

Chega!

The final report of the Timor-Leste Commission
for Reception, Truth and Reconciliation (CAVR)

A Plain Guide

Foreword by Archbishop Desmond Tutu



Complete
CHEGA! CD
inside

Chega!

**The Final Report of the Timor-Leste Commission for
Reception, Truth and Reconciliation (CAVR)**

A Plain Guide

THE LAW OF THE REPUBLIC OF INDONESIA NUMBER 19 YEAR 2002 REGARDING COPYRIGHT

The Scope of Copyright

Article 2:

1. Copyright shall mean the exclusive right of an Author or a Copyright Holder to publish or reproduce his/her work, which emerges automatically after the creation of the work without prejudice to restrictions pursuant to the prevailing laws and regulations.

Criminal Provisions

Article 72:

1. Any person who deliberately and without right conducts any acts as referred to in Article 2 paragraph (1) or Article 49 paragraphs (1) and (2) shall be sentenced to imprisonment of at least 1 (one) month and/or a fine of at least Rp1,000,000.00 (one million rupiahs) or imprisonment of at most 7 (seven) years and/or a fine of at most Rp5,000,000,000.00 (five billion rupiahs).
2. Any person who deliberately broadcasts, exhibits, distributes, or sells to the public a work or goods resulting from an infringement of copyright or related rights as referred to in paragraph (1) shall be sentenced to imprisonment of at most 5 (five) years and/or a fine of at most Rp500,000,000.00 (five hundred million rupiahs).

Chega!

**The Final Report of the Timor-Leste Commission for
Reception, Truth and Reconciliation (CAVR)**

A Plain Guide



JAKARTA

KPG IN COOPERATION WITH STP-CAVR

Chega!

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

A Plain Guide

KPG 901 13 0737

First printing, November 2013

Author:

Post-CAVR Technical Secretariat

Cover photo:

Poriaman Sitanggang

Editors:

Rani Elsanti, Ining Isaiyas, Pat Walsh

Design and layout:

M. Roniyadi, Rio Ardani, Fernandus Antonius

Project management:

Rev. Agostinho de Vasconcelos, Ligia Hermenegildo da Costa,
Candra Gautama, Christina M. Udiani

Library of Congress Cataloguing-in-Publication Data

Post-CAVR Technical Secretariat

Chega!: the final report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR): a plain guide / author, Post-CAVR Technical Secretariat.—Jakarta: KPG in cooperation with STP-CAVR, 2013. vii + 104 pages; 15 cm x 23 cm

ISBN-13: 978-979-91-0642-1

1. Timor-Leste—History—Autonomy and independence movements. 2. Human rights—Timor-Leste. 3. Crimes against humanity—Timor-Leste. 4. Truth commissions—Timor-Leste. 5. Indonesia—Politics and government—1966-1998. 6. Comissão de Acolhimento, Verdade, e Reconciliação Timor-Leste. I. Comissão de Acolhimento, Verdade, e Reconciliação Timor-Leste.

DS649.6 .C3913 2013

2013462076

Funding for this publication was provided by the Government of Timor-Leste.

The contents may be used widely except for commercial purposes.

Printed by PT Gramedia, Jakarta

The printer is not responsible for the content of this publication.

Contents

1		Foreword by Archbishop Desmond Tutu
3		Preface by Rev. Agostinho de Vasconcelos
5		Section 1: Background to the Commission
9		Section 2: The Work of the Commission
11		Section 3: The Final Report
12		Is there anything new in the Commission's findings?
14		Frequently asked questions about the CAVR's death toll estimates
14		How many people died from conflict-related deaths in Timor-Leste between 1974 and 1999?
14		When did the largest number of "excess" deaths due to hunger and disease occur?
14		When did the largest number of unlawful killings and disappearances occur?
15		Where did the killings take place?
15		How precise are the Commission's estimates of the death toll?
19		Section 4: Human Rights Violations
19		Forced displacement and famine
21		Famine and displacement in the late 1970s: the evidence
24		Displacement and its impact in the 1980s
25		Displacement in 1999
26		Unlawful killings and enforced disappearances
26		Terror and impunity
27		Methods of execution
28		Unlawful killings related to military operations
30		Systematic killings and disappearances of targeted individuals and groups
31		Collective and proxy punishment of civilians by ABRI/TNI
33		1985–1998: a continuing climate of impunity
34		1999

35	 	Arbitrary detention, torture and ill-treatment	...
36	 	Arbitrary detention	
37	 	Conditions of detention	
37	 	Torture and ill-treatment	
38	 	Methods of torture	
40	 	Sexual violence	
41	 	Sexual violence inside Indonesian military installations	
42	 	Sexual slavery	
43	 	Political trials	...
45	 	Violations of children's rights	
46	 	Violations of the laws of war	...
46	 	Attacks on civilians and civilian assets	
47	 	Mistreatment of enemy combatants	
47	 	The destruction and theft of property and other assets	
48	 	The use of illegal weapons	
48	 	Forced recruitment	
49	 	Economic and social rights	

53 | Section 5: Institutional Responsibility

53	 	The statistics of institutional responsibility	...
53	 	Indonesian security forces	
54	 	The Resistance	
54	 	UDT	
55	 	Institutional responsibility of the Indonesian security forces	
56	 	The responsibility of specific units of the Indonesian security forces	
57	 	Individual and command responsibility of the Indonesian security forces and their auxiliaries	
59	 	Responsibility for the mass violations of 1999	
62	 	Institutional responsibility of the East Timorese political parties	
62	 	The internal armed conflict	
62	 	Principal findings on the responsibility of the Resistance	
65	 	Forced displacement and famine	
66	 	Principal findings on the responsibility of UDT	
68	 	Principal findings on the responsibility of Apodeti	

69 | Section 6: State Responsibility

- 69 | Responsibility of the State of Indonesia
- 71 | Responsibility of the State of Portugal
- 73 | Responsibility of the State of Australia
- 74 | Responsibility of the United States of America
- 76 | Responsibility of the United Nations

79 | Section 7: Reconciliation

83 | Section 8: Acolhimento and Victim Support

- 84 | Public hearings at the national and sub-district levels
- 86 | An Urgent Reparations Program for victims
- 87 | Healing workshops at the Commission's national headquarters
- 87 | Village-level participatory workshops, called Community Profile Workshops, to discuss and record the impact of the conflict on communities

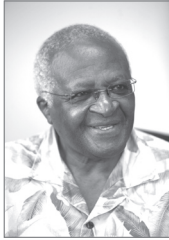
89 | Section 9: Recommendations

- 90 | Overview
- 93 | Justice: an international approach
- 95 | Reparations
 - 97 | A targeted reparations program to alleviate the plight of the neediest
 - 98 | Acknowledgement
- 98 | Upholding human rights in Timor-Leste
- 100 | Reconciliation
- 102 | The Commission's archives
- 102 | The follow-on institution

Foreword

Archbishop Desmond Tutu

Nobel Peace Laureate, former Chair, South African Truth and Reconciliation Commission



I am deeply honoured to introduce this precious document.

Chega! is an extraordinary report about an extraordinary chapter in the history of the world's freedom struggles. It deserves to be more widely known and to take its rightful place in the international canon of human rights and conflict resolution literature.

The professionalism of the report is obvious. The CAVR Commissioners have followed their terms of reference rigorously, putting aside their strong personal feelings as Timorese who suffered great injustice, to apply the same international standards and judgement to all sides in the conflict. The result is a highly credible report. It is also a useful reference on international law, the workings (and failures) of the international system and a handy nuts and bolts introduction to the unique and effective community reconciliation process that CAVR facilitated.

What I find most compelling, however, is the human face of the suffering and sacrifice that forms the heart of the report. *Chega!* is above all the story of tens of thousands of ordinary Timorese, many of whom were subjected to unimaginable violence for daring to aspire to the basic freedoms that the international system says all people should enjoy. Jose Ramos-Horta, Timor-Leste's former President and my fellow Nobel Peace Laureate, said that the report moved him to tears and anger. I feel the same way. I ask God to hear the prayers of the many Timorese who are still hurting and also to remember the families of the Indonesian soldiers who died pointlessly in Timor-Leste.

I commend this English version of *Chega!* to the international community and its many components, including the churches.

As the tenth anniversary of the *Chega!* report approaches in 2015, my most earnest hope is, however, that those governments who generously funded CAVR will be the first to ensure that the report is widely disseminated in their countries and that its extensive recommendations will be implemented, for the sake of the most needy Timorese victims in particular.

This is the least we can do.

Preface

Rev. Agostinho de Vasconcelos
Executive Director, Post-CAVR Technical Secretariat

This Plain Guide to *Chega!*, the final report of Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR),* has been prepared by the Post-CAVR Technical Secretariat to ensure maximum access to, and understanding of, the Final Report and its findings and recommendations. It is primarily intended for journalists and others who have requested a short and authoritative summary to serve as a ready reference to the much longer Final Report and its Executive Summary.

Chega! A Plain Guide is also an opportunity to correct some misconceptions that have circulated to the detriment of the Report. It has been wrongly claimed, among other things, that the Commission was a UN body; that the Report is a UN report; that it recommends a wholesale program of reparations; that it concluded categorically that the Indonesian military used napalm; that the death toll due to conflict and war was at least 183,000; that its recommendations are hopelessly unrealistic; and that the report says nothing new. A Plain Guide sets the record straight on these issues and more.

Chega! A Plain Guide was finalised during the events that rocked Timor-Leste in mid-2006. Some saw this as a demonstration that important historical lessons have not been learned by either East Timorese or their overseas development partners. These lessons included the need to shun violence and respect human rights; to ensure the professional

* Herein referred to as the 'Commission'.

integrity of the police and army; the vital role of rule of law; and other nation-building fundamentals.

Chega! and its recommendations address these issues in compelling detail and provide a carefully drawn roadmap for both peace and nation-building in this still young nation. Recent events remind us of the contemporary relevance of *Chega!* and the urgent need to discuss, debate and reaffirm its key messages at every level of East Timorese society. The international community can also learn much from *Chega!* and I hope it will play a role in ensuring the mistakes of the past are not repeated. A Plain Guide is a contribution to this project.

In conclusion, it should be emphasised that A Plain Guide cannot substitute for the Final Report. The Final Report has to be read in full to gain a proper insight into the work of the Commission. Likewise, it is only in the more than three thousand pages of *Chega!* that it is possible to fully experience the graphic power of the testimonies collected from thousands upon thousands of East Timorese people from every corner of Timor-Leste. These testimonies, together with a wide range of other documents and sources, formed the basis of the Commission's findings and recommendations. The full text of the Commission's recommendations can be found in both the Final Report and the Executive Summary of *Chega!*

Section 1: Background to the Commission

The immediate spur to the creation of the Commission was the patent need for reconciliation and justice in the wake of the massive human rights violations surrounding the UN-sponsored referendum of August 1999.

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

The Congress unanimously recommended the establishment of a “Commission for Resettlement and National Reconciliation”. The CNRT Congress’ vision of reconciliation was that it could not happen without involving a wide spectrum of the people of Timor-Leste’ and maintaining a commitment to achieving justice and establishing the truth about the past.

.....
* *Outcomes of the CNRT National Congress*, 21–30 August 2000, p. 15.

