forgetting our past. On the other hand, a ruthless prosecution of all past offenders with no amnesty would condemn our poor country with limited resources to an endless and wasteful search for justice and reconciliation in the courts which would be a frustrating failure. We now have the appropriate State bodies with the constitutional authority to act on behalf of all the citizens. Now is the right time for our elected national representatives to strike the right balance between the past and the future, between victims and offenders, between justice and mercy according to law, and between remembrance and new life.

As the Church we commit ourselves in prayer and action to the development of an amnesty law which realises our hopes of justice, forgiveness and reconciliation for all who have emerged from bloody and criminal conflict 'with a view to building a just and prosperous nation and developing a society of solidarity and fraternity'. (Constitution,

Preamble)

3. The state, in this case the government has the obligation to determine and to implement rehabilitation and recovery programmes for victims (including a process of mental and physical healing). It should also establish a mechanism for determining who are entitled to these programmes, based on a just, democratic and transparent process.
4. Amnesty does not include accountability for civil cases. Offenders must pay financial indemnity.
5. Forgiveness on the part of the victim must be a pre-requisite in granting amnesty.

In any discussion about amnesty, there is a need to **distinguish**:

- a) Less serious crimes: crimes which will not be prosecuted now even if there be no amnesty. These crimes cannot be practically prosecuted because there are not the resources to prosecute them fairly. Given the other social needs, there is no point in taking resources from elsewhere to make these prosecutions. People want to get on with the business of building the new nation and delivering services such as health and education.
- b) Serious crimes committed for political reasons: crimes which could be subject to a fairly administered amnesty policy.
- c) Serious crimes which were not committed for political reasons: crimes which could be prosecuted when resources are available and crimes which will be prosecuted if someone continues to be a troublemaker once they have returned to their local community.
- d) Most serious crimes: crimes which will be prosecuted and which will not be subject to a general amnesty but which could be the subject of a special amnesty if the victims, their families and the local community are agreeable to an amnesty after the fulfilment of conditions they decide.

Any **law about amnesty** must take into account the following matters:

1. The judicial system in East Timor is already overtaxed and under-resourced. Even without amnesty, the prosecutors must be very selective in choosing who to prosecute. Their

highest priority should be the prosecution of those who have committed the most serious crimes. For example, there should be no general amnesty for mass murderers or those who committed serious crimes against humanity.

2. The majority of the most serious offenders from 1999 are still in Indonesia beyond the reach of the East Timor justice system. There are still thousands of refugees in West Timor waiting to return home. They should be told that those suspected of serious crimes will not be prosecuted at this time unless they are apprehended for continuing breaches of the peace on their return to East Timor, in which case prosecutors will proceed against them for offences committed in 1999 as well as offences committed on their return. However, if any person suspected of most serious crimes is apprehended for continuing breaches of the peace on return to East Timor, the process for prosecution of their most serious crime will be instituted forthwith.
3. Most persons who have committed criminal offences in East Timor between 1975 and 1999 may never be prosecuted because there are not the resources and now there is not the evidence to produce a credible conviction. Prosecutors need to have an impartial policy for selective law enforcement and selective prosecution.
4. There are persons who committed serious crimes for political reasons during the 1975-1999 conflict. They are living in East Timor. The political conflict is now over. It is time to draw the line and move forward together. There is a good case for granting an amnesty to these 'political offenders' provided they are committed to no further criminal activity in working against the independence and sovereignty of East Timor. Any amnesty should be equally available to those from both sides of the political conflict.
5. It is the National Parliament's obligation to draft an amnesty law after appropriate consultation with affected groups, especially victims. The Parliament should consult especially about the different categorisation of serious crimes:

*Continued on page 16*



Continued from page 15

- a) Less serious crimes which usually are not prosecuted, in accordance with a fairly administered selective prosecution policy
- b) Serious crimes committed for political reasons which may be subject to an automatic amnesty
- c) Serious crimes not committed for political reasons which may be prosecuted in accordance with a fairly administered prosecution policy
- d) Most serious crimes which are prosecuted unless the victims, their

families and the local community request the grant of a special amnesty on fulfilment of conditions which they have specified to the accused.

May God show us the way towards the settlement of the problems that beset this country that we love.