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

The Steering Committee conducted consultations from September 2000 to January 2001. It visited each of the 13 districts, holding public meetings at district, sub-district and village level. It also consulted political parties, jurists, human rights organisations and victims' groups. It found overwhelming community support for a truth and reconciliation commission. Many of the themes that emerged in the course of these consultations were to guide and shape the work of the Commission.*

* These themes included, for example:

- Those responsible for serious crimes should be brought to justice. The view that reconciliation is possible was widely accepted, but there had to be accountability and justice for past serious crimes, including those committed before 1999. The Commission should not be seen as displacing the formal justice system and the courts. It should work in a complementary way to support both justice and reconciliation.
- It needed to be acknowledged that opening up old wounds carried risks, and probing the past had to be carried out with great sensitivity.
- The Indonesian government should be held responsible for the actions of its agents, particularly members of the security forces and East Timorese auxiliaries who were under their control. Such responsibility should include the payment of compensation to victims of these government-sponsored violations.
- The Commission should operate at the village level and should conduct campaigns to inform the people about the nature of its work.
- The need for reconciliation at the village level should not be overlooked. Dissatisfaction was expressed that up to that time all reconciliation initiatives had focused on the leaders. Village elders or traditional leaders and the traditional system should be involved in the processes of reception and reconciliation.
- The Catholic Church and the culture of confession and forgiveness could play an important role in reconciliation processes at the community level.
- The Commission must engage with the East Timorese refugees in West Timor.
- Support for the rehabilitation of victims, such as ex-political prisoners and survivors of torture, was necessary and compensation should be provided to victims.

These consultations were followed by extensive discussion in the Cabinet and National Council of the UN-created East Timor Transitional Administration (ETTA). On 13 July 2001 the Commission for Reception, Truth and Reconciliation (CAVR) was established as an independent statutory authority under UNTAET Regulation 10/2001.* The work of the Commission began in January 2002 after the appointment of seven National Commissioners, who were selected for their diversity of views and known independence.

The Commissioners were: Aniceto Longuinhos Guterres Lopes (Chairperson), Fr. Jovito Rego de Jesus Araújo (Vice-Chairperson), Maria Olandina Isabel Caeiro Alves, Isabel Amaral Guterres, José Estevão Soares, Rev. Agostinho de Vasconcelos, Jacinto das Neves Raimundo Alves.

The Commission was mandated to inquire into human rights abuses committed by all participants between April 1974 and December 1999, as well as to facilitate reconciliation and justice for less serious offences. A distinctive feature of the Commission's work was its focus on grass-roots assistance to communities attempting reconciliation and to victims of human rights violations, as well as the task of seeking information about past violations.

The Commission was initially given an operational mandate period of 24 months which was extended to 39 months through three amendments to the empowering legislation.

Under Regulation 10/2001 the Commission had a mandate to:

- Inquire into and report on the truth regarding human rights violations which had been committed in the context of the political conflicts in Timor-Leste between 25 April 1974 (the date of the beginning of the Carnation Revolution in Portugal, one of whose main planks was the decolonisation of Portugal's possessions in Africa and Asia, including Timor-Leste) and 25 October 1999 (the date of the establishment of the UNTAET peacekeeping mission in East Timor).
- Promote reconciliation.
- Implement Community Reconciliation Procedures, whose object was to facilitate through a participatory, village-based mechanism the reception and reintegration of individuals who had committed minor criminal offences and other harmful acts.

.....
* Regulation 10/2001 On the Establishment of a Commission for Reception, Truth and Reconciliation in Timor.

- Assist in restoring the dignity of victims.
- Recommend prosecutions where appropriate.
- Formulate recommendations designed to prevent the recurrence of human rights violations and to respond to the needs of victims.

“Why did Timor-Leste choose to address its difficult past? As a resource – poor nation burdened with exceptional challenges, Timor-Leste could have done nothing or opted to forgive and forget. Instead our nation chose to pursue accountability for past human rights violations, to do this comprehensively for both serious and less serious crimes, unlike some countries emerging from conflict which focused on only one or two issues, and to demonstrate the immense damage done to individuals and communities when power is used with impunity. CAVR was established as part of this process. Like other transitional justice mechanisms in Latin America, Africa and Europe, our mission was to establish accountability in order to deepen and strengthen the prospects for peace, democracy, the rule of law and human rights in our new nation. Central to this was the recognition that victims not only had a right to justice and the truth but that justice, truth and mutual understanding are essential for the healing and reconciliation of individuals and the nation. Our mission was not motivated by revenge or a morbid or political preoccupation with the past. CAVR was required to focus on the past for the sake of the future – both the future of Timor-Leste and the future of the international system which, the Report demonstrates, also has much to learn from Timor-Leste’s experience.”

Excerpt from the address by Aniceto Guterres Lopes, Chair of CAVR, when presenting the CAVR Report ‘Chega!’ to President Xanana Gusmão, 31 October 2005.

Section 2: The Work of the Commission

By the end of its operational phase in April 2004 the Commission had:

- Recorded the statements of 7,669 victims, witnesses and perpetrators of human rights violations. These statements were summarised and their elements such as the type, time, location, victim and perpetrator of the violation, were coded and entered with the summaries into a database. This permitted the Commission to analyse patterns, causes and the impact of violations statistically, provide a basis for findings of responsibility and accountability, and retrieve statements exemplifying particular patterns.
- Conducted 1,048 targeted research interviews with individuals who had played key roles in the conflict, victims, perpetrators and witnesses of violations. These interviews enabled the Commission to deepen its knowledge of the themes that it had identified as crucial to an understanding of the conflict.
- Completed a study of the number of people who had died as a direct result of the conflict.
- Completed 1,379 Community Reconciliation Procedure (CRP) cases in which individuals who had committed “less-serious crimes” or acts that were harmful to their communities during the period of conflict in 1999 participated in formal, village-based hearings aimed at reintegrating them into their communities. Victims, perpetrators, community members, the Office of the General Prosecutor and the courts were party to CRPs.

- Conducted eight national public hearings. The complete hearings were covered live by national television and broadcast by radio to the remote regions of Timor-Leste and into some areas of West Timor.
- Held 52 public hearings at the sub-district level which allowed victims to share their experiences of the conflict.
- Coordinated 257 Community Profile workshops in which members of communities where severe violations had occurred met to discuss and record their experiences over the 25-year period of political and military conflict. About 4,000 people participated in these workshops.
- Produced and broadcast weekly radio programmes which focused on mandate-related topics, in particular the promotion of reconciliation.
- Conducted programmes in West Timor refugee camps, which included taking statements and providing information about the activities of the Commission.
- Held six Healing Workshops at the national office in Dili. Victims who had been most severely affected by the conflict were invited to participate in these workshops.
- Provided Urgent Reparations for medical treatment and other expenses to 712 victims of human rights abuses.
- Established an archive and documentation centre.
- Rehabilitated four regional offices and the former Balide prison in Dili as both a heritage site and the CAVR national office.

Section 3: The Final Report

Under Regulation 10/2001 the Commission was required to prepare a report on its activities and findings, which would also contain recommendations designed to prevent human rights violations in the future.

In seeking to establish the truth about human rights violations in Timor-Leste the Commission was asked to inquire into:

- The extent, nature and causes of human rights violations, including the antecedents, circumstances, factors, context, motives and perspectives which led to their commission.
- The persons, authorities, institutions and organisations that were involved in human rights violations.
- Whether human rights violations were the result of deliberate planning, policy or authorisation.
- Accountability for human rights violations.*

A total of 85,164 human rights violations were reported to the Commission through its statement-taking process alone. Details of each violation and statement summaries were entered into the Commission's database. The Human Rights Violations Database (HRVD) provided the raw material for much of the Commission's statistical analysis and findings. (These are presented in Vol. I, Part 6: Profile of Human Rights Violations and are cited, as appropriate, in the

.....
* Regulation 10/2001, Section 13.1 (a)-(d).

individual chapters of Vols. II and III, Parts 7: Violations of Human Rights and in Vol. IV, Part 8: Responsibility and Accountability.)

Combining the HRVD with other data that it had itself collected, a graveyard census and a household mortality survey, the Commission was able to make the first scientifically reliable estimate of the number of people who had died as a direct result of the conflict.

The Commission also collected a large amount of qualitative information. This included the statements and targeted interviews already referred to above. Public hearings and Community Profile Workshops were another valuable source of material. The Commission also had access to thousands of pages of documents and other secondary materials, including documents produced by the Indonesian military and the East Timorese Resistance. Much of this qualitative evidence can be found in the chapters of the Report on individual violations that are contained in Vols. II and III, Part 7.

This information enabled the Commission to pursue the lines of inquiry prescribed in Regulation 10/2001. By analysing the data in the HRVD, the Commission was able to generate findings on, for example, the scale of different types of violation or the perpetrator groups to which violations were most often attributed. Further analysis of the data yielded information on patterns of violations, as well as their perpetrators and victims, both over time and geographically.

Is there anything new in the Commission's findings?

One common response to the Report has been to say that it does not contain anything new. Those expressing this view do not all speak from the same perspective. In presenting the Report to Parliament on 28 November 2005, President Xanana Gusmão commented that the truth was already familiar to Timorese who had lived through 1974–99, but he did not challenge the truth of the CAVR findings. By contrast, before he had actually seen the Report, the Indonesian defence minister, Juwono Sudarsono, accused the Commission of retelling old stories that had been used in the past by people whose prime purpose was to discredit Indonesia.

The Commission was the first organisation to be given the mandate to conduct a wide-ranging investigation on the ground in Timor-Leste covering the whole period between 1974 and 1999, and to enjoy

the access and the resources that enabled it to fulfill that mandate. It was able to provide strong corroboration of events where previously reported human rights violations had been committed, as well as inquire into cases that had either gone unreported or without adequate follow-up.

In so far as the Commission's findings confirmed earlier allegations of atrocities committed by the Indonesian security forces and other parties to the conflict, the Report is indeed not new. Information about many of the events that the Report records, such as the reprisals taken by the Indonesian security forces after the "uprising" in Kraras in August 1983 or the Santa Cruz massacre of November 1991, had long been known in greater or lesser detail to the East Timorese public and the wider world. Even in such instances, however, the Commission was able to confirm and clarify facts, and in that sense contribute something valuable and new.

Even the best informed of those East Timorese who witnessed and survived the horrors of 1975–99 and recounted their experiences to the Commission were able to provide only part of the story. By drawing on the testimony of several thousand such informants, the Commission was able to assemble evidence on a scale, and of a quality, that had never previously been possible. Moreover, the sheer amount of data that the Commission collected allowed it to carry out the kind of statistical analysis that produced findings on the extent, patterns, trends and levels of responsibility for violations.

The weight of evidence on which the Commission was able to draw flowed from the access that it enjoyed. The Commission was fortunate to have had the confidence and cooperation of East Timorese political, social and religious leaders, who were overwhelmingly sympathetic to its aims, and helped its work in all sorts of ways. However, the chief source of information was "ordinary" East Timorese, including ones living in West Timor and other parts of Indonesia, who told their stories in the belief that something good would come of entrusting their experiences to the Commission.

By contrast with the often fragmentary and partial accounts that were available to the outside world during most of the occupation, the Commission's investigations covered the whole territory throughout the whole period of the conflict.

Thus, whereas reports had reached the outside world that in 1979 and 1983–84 the Indonesian security forces had perpetrated widespread violations of human rights aimed at Resistance activists, the scale and even in some cases the veracity of these reported violations could not be conclusively established.

In many instances, such as its research into the holding centre at Uma Metan (Alas, Manufahi), from which many disappeared after surrender or capture in 1979, or the massive repression that followed the Falintil attacks in the area of Mau Chiga (Ainaro) in August 1982, the Commission uncovered evidence of violations which were barely known outside the localities in which they occurred. In other instances, as with the crackdown of 1983–84, the Commission was able to assess far more accurately than had previously been possible the scale of violations during particular periods of repression.

Frequently asked questions about CAVR's death toll estimates

How many people died from conflict-related deaths in Timor-Leste between 1974 and 1999?

The Commission estimates that a minimum of 102,800 civilians died during the period 1974–1999 due to conflict-related causes. Of this total about 18,600 people were unlawfully killed or disappeared, and a minimum of about 84,200 people died from hunger and illness, more than would have been expected to have died from these causes under peacetime conditions.

When did the largest number of “excess” deaths due to hunger and illness occur?

The largest number of “excess” deaths were heavily concentrated in the years immediately following the Indonesian invasion, between 1975 and 1980, when large numbers of East Timorese fled to the interior to escape the invasion forces and subsequently when those who survived that experience were forcibly interned by the Indonesian security forces in “resettlement camps” after surrender or capture.

When did the largest number of unlawful killings and disappearances occur?

The Commission estimates that the largest number of unlawful killings and disappearances occurred in 1999 when it believes that at

least 1,400 and possibly as many as 2,600 people were killed unlawfully or disappeared. In 1975, the year of the civil war and the Indonesian invasion, and in 1979, at the end of a massive offensive that ended the first phase of resistance to the invasion, killings were also abnormally high. Large-scale disappearances were mostly concentrated in 1979–80 and in 1983–84. Their distinct timing suggests that killings and disappearances were driven by distinct objectives. The disappearances that occurred in 1979 and 1983–84 were widespread and systematic, targeting in particular resistance leaders and activists in what were in effect campaigns to eliminate the Resistance.’

Where did the killings take place?

The districts with the highest numbers of killings during the whole period of the conflict were Ermera, Baucau, Lautém and Manufahi. In broad terms, CAVR concluded that large scale killings of civilians followed the movement of the Indonesian military. Reported killings start in the Western and Central Regions at the time of the initial Indonesian invasion. Between 1978 and 1981, most reported non-combatant killings are in the Eastern and Central Regions, with few reported such killings in the Western Region. In 1999, 72.3% of reported non-combatant killings occurred in the Western Region. Ermera had the highest number of reported killings.

How precise are the Commission’s estimates of the death toll?

The Commission’s statistical estimates are precise to within a narrow margin of error. However, because they are estimates, there is some uncertainty associated with them. Each of the estimates has an individual 95% confidence interval. This means that, for example, the overall estimate for the number of deaths of 102,800 has a margin of error of +/- 12,000, within which the estimate of 18,600 killings has a margin of error of +/- 1,000, and the estimate of 84,200 “excess” deaths due to hunger and illness has a margin of error of +/- 12,000.

The Commission had to rely primarily on sources that it developed itself, including some that employed methods that no previous Commission had used.

The Commission carried out a special statistical investigation into the number of deaths attributable to the conflict. The scale of conflict-related mortality during Indonesia’s occupation of Timor-Leste has

.....
* 40.0% of all individual disappearances reported to the Commission occurred either in 1979, 1983 or 1984.

been the subject of considerable debate: estimates range from a low of 40,000 to more than 200,000. The Commission was acutely aware of the sensitivities surrounding this issue. To arrive at a scientifically reliable estimate the Commission drew on three datasets it had developed itself.

These datasets were developed by:

- taking statements from the nearly 8,000 people who came forward to give testimony to the Commission;
- surveying 1,396 households; and
- conducting a census of public graveyards which documented more than 319,000 graves.

None of these datasets is complete. The Human Rights Violations Database (HRVD) contains summaries of the 7,688 statements taken by the Commission coded so as to allow the chief characteristics of the violations recorded in the statements to be aggregated and analysed. It contains reports of 85,000 violations. It captured a relatively high proportion of all killings and disappearances, but only about one third of the approximately 18,600 killings and disappearances estimated to have actually occurred.

The Commission's statistical estimates are conservative. For a number of reasons the Commission's estimate of the number of conflict-related deaths is particularly liable to be an underestimate of the true number of such deaths.

All reporting of the past is vulnerable to "memory-loss". Each of the methods used by the Commission to estimate the number of deaths will have missed events, including some of the most catastrophic ones. The statement-taking process and the household survey recorded only those deaths to which there are living witnesses. It seems highly likely that there was often no one left to testify to a death, particularly if it occurred in the early years of the conflict – as the largest number of conflict-related deaths did.

In Timor-Leste deaths, both conflict-related and natural, will have erased the memory of human rights violations of all kinds, and particularly ones that occurred in the early years of the conflict. For this reason even if the Commission had conducted more comprehensive statement-taking programmes and household mortality surveys than it did, its findings would still not have been complete. Similar limitations also affect a graveyard census. The deaths of those who

were never buried or who were buried in an anonymous mass grave or whose gravestones have been degraded or destroyed escape the coverage of such a census. Gravestones are almost always silent on the circumstances surrounding the deaths they do record.

The two datasets on which the Commission relied for its estimate of deaths by hunger and illness – the household mortality survey and the graveyard census – are both likely to underestimate the scale of deaths in “extraordinary years” when entire families were wiped out and relatively fewer people were buried in public graveyards. On certain reasonable assumptions about the shape of this “memory loss”, the Commission estimated that the number of “excess” deaths due to hunger and illness alone could be about 183,000. The Commission’s lower estimate of 102,800 conflict-related deaths, unadjusted for memory loss, must be regarded as a minimum, as it represents only those deaths which could be remembered by people from whom the Commission collected its data.

Section 4: Human Rights Violations

Forced displacement and famine

The Commission found that during the late 1970s and the early 1980s, massive displacement of civilians occurred in the territory of Timor-Leste. This displacement was the main cause of a famine that caused the deaths of a minimum of approximately 84,200 East Timorese from hunger and illness. The Commission concluded that the prime reason why so many died in this way was that the Indonesian military forces implemented a strategy in the late 1970s with the following elements:

- Heavy bombardment from land, sea and air of areas where members of the Resistance and the civilian population living with them were thought to be based.
- Destroying food sources.
- Forcing people from Fretilin-controlled areas who had been captured or had surrendered into settlements and restricted areas under military control.
- Failing to provide sufficient food to these people to keep them alive.
- Forcibly preventing them from moving freely to search for or cultivate food.
- Refusing repeated requests from international aid organisations to provide food to those who were starving.

The Commission found that in pursuing this strategy Indonesia violated many of its obligations under international humanitarian law and bears state responsibility for the deaths of these civilians. It also considers that members of the Indonesian armed forces and government officials committed war crimes and crimes against humanity in formulating and implementing policies which caused mass starvation and death.

The Commission found that those on the ground directing and conducting these military operations must have been aware that mass hunger would follow. It therefore concluded that these individuals deliberately used hunger as a military tactic to neutralise active civilian support for the Resistance. The Commission holds them directly accountable for creating famine conditions to achieve military ends.

The Commission was satisfied that the repercussions of Indonesia's military operations were also clearly foreseeable to its military and political leadership at national level. Those leaders are therefore responsible and accountable for these actions and their consequences.

Even if the consequences of their acts had not been foreseeable, from very early on in the occupation, the actual consequences of the strategy being pursued must have become evident to the Indonesian national military and political leadership both from reports of their subordinates in the field and from representations by international and church organisations.

However the causes of the famine were portrayed in these reports, whether as the result of drought, of the already dire condition of the people who came down from the mountains or of insufficient food supplies in the resettlement camps, they would at least have conveyed to the Indonesian national leadership the fact that thousands of people were starving.

On the basis of the totality of the evidence the Commission found the actions of the Indonesian government officials and military personnel involved in the systematic programme of destroying food sources, interning large numbers of East Timorese civilians in camps and preventing them from receiving sufficient food to sustain themselves amounted to extermination as a crime against humanity.

Famine and displacement in the late 1970s: the evidence

“People began to die of hunger, and we had many wounded people with us, as well as children and entire families. The worst memory I have is of the corpses I saw when I passed through Natarbora in December 1978 – there were bodies every ten metres, dessicated corpses of those who had died of starvation, some embracing, others propped under trees. I surrendered in Barique on 13 March 1979 together with six people. For a month we’d only eaten leaves. Our surrender was negotiated through an intermediary. I was the only one who was not executed.”

Pastor Luis da Costa

Many of the civilians who fled their homes during the initial invasion, either spontaneously or under Fretilin auspices, and were then sheltered in Fretilin bases, were displaced again when those bases were targeted by Indonesian forces, often using massively disproportionate and indiscriminate forms of attack.

From 1976 to 1978 the Indonesian armed forces systematically destroyed or removed food crops, food stores, agricultural implements, gardens and fields, and livestock belonging to East Timorese people who had fled from their homes and villages. The Commission received hundreds of consistent accounts telling of fields being burned by Indonesian soldiers, herds of animals being slaughtered and stolen, food stocks being burned, water sources being poisoned, and the destruction of wild food sources.

The Commission learned of instances as early as February 1976 where people who surrendered to the Indonesians were held under tight control in settlements where they were not given sufficient food to sustain themselves and were prevented from moving outside the settlement to cultivate land. Already at this time people were dying as a result of these conditions.

Between late 1977 and late 1978 the effect of driving large segments of the East Timorese population from their homes and the destruction of food sources, as well as bombing campaigns that prevented them growing food crops in the interior where they had sought shelter from

the invading army, produced a situation of famine. Death from hunger and associated illness began to occur on a large scale among those who had been displaced. These conditions were most prevalent among people constantly on the move because they were being harried by Indonesian forces and among those driven in large numbers into restricted areas where encirclement by Indonesian forces effectively prohibited further movement, even in search of food.

During this period Fretilin leaders prohibited their followers from surrendering to the Indonesian authorities. Many who remained in the mountains, whether willingly or unwillingly, perished from hunger and disease. The Fretilin leadership shares responsibility for the consequences of their actions. However, in light of what happened to those who had already surrendered and their own treatment when they themselves eventually surrendered, it is unclear whether the civilian population under Fretilin control would have fared better had they surrendered.

When civilians left Falintil-protected areas and “surrendered” to Indonesian forces, they were in most cases forced into camps and tightly-supervised settlements in an attempt to prevent them having any association or contact with the Resistance. Many were forced to live in such camps for several years. Security was tight, particularly in areas where Falintil forces were thought to be present, and people were confined to a small perimeter close to the camps. They were therefore unable to search for or grow sufficient food.