## Oil dispute thickens

**On 20 May 2002, the East Timorese government signed an agreement with Australia on the oil reserves in the Timor Gap. But the dispute over the sea-bed is by no means over.**

**T**he deal replaces the illegal Timor Gap treaty agreed by Australia and Indonesia in 1989.

Under the new agreement, East Timor will receive 90 per cent of royalties from the Bayu-Undan field. Australia will receive 82 per cent of royalties from the much bigger Greater Sunrise field — if the maritime boundaries on which the agreement was based remain as they are. But the Greater Sunrise field lies closer to East Timor, and if the sea bed is divided at the mid-point between the two countries, East Timor should be entitled to a greater share of the royalties.

When it signed the agreement with Australia, the East Timorese nevertheless reserved their right to challenge the maritime boundaries. As yet, there is no treaty with

Australia defining where these are.

In July the East Timorese parliament passed legislation claiming an exclusive economic zone of 200 nautical miles, which takes in the entire Greater Sunrise field.

For the Australian government oil-related jobs and opportunities in the Northern Territory are a key priority. Anticipating a difficult battle, it has withdrawn recognition of the jurisdiction of the International Court of Justice at the Hague over maritime boundaries.

This limits the options of the East Timorese government. 'It's not an equal relationship,' East Timor's Foreign Minister Jose Ramos Horta points out. 'East Timor will depend on Australian aid and security for the foreseeable future. The Timorese argue that if they could receive their legal entitlements, they wouldn't need Australian handouts.' But any recourse East Timor had to legal action has been severely curtailed now that Australia has withdrawn from the International Court's jurisdiction.'

The East Timorese government feels it cannot back down on access to a resource so fundamental to East Timor's future viability.

According to Ramos Horta: 'In a few years' time East Timor will be expected to stand alone. Just how effectively it makes the transition from one of the world's poorest countries to a viable state depends largely on who wins the battle over the vast riches in the Timor Sea.'

It seems that the dispute will continue for some time. Meanwhile, Phillips Petroleum is beginning to apply pressures of its own. The company has put on hold the construction of a gas pipeline from the Bayu-Undan field to the Northern Territory, delaying the creation of up to 1,500 jobs and the start of the income East Timor can expect to receive.

Phillips is anxious for reassurance that taxes payable to the East Timorese government will remain at levels previously agreed. The East Timorese government would like to increase them.

### All good things .....

We have not included the usual subscription box in this issue. After 17 years, the production of Timor Link is shortly to come to an end. CIIR plans two more 8 page issues, and then we will cease to produce the newsletter in the current format.

Our 50th issue, which appeared in August 2000 carried a number of articles reflecting on the history of this newsletter. Timor Link's first issue appeared in January 1985, and with the exception of an interlude between 1990 and early 1992, has appeared regularly since then. When the newsletter began, media such as the internet were unknown. Now it is possible to access information easily and cheaply by these methods, lessening the need for hard-copy products. We would like to thank the many dozens of contributors who have written for Timor Link over the years, all of them for free. As with most solidarity newsletters, we have overwhelmingly relied on people's good-will and commitment.

Although the newsletter is coming to an end, CIIR's East Timor programme is not. As a long-established agency in the fields of skillshare and advocacy, we are now operational in East Timor, with a staff of 4 people working on our five year programme 'women's rights, human rights and democracy in the transition to independence and beyond'. We are in the process of recruiting our first two development workers to work alongside our programme there. We will be continuing our advocacy work, particularly on the theme of justice, and rights for women, which have featured prominently in recent issues of Timor Link through the medium of the internet.

CIIR will continue to report on events in East Timor. Regular updates will appear on our web-site at [www.ciir.org](http://www.ciir.org), and we will be producing occasional books and updates such as in our well-known briefing series 'Comment'. News of campaigns and actions will also be advertised there.

CIIR is currently investigating the costs involved in placing the entire set of Timor Links, dating back to Issue 1, on the web. We would very much like to do this as a part of world-wide efforts to record and reflect on the history of the Indonesian occupation of East Timor, together with an historical record of solidarity activity. Similarly, we would like to reflect on the contribution Timor Link has made to wider solidarity work, and are enclosing a questionnaire which we hope very much that as long-standing readers of the newsletter, you will take the time to fill in and return to us. We thank you for your loyalty as readers, and the supportive comments and feedback that you have given us over the years. We hope that in whatever way you can, you will go on giving the East Timorese the support they need over the coming years.

Thank you.