Already in a weakened state when they entered these camps, internees endured extended periods without access to food gardens or emergency humanitarian aid. The food they received from the military was utterly inadequate to nourish them, and many thousands died. It was also often unsuitable for people already suffering severe malnutrition. Even the meagre rations that the military made available to camp inmates were distributed in a discriminatory way. In exchange for food, the military and their auxiliaries extorted money, family heirlooms and other valuables, in addition to sexual favours.

During the famine, the Indonesian authorities maintained it was caused by drought alone. The Commission examined rainfall records and other climatic data to assess this claim. These records show there was no major fluctuation in rainfall during the relevant period. From the other evidence available, the Commission has concluded that the famine was in fact the direct result of Indonesian military policy and activities.

There can be no doubt that the Indonesian military authorities in Timor-Leste were aware of the rising death toll due to famine in the camps under their control. Reports of famine began to reach international aid agencies as early as April 1977, prompting requests to the Government of Indonesia for aid agencies to enter the territory. A high-level visit by nine foreign ambassadors in September 1978 to resettlement camps in Timor-Leste increased international awareness of the need for a major humanitarian aid programme. The Government of Indonesia refused permission for any international humanitarian aid agencies to operate inside Timor-Leste from the day of its invasion on 7 December 1975 until late 1979.

The decision of the Government of Indonesia to bar international aid programmes, and to limit aid to inadequate amounts delivered by the Indonesian Red Cross and a modest supply from the Catholic Church, was clearly related to the same policies which had led the Indonesian security forces to destroy food sources, intern those who surrendered in camps and not to allow them to move to grow or search for food. All of these actions were undertaken with the goal of overcoming resistance to Indonesian occupation, using whatever methods were available irrespective of whether they were inhumane or in violation of international law or domestic law.

The decision to permit the US Catholic Relief Services (CRS) and the International Committee of the Red Cross (ICRC) to carry out surveys in Timor-Leste during April and July 1979, and then to allow the agencies' operations to begin only in September 1979, were not taken due to the growing and massive scale of the famine – that had already been known to the case many months earlier. What had changed by September 1979 was that the Indonesian military believed their campaign to destroy the Resistance was essentially over. In the period between the agencies' initial requests and the beginning of the emergency assistance programme tens of thousands of East Timorese civilians had starved to death, both inside and outside the camps.

When international agencies were finally granted permission to deliver aid in late 1979, their assistance reached most of the population in the camps and others who were vulnerable, quickly and effectively ending the famine conditions prevailing across Timor-Leste.

Displacement and its impact in the 1980s

The Commission found that from the early 1980s the Indonesian authorities introduced new forms of displacement. On the one hand they dismantled most of the resettlement camps that had been established in the late 1970s; on the other hand they were faced with the reality that a reorganised Resistance was now capable of launching localised attacks on ABRI, often with clandestine support from within the villages.

Those moved out of the resettlement camps were sent to heavily militarised strategic villages; to newly-created villages, often in areas that were not sufficiently fertile to support them; back to their own villages; or, especially if they had relatives still with the Resistance, to the island of Ataúro. In all of these situations living conditions continued to be hard. Each aspect of the programme was still guided by military objectives. Even those settled in fertile areas found that restrictions on their freedom of movement continued to have a serious impact on food production and thus on their well-being. For those interned on Ataúro, the majority of whom were women and children, life on the barren island was difficult, particularly in 1980–82 before the ICRC was permitted to operate there, and many died.

In addition to moving people out of the resettlement camps, the Indonesian authorities also displaced people thought to be connected to Falintil-led attacks and uprisings, such as those in Mau Chiga (Hatu Builico, Ainaro) and Rotuto (Same, Manufahi) around Mount Kablaki in August 1982 and the uprisings in Kraras (Viqueque) and Lautém District in August 1983.

These displacements amounted to the collective punishment of whole communities and the proxy punishment of relatives of people still fighting in the forest and mountains. Some of those detained in these circumstances were also sent to Ataúro. Others were displaced from their home villages and sent to areas where they had to rebuild their lives virtually unaided in extremely inhospitable environments where they were also subjected to abuse by members of the Indonesian security, including sexual violence and executions.

Responsibility for these various forms of displacement and their consequences must be borne by the Indonesian authorities who designed and implemented the policies. The Commission rejects the explanation that, as was suggested by the Indonesian authorities at the

time, they were carried out for the benefit or protection of the civilian population. Indonesian military documents reveal that the overriding concern was to deprive Resistance fighters of the support of the local population. In addition, displacements were intended to weaken the will of the population to resist the occupation and to move civilians to places where they could more easily be controlled. The manner in which these displacements were conducted leads the Commission to conclude that the effect of displacement on the well-being of those moved was inconsequential to the Indonesian military forces. Their only concern was to crush the Resistance by removing its support base no matter what the human cost.

Displacement in 1999

In the months leading up to the Popular Consultation of 30 August 1999 the TNI and their militia proxies used violence indiscriminately in their efforts to secure a victory for the “pro-autonomy” (integration) option. They targeted those who were prominently identified as pro-independence, such as leaders of CNRT and members of pro-independence student organisations, as well as ordinary civilians, whole communities and those who offered them protection, including the Church.

Under threat from both targeted and indiscriminate violence, as many as 60,000 people moved away from their normal places of residence in the months preceding the vote. Many returned only to register or vote before again returning to places of refuge.

As the number of displaced persons grew and settled in large concentrations in places where they thought they would find safety, their living conditions deteriorated, in some cases drastically.

The Indonesian authorities and their militia allies resorted to a variety of means, including bureaucratic obstructionism and violence, to thwart attempts by local NGOs, supported by UNAMET and UN agencies, to give humanitarian assistance to the displaced.

The comprehensive “scorched earth” tactics employed by the TNI and militia groups after the ballot, marked by threats of violence, killings, mass forced deportations and the destruction of public and private buildings throughout Timor-Leste, caused the bulk of the population to become displaced, either internally or externally.

About 250,000 people were displaced to West Timor after the ballot. Detailed plans for the evacuation of a large proportion of the population, involving several Indonesian Government ministries, had been drawn up well before the ballot. Most of these people were forcibly displaced, that is, violence or the threat of violence was used to ensure that people complied with the demands of the Indonesian authorities that they should leave Timor-Leste.

East Timorese in camps and other places in West Timor where people had settled continued to be subject to the control, intimidation and violence of militia members. Many who wanted to return to Timor-Leste were prevented from doing so by a combination of threats and misinformation. International aid organisations seeking to distribute humanitarian assistance to the forcibly displaced were also subject to control, intimidation, attacks and killings by militia members.

Unlawful killings and enforced disappearances

The Commission found that of the approximately 18,600 unlawful killings and enforced disappearances of East Timorese non-combatants perpetrated between 1974 and 1999, the overwhelming majority, 70%, were committed by the Indonesian security forces, including East Timorese auxiliaries.* The nature and scale of these killings and disappearances changed over time as the Indonesian occupation went through different phases, reaching peak levels in 1978–79, 1983–84 and 1999.

The Commission found that, while the scale of killings and disappearances fluctuated over the course of the occupation, the Indonesian military's consistent resort to killings and disappearances together with the total impunity they enjoyed for these violations, was an integral part of its strategy for enforcing its control of the territory of Timor-Leste.

Terror and impunity

In attempting to overcome resistance to the occupation, Indonesian forces made strategic use of terror to force the population into

.....
* "Auxiliaries" comprise East Timorese recruited into official "civil defence" groups (Hansip, Ratih, Wanra and Kamra), the paramilitary units (such as Partisans, Tonsus, Tim Saka, and Tim Alfa) formed in the late 1970s and 1980s, and the militia groups formed in 1998–99, as well as members of the local administration acting in a "security" role.

submission. They did so by the systematic commission of violations that arouse particular horror such as torture and rape. The Commission found that when it came to killing persons suspected of being affiliated with the Resistance, the methods employed added an extra dimension of horror to an already horrific act. Senior military commanders, both as direct perpetrators and by allowing others committing such acts to go unpunished, fostered an institutional culture in which arbitrary executions and the abhorrent methods used to carry them out were acceptable.

Methods of execution

Throughout the period of occupation methods and circumstances in which representatives of the Indonesian security forces committed unlawful killings included:

- Slow killing of detainees by leaving them naked and alone, without sufficient food and water, in totally dark cells, following repeated and prolonged torture
- Killing prisoners in military custody by repeated and severe beatings and prolonged torture
- Executing unarmed civilians by close-range shooting
- Random indiscriminate shooting of unarmed groups of civilians
- Targeted killing of suspects from lists drawn up by military personnel
- Executing detainees in detention centres, and in remote places
- Immediate execution after capture during military operations
- Ordering victims to dig their own grave before execution
- Ordering victims to line up in rows, before executing them row by row
- Dividing groups of unarmed civilians by sex, and then executing the men
- Throwing grenades at unarmed groups of civilians
- Throwing live persons, including persons who had been wounded, from cliffs
- Forcing people to kill other civilians, under severe duress, including to their own lives
- Rape and sexual torture of female victims before executing them
- Tying victims to a moving vehicle and dragging them in public view along the ground until they were dead

- Burning people alive
- Burying people alive
- Tying victims to a cross and then executing them
- Displaying human ears and genitals to family members of the disappeared.

As an element in the creation of terror, the execution of opponents was sometimes carried out in public. The fact that executions frequently took place in public places provides strong evidence that killings were systematic and accepted practice within the Indonesian military. Examples of public executions reported to the Commission included:

- Beating victims to death in public
- Public beheading with an axe
- Publicly cutting off body parts of victims while they were still alive
- Public display of decapitated heads, or severed limbs or body parts
- Public execution of a married couple, in which both were stripped naked, then hit on the back of the neck, knocking them into a grave that had already been dug
- The parading of corpses in public.

Unlawful killings related to military operations

The Commission found that Indonesian security forces unlawfully killed non-combatants in the course of military operations in clear violation of human rights standards and international humanitarian law. The methods and targets of these killings varied according to circumstance, but they date from the first incursions by the Indonesian armed forces and their East Timorese auxiliaries, and thus preceded the full-scale invasion of December 1975.

In the months leading up to the invasion of 7 December 1975 Indonesian troops and Partisans (members of Apodeti and UDT trained by Indonesian Special Forces) conducted covert military operations in the territory of Timor-Leste between August and December 1975, during which they unlawfully killed dozens of civilians in Bobonaro, Covalima and Ermera Districts.

The illegality of the Indonesian invasion of Timor-Leste was compounded by the manner in which it was conducted. Members of ABRI did not limit their attacks to those who took up arms to resist the occupation. They

frequently targeted unarmed civilians, as well as captured combatants, and failed to differentiate between civilian and military targets during this and ensuing operations aimed at subduing the population.

In the capital, Dili, on 7–8 December 1975 Indonesian soldiers executed scores of civilians, including women, in areas of the city which had been actively defended against the armed Indonesian invasion. These areas were Colmera, Vila Verde, Matadouro, the Maloa River and Ailok Laran. They also targeted captured Fretilin members and their relatives and executed several of them on the day after the invasion.

The Commission received many reports of Indonesian forces killing civilians as they advanced into other parts of the territory during 1976–78. Sometimes those killed had been denounced as members of Fretilin, but many of the victims of these killings were randomly targeted members of the civilian population. Ordinary civilians were targeted in a variety of other circumstances: while looking for food or going about their daily activities, when encountered by Indonesian security forces on operations, in retaliation for Falintil attacks, and on suspicion of having contact with or having knowledge about Fretilin/Falintil.

The Commission found that during their offensives against Fretilin/Falintil bases and attacks on their positions and in the aftermath of such operations Indonesian security forces killed civilians and others not engaged in combat, including surrendered and captured combatants. Most of the reports of this kind received by the Commission related to the period 1977–79, when many of those who had fled to the mountains and came into the custody of the Indonesian forces through surrender or capture were summarily executed.

Some of those executed were members of Fretilin and Falintil, who had surrendered after receiving personal assurances from members of the Indonesian security apparatus or of the civil administration that they would be safe on the basis of an amnesty first offered by President Soeharto in November 1977 and subsequently renewed.

The Commission received information indicating that killings of non-combatants during and after military operations continued to be committed after that time. For example, the Commission has found that in September 1981, at the conclusion of the Operasi Kikis of June–September 1981, Battalions 321, 744 and/or 745, Marine units

and Hansip attacked Falintil forces who had gathered in the area of Mount Aitana on the Manatuto–Viqueque border and subsequently executed more than one hundred and, possibly several hundred, Falintil troops and civilians, including women and children who were accompanying them. The Commission received first-hand testimony that at the time that they were killed these victims were either at the mercy of Indonesian forces or in their custody after surrender or capture.

Systematic killings and disappearances of targeted individuals and groups

During the early years of the occupation, but in particular in 1978–1979 and in 1983–84, ABRI commanders, troops and auxiliaries committed systematic and widespread unlawful killings and enforced disappearances of persons who had been active members of the Resistance and persons suspected of having clandestine contacts with Fretilin/Falintil.

In most of these incidents the Indonesian security forces spread their net extremely wide to the point that it was often not easy to distinguish instances of targeted killings from the instances of collective and proxy punishment described below.

The Indonesian security forces and their auxiliaries carried out a widespread and systematic campaign of killings and disappearances directed at surrendered and captured members of Fretilin and Falintil in February–June 1979. The Commission found that these killings and disappearances were carried out as part of a systematic plan, devised at the highest levels of the military command structure, whose purpose was to eliminate surviving leaders and activists of the Resistance movement who had fallen into Indonesian hands.

After a ceasefire between Indonesian forces and the Resistance broke down in August 1983, Indonesian security forces launched *Operasi Persatuan* (Operation Unity), aimed at the total eradication of the Resistance, including civilians involved in clandestine activity. The Commission received testimonies about the execution and disappearance of more than 500 civilians from the districts of Lautém, Viqueque, Baucau, Dili, Aileu, Manufahi, Ainaro, Bobonaro and Covalima between August 1983 and mid-1984, as well as the arrest, detention and torture and ill-treatment of many others.

The systematic nature of these executions is evident to the Commission from their scale and from documentary evidence received by the Commission that village chiefs and members of the civil defence forces were ordered to draw up lists of people who had been active in the Resistance in the past, which in several known cases formed the basis for the killings that followed.

As with the executions and disappearances of 1978–79, the similar operation of 1983–84 involved the mobilisation of a wide range of institutions within the security apparatus and the civil administration, including the Special Forces (Kopassandha/Kopassus), all levels of the permanent territorial structure, combat battalions on temporary assignment in Timor-Leste, the civil defence forces, paramilitary teams, the civilian and military police, and local government officials.

Collective and proxy punishment of civilians by ABRI/TNI

“The next day the Indonesian military returned to Kraras. ABRI found the villages empty so they went into the forests and ordered the civilians to go back to their villages. Anyone who tried to escape was shot on the spot. Of those who returned every single one of them, including children and pregnant women, was killed as they walked along the road to Kasese. No one escaped. In total more than 50 people died.”

Testimony by José Gomes to CAVR Public Hearing on Massacres.

Throughout the occupation, but in particular in the early 1980s, ABRI commanders, troops and auxiliaries committed unlawful killings and enforced disappearances of civilians to punish collectively communities suspected of supporting Falintil forces. The indiscriminate punishment of persons known to have previously been involved with the Resistance movement and the collective punishment of communities were particularly severe in the aftermath of Falintil attacks on military targets. The Commission found that the illegal and immoral practices of proxy and collective punishment, targeting innocent victims for actions carried out by others who had evaded capture, was a central and systematic component of the Indonesian military strategy to overcome the resistance to the military occupation from the earliest days of the occupation. As already noted, the Commission learned that during

the Indonesian assault on Dili in December 1975, particularly in areas where there had been resistance to the invaders, non-combatants were randomly rounded up and executed. Similar killings were regularly reported in succeeding years.

In the weeks after the 20 August 1982 Falintil-led attack on ABRI posts and facilities around Mau Chiga (Hatu-Builico, Ainaro) and Rotuto (Same, Manufahi), ABRI and Hansip took massive retaliatory action aimed at punishing the whole population of Mau Chiga and surrounding villages. In the course of this operation the population, the vast majority of whom had not participated in the Falintil-led attack, suffered multiple violations of their rights, including detention, torture, rape and other sexual violations, forced displacement to Atauro and other places. Many were executed. All those forcibly transported were subjected to hunger as a form of collective punishment. The Commission compiled a list of approximately 120 people who died from hunger-related causes as collective punishment for the attacks of 20 August 1982. At least 75 men from Mau Chiga were summarily executed by ABRI and civil defence forces between 1982 and 1987. Many of them were killed in the most brutal fashion, publicly at an execution site called Jakarta 2, at Builico, near the town of Ainaro, where victims were hurled into a deep ravine. The Commission found that personnel from the Ainaro and Manufahi Military District Commands (Kodim), the Dare Sub-district Command (Koramil), the 5th Combat Engineering Battalion (Zipur 5) and Hansip, including commanding officers, committed these violations.

Following an attack by East Timorese belonging to the Indonesian “civil defence” force, Ratih, in Kraras (Viqueque) on 8 August 1983, in which up to 14 Indonesian troops were killed, the Indonesian security forces took reprisals against the population of the area in September–October 1983. These included a series of executions, including mass executions. In separate events reported to the Commission around 270 people were killed in groups of up to 181. A wide range of military and auxiliary forces were reported to have perpetrated these executions, including members of Kodim 1630/Viqueque, Battalions 328, 501 and 745, Special Forces (Kopassus) and Hansip.

After the defection of more than 30 armed members of Hansip, with their families and members of a clandestine youth group, in Mehara (Lautém) on 9 August 1983, smaller-scale defections in Leuro in Lospalos Sub-district and Serelau in Moro Sub-district, and the discovery of a plan for a similar action in Iliomar, Indonesian

military forces detained hundreds of men and women throughout the district of Lautém, executing and causing the disappearance of many of them. According to information received by the Commission, between August and December 1983 at least 28 people were executed or disappeared in the sub-district of Iliomar and another 20 in the vicinity of the village of Mehara alone. Executions were frequently held in public; in several instances reported to the Commission members of the security forces compelled villagers to kill their fellow villagers publicly or in detention centres.

In later years civilians continued to be executed as revenge for Falintil attacks. Examples include the killing of six civilians in Gariana (Maubara, Liquiçá) in January 1995 after a Falintil soldier being pursued by ABRI troops evaded capture, and the killings in Alas and other parts of Manufahi District that followed Falintil attacks and executions in October–November 1998.

1985–1998: a continuing climate of impunity

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

Although the number of killings decreased, those that occurred could not be regarded as the exceptional acts of “rogue elements”. A climate of impunity permitted practices such as the following to continue to occur with virtual impunity into the 1990s:

- Opening fire into a crowd of unarmed demonstrators, as at the Santa Cruz cemetery in Dili on 12 November 1991;
- The execution and disappearance of civilians in reprisal for Falintil attacks, as occurred in Alas and other sub-districts of Manufahi in October–November 1998;
- The execution of civilians in place of escaped combatants, as in Gariana (Maubara, Liquiçá) in January 1995;
- The execution of civilians who were forcibly recruited to take part in military operations or exercises;
- Opening fire on a group of unsuspecting people or individuals carrying out daily activities, for no apparent reason.

Responding to international and domestic pressure, the Indonesian military conducted internal investigations and brought judicial proceedings against relatively junior personnel in at least two instances – following the Santa Cruz massacre in Dili in 1991 and the killing of six civilians in Gariana (Maubara, Liquiçá) in 1995. In both cases court-martial proceedings resulted in the low-ranking soldiers receiving light sentences, of between eight months and four years. The Commission found these proceedings were not conducted in such a way as to establish full accountability for those atrocities.

1999

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

The Commission found that during 1999 the TNI relied to a far greater extent than in earlier years on Timorese auxiliaries, in this case militia groups, acting alone, to carry out its campaign against the civilian population. Although it was part of the TNI's strategy to encourage such an interpretation, this did not mean that the TNI was not directly responsible for the actions of the militias, including the killings and disappearances they committed.

The Commission received overwhelming evidence that during 1999 the TNI, the police and militia groups acted in a coordinated manner. Military bases were openly used as militia headquarters, and military equipment, including firearms, were distributed to militia groups. Many TNI personnel were also militia commanders or members. TNI intelligence officers provided lists of the names of people to be targeted and coordinated attacks. Civilian authorities provided state funding for militia groups and participated in militia rallies and other activities. The Commission found that on many occasions TNI personnel were directly involved with the militia in fatal attacks or carried out such attacks acting separately.

Instances of such open involvement include:

- The attack on the Liquiçá church on 6 April 1999, conducted by Besi Merah Putih militia, and troops from the local Kodim and Brimob (Police Mobile Brigade), in which at least 30–60 civilians were killed.
- The retaliatory killing by Halilintar militia and TNI personnel of at least 20 civilians in the days following the alleged Falintil killing of a TNI soldier and a pro-autonomy leader in Cailaco Sub-district (Bobonaro) on 12 April 1999.
- The attack on Suai church on 6 September 1999 by Laksaur militia and Indonesian security forces, in which at least 27 people, including three priests, were killed.
- The attacks in Dili on 5–6 September 1999 by Aitarak militia and Indonesian security forces on a number of buildings and complexes where civilians had taken refuge, in which at least 19 civilians were killed or disappeared.
- The attacks on 8 September 1999 and succeeding days by Dadurus Merah Putih and other militias, under the command of Indonesian security forces, on persons who had sought safety in the Maliana police station and subsequently on those who had managed to flee the police station, in which at least 26 civilians were killed or disappeared.
- The killing of 14 men on 12 September 1999, by Laksaur militia and Indonesian security forces, after they resisted being forcibly deported to West Timor from the village of Laktos, Fohorem (Covalima).
- The random shootings by members of Battalion 745 during their retreat from Lospalos to Dili on 21–22 September 1999, in which at least eight people were killed.
- The execution of 12 persons around 20 October 1999 by Sakunar and Aitarak militia and Indonesian security forces, while rounding up villagers from Maquelab (Pante Makassar, Oecussi) for deportation to West Timor and subsequently.

Arbitrary detention, torture and ill-treatment

The Commission found that throughout the entire period from the Indonesian invasion in 1975 to the arrival of international peacekeepers in late September 1999, members of the Indonesian security forces implemented a programme of widespread and systematic arbitrary detention, which involved the torture of thousands of East Timorese civilians as routine security practice.

The Commission documented 20,779 unique reports by victims and witnesses of cases of arbitrary detention by members of the Indonesian security forces. In 19,559 cases (not all of them involving detention) victims and witnesses reported instances of torture or ill-treatment by members of the Indonesian security forces. Several thousand more incidents of torture and ill-treatment were described by witnesses during interviews, in victims' hearings, community reconciliation hearings, Community Profile workshops and thematic public hearings conducted by the Commission. Arbitrary arrests, detention and torture occurred in all districts of Timor-Leste and in every year from 1975 until 1999.

The picture which emerges from this mass of information is clear and highly corroborated. The Commission found that the scale and patterns of the arbitrary detention and torture and ill-treatment perpetrated by the Indonesian security forces constituted the strongest possible evidence that these methods were an integral part of its strategy for overcoming the Resistance. The individuals or groups of people targeted for arbitrary detention were persons who were either directly involved in pro-independence activities, or who had family members or lived in a community that was suspected of being pro-independence. Those detained would then often undergo the ordeals of torture and deprivation aimed at forcing them to provide information or to cooperate over the long term, and deterring others who might already be working with the Resistance or contemplating doing so.

Arbitrary detention

The Commission knows of no case in which persons who were arrested were informed of their rights, and it was rare for them to be told whether they were being charged, or why they were being detained. The Commission did not receive a single account of a person being released on bail. Excessive force, including heavy beatings, was routinely used during the arrest of suspects. In most cases evidence implicating suspects in a crime was not presented to them, and they were often detained on the basis of information given by informants. In the absence of any real evidence against them suspects were then routinely tortured to try to make them confess or provide information.

Conditions of detention

The conditions in which detainees were kept were often deplorable. Prisoners frequently died of starvation and illness in their places of detention. Even after the mid-1980s, when the number of detainees declined and newly-constructed state prisons were available to house both criminal and political prisoners, there were frequent reports of detainees being held for long periods in detention centres outside the official prison system. Those held in such detention centres were particularly liable to be kept in poor conditions.

Detainees commonly suffered the following conditions:

- Long periods of extreme hunger, during which the only food that was provided was intentionally inedible, being mixed with broken glass and animal faeces, badly burned or obviously rotten.
- Being kept naked for long periods of time. In some places of detention the practice was to keep prisoners naked or in their underwear to heighten their sense of shame and vulnerability.
- Keeping prisoners in solitary confinement for long periods, sometimes of up to one year, without human contact.
- Confinement of prisoners in “dark cells” which had no windows or light and were poorly ventilated. Such cells existed in detention centres of all types, including state prisons, police stations and military bases.
- The incarceration of prisoners in small cells which had no toilets, forcing them to sit in their own excrement or that of other prisoners.

Torture and ill-treatment

The Commission found that the systematic use of torture by the Indonesian security forces amounted to a crime against humanity. The striking similarity in the treatment of those held in detention, across different locations in the territory and throughout the 24-year period of occupation, provides evidence of the organised nature of these violations and their institutionalised approval. It also indicates that the institutions of the Indonesian security forces applied these practices as a standard part of their operations in Timor-Leste.

The totality of the evidence considered by the Commission leads it to conclude that the purpose of this systematic use of torture was:

- To attempt to force civilians to provide information about others who might be involved in resisting the occupation.

- To demonstrate the terrible punishment that would be summarily handed out to anyone who resisted the occupation.
- To demonstrate that members of the Indonesian security forces could act in an arbitrary manner and with total impunity against the East Timorese population.
- To demonstrate that the East Timorese people were in a totally subjugated, vulnerable and powerless situation with no means of defending their human rights and dignity, and that therefore they must accept the occupation.
- To create pervasive conditions of terror among the population in order to force them not to resist the occupation.

In the case of persons who were going to be brought to trial, written confessions were often prepared before the interrogation of suspects began. The suspect was forced to sign the confession by being subjected to torture during the interrogation.

In addition to the use of physical torture, other methods, including death threats against the victim and his or her family, and deprivation of sleep, food, water and sanitary facilities, were also employed. Often interrogations ran continuously over several days in order to break the victim's will.

Methods of torture

The types of torture which victims and witnesses reported to the Commission were strikingly uniform. On the basis of extensive corroboration the Commission accepts that the following acts of torture and other cruel, inhumane and degrading treatment were commonly used by the Indonesian security forces:

- Beating with fists or with implements such as a wooden club or a branch, an iron bar, a rifle butt, chains, a hammer, a belt or electric cables
- Kicking, usually by torturers wearing military or police boots, including around the head and face
- Punching and slapping
- Whipping
- Cutting with a knife
- Placing the victim's toes under the leg of a chair or table and then having one or more people sit or jump on it

- Burning the victim's flesh with cigarettes or a gas lighter, including the victim's genitalia
- Applying electric shocks to the most sensitive parts of the victim's body, including his or her genitalia
- Firmly tying the victim's hands and feet and hanging him or her from a tree or roof
- Using water in various ways, including holding the victim's head under water; keeping a victim in a water tank for a prolonged period, sometimes for up to three days; soaking and softening a victim's skin in water before beating him or her; pouring very hot or very cold water over the victim; pouring very dirty water or sewage over the victim
- Sexual harassment, sexual forms of torture and ill-treatment, or rape while in detention; women were the main victims of this kind of this widespread abuse
- Cutting off a victim's ear or ears to mark the victim as a supporter of the Resistance
- Tying the victim behind a car and forcing him or her to run behind it or be dragged across the ground, sometimes until the victim died
- Placing lizards with sharp teeth and claws on the victim and then goading it to bite different parts of the victim's body
- Pulling out fingernails and toenails with pliers
- Running over a victim with a motor-bike
- Forcing a victim to drink a soldier's urine or eat non-food items such as live small lizards or dirty socks
- Leaving the victim in the hot sun for extended periods
- Humiliating detainees in front of their communities, for example by making them stand or walk through the town naked
- Torturing and mistreating a member of the victim's family in front of them, including their children.

As well as physical abuse, detainees were also subject to mental and emotional torture and cruel, inhumane and degrading treatment. Methods commonly used included:

- Keeping prisoners in detention indefinitely without access to family and friends
- Keeping prisoners for extended periods in solitary confinement or in cells with no light and little ventilation
- Taking a detainee to a place used for extra-judicial executions and pretending to the victim that they were going to be killed, even to the point of firing a shot in the victim's direction

- Verbal abuse and insults
- Forcing victims to beat each other
- Torturing a family member in an adjoining room so that the victim could hear his or her screams, or torturing or threatening to torture a family member in front of the victim
- Blindfolding or placing a black cloth, helmet or bucket over a victim's head during interrogation and torture
- Using symbols to humiliate and break the spirit of the victim, such as beating a detainee with a Portuguese or Fretilin flag, or tying victims to a flag-pole from which an Indonesian flag was flying
- Insulting a victim's religion such as by tearing off the victim's crucifix or tying the victim to a cross
- Interrogators spitting on the victim.

Sexual violence

"On 13 September (1999) Commander B of the Darah Merah militia arrived to pick up Ana (Lemos). I knew they were going to take Ana and I tried to go with her, but they wouldn't let me. Before she went, Ana whispered to me, 'Mama, B has come to get me. I will die now for sure'. I waited for her all day, but she never came back. Around five o'clock C, a militia member, showed up and said, 'Mama, don't wait too long because she is dead already'. I did not want to believe him and said, 'Show me her body'. He just answered, 'This is the first time I've seen Ermera people kill a woman'. There were witnesses who told me that she was raped before being murdered."

Testimony to CAVR Public Hearing on Women and the Conflict, by Inês da Conceição Lemos, mother of murdered UNAMET staff member Ana Lemos.

The Commission found that during the period of the invasion and occupation of Timor-Leste, members of the Indonesian security forces and their auxiliaries were involved in widespread and systematic rape, sexual torture and other acts of sexual violence committed against East Timorese women. The Commission reached this finding after consideration of the testimony of over 800 individual victims or witnesses to rape, sexual torture and sexual slavery.

Sexual violence inside Indonesian military installations

The Commission finds that the following acts directed at East Timorese women took place inside official Indonesian military installations:

- The repeated rape of individual women detainees by numerous members of the Indonesian security forces. In some cases women victims stated that they could not count the number of men who raped them. Victims who gave evidence at the Commission's National Public Hearing on Women and the Conflict stated that they were raped by different military officers every day during months of detention. Gang rape was committed by members of the Indonesian security forces both inside and outside official military installations.
- The rape of women who had their hands and feet handcuffed and were blindfolded. In some cases women bound in this way were raped until they were unconscious..
- The mutilation of women's sexual organs, including cutting with knives, inserting sticks and bayonets into vaginas and burning nipples and genitals with cigarettes.
- The application of electric shocks to genitals, breasts and mouths. Forcing detainees to engage in sexual acts with each other, while being watched and ridiculed by members of the security forces.
- The common practice of keeping lists of local women who could be commanded to come to the military post or headquarters so that soldiers could rape them. Lists were traded between commanders. In some cases these women were commanded to appear at the military post every morning in order to be raped by members of the security forces.
- The rape of detainees following periods of prolonged sexual torture.
- The rape of pregnant women. The Commission received repeated evidence of this, including one account in which a woman was raped only hours before she gave birth.
- Forcing victims to appear naked or to be sexually violated in front of strangers, friends and family members. In one case a woman was raped in front of her mother and later killed. More commonly victims were raped and tortured in front of their children.
- The rape of women in the presence of fellow prisoners as a means of terrorising both the victims and the other prisoners.
- The use of snakes to instil terror in naked women during sexual torture.
- Threats issued to women that their children would be killed or tortured if they resisted or complained about being raped.

- The insertion of objects, such as large batteries, into a victim's vagina or anus.
- The insertion of guns and bayonets into victim's vagina or anus.
- Forced oral sex, constituting rape.
- Urinating into the mouths of victims.
- The rape and sexual violence indiscriminately inflicted on married women, unmarried women and young teenage girls.

The Commission found that the incidence of rape and other forms of sexual violence was related to the type and intensity of military activity at the time. Sexual violations increased dramatically during periods of major military operations, and decreased when the scale and frequency of operations decreased.

Sexual slavery

Throughout the occupation it was common practice for members of the Indonesian security forces to force East Timorese women into situations of sexual slavery.* These activities were conducted openly, without fear of being held to account, inside military installations, at other official sites and inside the private homes of the women, including in the presence of parents, children and other family members.

It was common practice for members of the Indonesian security forces to keep East Timorese women in detention in military bases for reasons which had no legitimate military or security objective. These women, who were sometimes detained for many months and sometimes for years, were often raped daily or on demand by the officer who controlled them, as well as by other soldiers who saw them as "easy targets". In addition they were forced to do menial domestic work.

The victims of this form of sexual slavery were not free to move about, travel, or to act independently in any way. It was common for the "ownership rights" over these women to be passed on from an officer who was finishing his tour of duty to his replacement or another officer. In some situations women forced into these situations became pregnant and gave birth to children several times to a number

* The UN Special Rapporteur on Contemporary Forms of Slavery defines sexual slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including sexual access through rape or other forms of sexual violence." It includes situations where women and girls are forced into "marriage", domestic servitude or other forced labour that ultimately involves forced sexual activity.

of different officers, during the years in which they were the victims of sexual slavery.

In general Indonesian officers who were responsible for fathering children through rape or situations of sexual slavery accepted no responsibility for the children's support or material well-being.

The practice of procuring, raping and torturing women was conducted openly, without fear of any form of sanction, by senior military officers, lower-ranking military personnel, civilian officials, police officers, teachers and members of the auxiliary groups such as Hansip and the militias. When victims of sexual violence or their family representatives complained to the legal authorities about what had taken place, their requests for help were generally met with denial and aggression. In some cases family members who complained were beaten and otherwise punished for doing so.

Political trials

In late 1983, as an aspect of its policy of "normalising" Timor-Leste, the Government of Indonesia decided that some of the persons suspected of working for independence should be charged with offences such as subversion and treason and prosecuted in the courts. Several hundred East Timorese were tried and convicted during the next 16 years.

The Commission studied the court files of 232 of these cases conducted in the Dili District Court. In addition it interviewed and received statements from individuals who were directly involved in these and other cases (including those East Timorese arrested and tried in Jakarta and other places on Java during the early 1990s).

In the cases conducted in the Dili District Court which the Commission examined:

- All 232 defendants were convicted
- Almost all 232 defendants were represented by government-appointed defence counsel
- No defence witnesses were called
- No defendant was acquitted of all charges
- There were no successful appeals against conviction.

The trials involved violations of both the Indonesian criminal code and international law. Suspects were routinely tortured and intimidated

into signing Records of Interview which contained confessions and evidence against other co-accused. These Records of Interview were the basis for many convictions. Indonesian military and police officers consistently gave false evidence under oath in court, and intimidated other witnesses into doing the same.

Defendants were refused the right to select lawyers to defend them and in most cases were assigned defence lawyers who did little more than support the prosecution case. Judges ignored indications of unethical behaviour and of evidence that had been fabricated, and handed down judgments of guilty in all cases. The sentences were disproportionately harsh and did not take into account lengthy periods of time already served in military detention. The Commission did not find a record of complete acquittal of a single defendant in any of the 232 case files examined. Appeal proceedings gave the stamp of higher authority to the tainted decisions of the trial judges.

Indonesian military personnel arbitrarily detained political opponents of the occupation and held them in custody for long periods, sometimes lasting several years, before trial, even though in many cases there was little or no evidence against them. They routinely used threats, torture and intimidation during interrogation to obtain confessions to be used as evidence in trials. They also routinely fabricated material evidence, perjured themselves, failed to inform suspects of their rights, and failed to allow persons being interrogated to have access to an interpreter or a lawyer.

The intelligence services of the Indonesian military forces were involved in guiding the outcome of the political trials at every stage of the interrogation and trial process. They ensured that the trial process succeeded in achieving its goal of persecuting political opponents of the occupation.

The Commission concluded that members of the Indonesian police service involved in preparation of the political trials examined are responsible and accountable for collusion with the intelligence sections and other members of the military forces in the use of torture and intimidation to ensure that confessions were signed under duress, for preparing false material for use in the courts, and for working with prosecutors to ensure that evidence which supported defendants' cases was not introduced into the court. The prosecutors who presented the cases cooperated with military intelligence officers to ensure the desired result of a conviction was achieved.

With some notable exceptions, court-appointed defence counsel also acted as part of a collusive effort aimed at guaranteeing findings of guilt against political opponents of the occupation. The judges who presided over the trials were also complicit in the collusive effort to ensure that political opponents of the occupation were punished for this opposition.

Violations of children's rights

Throughout the occupation, the broad range of violations committed against adults by agents of the Government of Indonesia were also committed against victims who were legally children (that is, under 18 years old). From 1975 to 1999 children were commonly bound, beaten, kicked, raped, electrocuted, burnt with cigarettes, immersed in water, held in isolation in dark cells, threatened with death and otherwise terrorised by agents of the Indonesian security forces. Some children died as a direct result of this maltreatment. Perpetrators of these violations were, with very few exceptions, not subject to any form of punishment or discipline.

Children were killed in a wide variety of contexts, including during open armed conflict, in mass killings, in custody, and by summary execution. In the early years of the conflict many were killed together with their families during military operations, or when caught in contested areas. In later years child victims were likely to be teenagers targeted for suspected pro-independence activities.

The Indonesian security forces, their East Timorese auxiliaries and other persons in positions of authority used sexual violence against children, both strategically and opportunistically, throughout the occupation. Children were raped and otherwise violated on a widespread scale by members of the Indonesian security forces inside military institutions, at other official locations and even in their homes with family members present. For children, as for adults, sexual violence was conducted openly without fear of sanction by all ranks of the military and by East Timorese auxiliaries, as well as by persons in positions of civilian authority such as village heads.

The scale of opportunistic sexual violence towards children reflected a climate of impunity that extended from the higher reaches of the military to their East Timorese auxiliaries to civilians in positions of authority.

The Indonesian military recruited several thousand children as “assistants” to military personnel. Working as porters and guides, these children were frequently exposed to combat. Although they worked full time for the Indonesian security forces and their role as Operations Assistants (*Tenaga Bantuan Operasi*) was an institutionalised one, they were not members of the armed forces and did not enjoy the entitlements of regular soldiers, such as a salary, a rank or a uniform.

East Timorese children were removed from their families and homeland to Indonesia throughout the period of occupation. The transfer of children to Indonesia took many forms, ranging from abductions by individual soldiers to government-sponsored educational programmes. Although the degree of coercion exercised by persons and institutions in effecting the transfer of children varied, there was almost always an element of duress and, sometimes, outright force.

There is insufficient evidence to determine whether the large-scale removal of East Timorese children was official Indonesian government or military policy. Nevertheless, there is clear evidence of high-level involvement in some of its manifestations, extending to President Soeharto and members of his family.

The Government of Indonesia made no genuine attempt to regulate the practice of removing children.

Violations of the laws of war

Many of the violations described elsewhere in the Report were also violations of the laws of war or the Geneva Conventions. They include the torture and execution of civilians and of combatants no longer engaged in combat. Members of the Indonesian security forces and their auxiliaries also committed other kinds of acts which violate this body of international law. These included the forced recruitment of civilians for military operations, the theft and destruction of property, and the use of illegal weapons.

Attacks on civilians and civilian assets

During the invasion of Timor-Leste members of ABRI/TNI committed systematic violations of the Geneva Conventions by failing to discriminate between civilian and military targets. In addition, during

the days immediately following the Indonesian invasion, civilians were the targets of massacres and executions committed by Indonesian military forces.

In addition, in the large-scale military operations which followed the initial invasion, thousands of East Timorese civilians, including men, women and children who were unarmed and unable to protect themselves, were targeted or indiscriminately killed by the Indonesian military.

During these military operations members of ABRI/TNI routinely tortured and killed civilians and prisoners of war. In the lead-up to and following the Popular Consultation in 1999 members of the ABRI/TNI committed widespread and systematic violations of human rights against members of the civilian population, including violations of the laws of war. The programme of violence and destruction in 1999 was a systematic attack by heavily armed and organised military and militia groups on generally unarmed and defenceless civilians.

Mistreatment of enemy combatants

Members of ABRI/TNI routinely killed, detained and tortured individuals suspected of being supporters of Fretilin/Falintil. Punishments meted out to those suspected of resisting the occupation also included the burning of their houses, the confiscation of land and property for redistribution to political supporters of the occupation, and the rape of females suspected of collaboration with the Resistance.

Members of ABRI/TNI systematically violated their international legal obligations through the use of collective punishment of civilians in pursuit of military objectives. This included the torture, rape, killing or forced displacement of civilians because they were family members of, or belonged to, the same communities as individuals who were suspected of being members of Fretilin/Falintil.

The destruction and theft of property and other assets

Members of ABRI/TNI systematically destroyed property, including buildings and personal items belonging to civilians, as a routine part of military operations. One of the purposes of this destruction was to punish East Timorese people who opposed the occupation, and to create a climate of terror which it was believed would render the population easier to control, and discourage support for the pro-independence movement.

Looting for the personal gain of ABRI/TNI officers routinely accompanied their activities during military operations. In 1999 systematic looting took place. This included the stealing of vehicles which were loaded onto warships; other transport of vehicles; goods and herds of animals being taken to West Timor for sale; looting of priceless and irreplaceable traditional objects of spiritual and cultural significance; and general practices of armed banditry against the civilian population. Local government officials, acting under the protection of the ABRI/TNI, also participated in looting and stealing from civilians suspected of opposing the occupation.

The destruction and looting of civilian property was commonly accompanied by other violations, such as beatings, detention, torture, rape and killing of civilians.

Members of ABRI/TNI systematically destroyed civilian food sources. This included the burning of crops and slaughtering of livestock. These violations had dire consequences for the civilian population of Timor-Leste and directly contributed to the loss of life on an enormous scale in the 1970s due to famine and disease.

The use of illegal weapons

The Commission found that in pursuing its war in Timor-Leste ABRI/TNI used weapons which are prohibited by the international laws governing armed conflict. These included chemical weapons which were used to poison water supplies and kill crops and vegetation, and resulted in the deaths by poisoning of hundreds of civilian victims.

The Commission also found, on the basis of the evidence of military documents listing weapons available for use in Timor-Leste and a film produced by ABRI/TNI itself, that the Indonesian occupation forces had stocks of Soviet-made napalm (known as *opalm*) and at the very least actively considered using them. The Commission also received testimony containing descriptions of terrible suffering from burning which often resulted in death. These descriptions were consistent with the use of napalm.

Forced recruitment

ABRI/TNI forcibly recruited tens of thousands of East Timorese men, women and children to assist them in their military operations,

particularly during the years 1975–81, and in periods of heightened military activity, across the territory. East Timorese people who had been forcibly recruited to join ABRI/TNI units were routinely forced to carry large loads of food, ammunition and equipment under extreme conditions. They were often subjected to cruel, inhuman and degrading treatment, and in some cases, were summarily executed.

Young East Timorese women who were forced to work for members of ABRI/TNI were routinely raped and forced into conditions of sexual slavery by their military masters.

Before the Popular Consultation in 1999, when the TNI formed pro-integration militia groups across the territory, it implemented a programme of systematic forced recruitment of thousands of East Timorese men into these groups. This was in addition to those who had voluntarily joined in return for payment.

Economic and social rights

The Government of Indonesia made significant economic investment in the territory of East Timor during the period of the occupation. In particular it was responsible for building many new roads, bridges, buildings, hospitals and schools, something which had been neglected during the Portuguese colonial period.

However, despite these improvements in infrastructure, the social and economic rights of the East Timorese people were consistently violated throughout the occupation.

The massive violations of civil and political rights and humanitarian law that occurred during the occupation severely and directly affected the basic social and economic rights of the people. Physical violations, such as detention, rape and torture, had a direct impact on the health, education and capacity to make a living of the victims and their families. Countless times impoverished farmers, who make up the majority of the population, lost all their possessions as a result of military operations. The massive displacement of civilians for military reasons caused famine and widespread death.

Whatever benefits the people of Timor-Leste may have derived from Indonesian investment in the territory were largely undone by the massive and systematic violence and destruction wrought by the TNI and its militia auxiliaries after the 1999 Popular Consultation. This

rampage destroyed the houses, and the possessions they contained, of an estimated 67,500 families.* The Indonesian security forces and their militia agents also systematically destroyed hospitals, schools, electricity generators and water systems. They also took moveable valuables and capital assets, such as motor vehicles, computers and machines, to West Timor. The widespread destruction of housing and infrastructure during the Indonesian evacuation from the territory served no military purpose. It ensured that once again the people of Timor-Leste would be unable to feed or house themselves, greatly increasing the challenge of building the new independent nation.

The arrangements that the Indonesian authorities put in place in the coffee industry was one of several instances where Indonesia denied the people of Timor-Leste an essential component of their right to self-determination, namely their right to dispose of their natural wealth and resources freely. The Indonesian authorities committed similar violations by exploiting other resources, including sandalwood and other types of timber, without regard to sustainability, and by failing to regulate the exploitation of these resources by others. These forms of exploitation of natural resources were detrimental to the well-being of the population and were sometimes used to fund military operations, in violation of the duties of an occupying power under international law.

The Commission found that, in a further breach of the right of the East Timorese people to dispose of their natural resources, Indonesia and Australia concluded the Timor Gap Treaty in 1989 without consulting the people of Timor-Leste or paying due regard to their interests.

Timor-Leste's climate and the uneven quality of its soil mean that it is never easy for the population to support itself. Survival depends on the ability to move freely to gain access to food sources. The Commission found that the Indonesian authorities' investment programme neglected agriculture. But beyond that, Indonesian authorities also took security measures that worsened the chances of the farming population making a living, primarily by forcibly settling them, often in infertile areas, and imposing conditions of restricted movement.

The Commission found that repeated displacements, the redrawing of administrative boundaries and the non-recognition of customary land-ownership and land-use practices by the Government of

* The East Timor Transitional Administration, the Asian Development Bank, the World Bank and UNDP, *The 2001 Survey of Sucos: Initial Analysis and Implications for Poverty Reduction*, 2001, p.64.

Indonesia produced a legacy of landlessness and highly complex land disputes. Although security considerations played an important part in producing this outcome, the unchecked pursuit of economic interests by military and civilian officials and their business associates also contributed to this outcome. The disruption of landholding and land-use patterns has had, and will continue to have, profoundly damaging effects on the economic, social and cultural fabric of East Timorese society.

Although Indonesian investment in health and education was significant and resulted in the physical installation of territory-wide health and education systems, the Commission found that it was ineffective in overcoming chronic public health problems or meeting basic learning needs.

Section 5: Intitutional Responsibility

The statistics of institutional responsibility

Indonesian security forces*

Witnesses and victims who provided statements to the Commission identified members of the Indonesian security forces as the perpetrators of 71,917 human rights violations, or 84.4% of the total 85,165 reported violations.

When these figures are broken down by type of violation, the Indonesian security forces were reported to have been responsible for:

• Illegal killings	67.8%
• Disappearances	86.3%
• Torture	84.4%
• Ill-treatment	79.5%
• Detention	82.0%
• Sexual violence	93.3%
• Forced displacement	94.3%

.....
* Includes auxiliaries: members of officially-organised "civil defence" groups (such as Hansip, Ratih, Wanra and Kamra), members of the local administration acting in a "security" role, para-military groups (such as Tonsus and the various "Teams" that were forerunners of the militia groups formed in 1998–99), and the militia groups themselves.

- Forced recruitment 92.1%
- Property/economic violations 86.5%

The Resistance

Witnesses and victims who provided statements to the Commission identified representatives of Fretilin/Falintil as the perpetrators of 8,306 human rights violations, or 9.8% of the total 85,165 reported violations. This figure breaks down as follows by type of violation:

- Illegal killings 25.0%
- Disappearances 8.5%
- Torture 8.9%
- Ill-treatment 10.9%
- Detention 11.8%
- Sexual violence 3.2%
- Forced displacement 3.1%
- Forced recruitment 4.4%
- Property/economic violations 7.3%

UDT

Witnesses and victims who provided statements to the Commission identified representatives of the UDT political party as the perpetrators of 2,151 human rights violations, or 2.5% of the total 85,165 reported violations. This figure breaks down by violation type as follows:

- Illegal killings 3.1%
- Disappearances 1.0%
- Torture 2.6%
- Ill-treatment 4.5%
- Detention 3.3%
- Sexual violence 0.1%
- Forced displacement 0.8%
- Forced recruitment 1.6%
- Property/economic violations 1.1%

Representatives of the Apodeti, KOTA and Trabalhista parties were also identified as the perpetrators of human rights violations during the period of internal conflict in 1975, though on a far smaller scale than the other parties. Apodeti, for example, was reported to have been responsible for 0.4% of the total 85,165 reported violations.

Institutional responsibility of the Indonesian security forces

Patterns of institutional responsibility between the Indonesian forces and their East Timorese auxiliaries, acting jointly or alone, differed by violation type and varied over time.*

Of the 70.4% of unlawful killings and disappearances attributed to the Indonesian security forces, 42.3% were attributed to Indonesian military and police acting alone, 15.5% to East Timorese auxiliaries acting alone and 12.6% to Indonesian military and police acting together with East Timorese auxiliaries.

Of the 85.5% of all other violations attributed to the Indonesian security forces, 51.6% were attributed to Indonesian military and police acting alone, 17.5% to East Timorese auxiliaries acting alone and 16.4% to Indonesian military and police acting together with East Timorese auxiliaries. 8.8% of non-fatal violations were attributed to the Resistance.

During the initial years of invasion and occupation (1975–84) and the succeeding years of “normalisation and consolidation” (1985–98), the Indonesian military most frequently acted alone in the commission of the main “physical integrity” violations.

During these years around 45% of reported killings and disappearances were attributed solely to the Indonesian military and police. In 1999, in the period leading up to and following the UN-sponsored Popular Consultation, there was a marked institutional shift in direct responsibility for both fatal and non-fatal violations as East Timorese auxiliaries became the main perpetrators.

* The Commission defines three phases of conflict during April 1974–September 1999. The first phase includes the initial Indonesian invasion and occupation of Timor-Leste, spanning 1975 to 1984. The second phase is the consolidation and normalisation of the occupation, from 1985 to 1998. The third phase of conflict includes the first three quarters of 1999, the period surrounding the UN-sponsored Popular Consultation process.

Variations on these patterns of sole responsibility by either the Indonesian military and police or East Timorese auxiliaries occurred throughout the Indonesian occupation. Generally, as the occupation lengthened, an increasing proportion of reported killings was attributed to the Indonesian military and police acting with East Timorese auxiliaries. Similar shifts in patterns of direct responsibility also applied to non-fatal killings and disappearances.

The responsibility of specific units of the Indonesian security forces

Those who gave statements to the Commission often identified specific units of the occupying Indonesian forces as perpetrators of fatal and non-fatal violations.

Reported violations, including killings and disappearances, attributed to the Indonesian Special Forces (Kopassandha/Kopassus) were concentrated in specific years – 1978, 1980, 1982, 1984, 1991 and 1999. This finding is consistent with other evidence that the violations committed by Kopassandha/Kopassus were most frequent when its units were assigned to specific counter-resistance and intelligence operations.

Reported killings and disappearances attributed to territorial units (units of the permanent local military structure) and non-territorial units (units seconded to Timor-Leste temporarily for combat and other duties) of the Indonesian military were heavily concentrated in the initial years of the occupation (1975–80), at the beginning of the consolidation phase of the occupation (1982–84), and in 1999, around the time of the UN-sponsored Popular Consultation.

Reported killings and disappearances attributed to the East Timorese-composed civil defence forces, primarily Hansip, were concentrated during the initial occupation years between 1976 and 1979 and then again in 1983.

The persons identified as perpetrators of the nearly 72,000 human rights violations reported as having been committed by agents of the Indonesian security forces were either members of the Indonesian armed forces or police, or members of the various East Timorese auxiliary forces established, controlled, funded and armed by the Indonesian military. Sometimes these different institutions acted alone, sometimes cooperatively.

Individual and command responsibility of the Indonesian security forces and their auxiliaries

Responsibility for the violations committed by the Indonesian security forces is spread across a wide range of institutions. The number of violations attributed to Special Forces (Kopassandha/Kopassus) units was very high. On the most conservative figures Special Forces units were reported to be responsible for 11.3% of all reported violations by the Indonesian security forces and their auxiliaries.* Army Strategic Command (Kostrad) brigades and battalions were heavily involved in the command and conduct of combat operations, and in the violations associated with them. Combat battalions were reported to have committed 10.5% of all violations, but to have been responsible for more than one fifth (21%) of killings and disappearances. Some combat battalions gained particular notoriety, such as Battalions 202, 745 and the 100th Airborne Battalion.

While some military institutions were more frequently identified as perpetrators than others, the statements received by the Commission indicated that a very wide range of institutions was reported to have violated human rights during the Indonesian occupation. All components of the security structure – territorial units, combat units, Special Forces, the police, and civil defence units – were reported to have perpetrated violations. Some units played a more prominent role at particular times during the occupation. Of all violations attributed to the Indonesian security forces and their auxiliaries, the largest number was attributed to civil defence (including Hansip) (25%), territorial units (19.2%), government officials (11.4%), Special Forces (excluding SGI) (11.3%), combat battalions (10.5%) and police (8.8%). These institutions frequently acted together in various combinations.

The complex task of coordinating the activities of these different military and paramilitary institutions was performed by the territorial and non-territorial command structures acting under the authority and strategic guidance of a chain of command that led ultimately to the Commander-in-Chief and his closest subordinates in Jakarta.

* This figure is conservative because it does not include violations by members of the Special Forces assigned to duties outside their direct chain of command. The military intelligence agency usually identified as the SGI, which was part of the territorial structure but was a Special Forces preserve, was reported to have been a perpetrator in 3.5% of reported cases, most of which were almost certainly committed by Special Forces personnel or their agents.

In some cases senior Indonesian officers and civilian officials were directly responsible for perpetrating illegal acts. This is clearest in the case of the incursions which led up to the full-scale invasion of 7 December 1975 and in the invasion itself which violated the fundamental principle of international law that prohibits the illegal use of force by one state against another. The main architects of this policy bear responsibility for devising and implementing it. President Soeharto bears responsibility for authorising it.

The Commission heard that it was rare, but not unknown, for senior officers to have been directly involved in the perpetration of human rights violations as murderers, torturers or rapists. However, both as a matter of law and as a matter of fact, responsibility for crimes of the kind that were committed in Timor-Leste extends beyond those who were the direct perpetrators.

Persons may be responsible as individuals for crimes against humanity if they aided or abetted the commission of the crimes or if they acted to further a 'common criminal purpose'. They may also bear command responsibility for, and thus be held accountable for, acts committed by others.

The Commission concluded that many members of the Indonesian military hierarchy – and some members of the civilian hierarchy – should be held accountable for violations of international and domestic law in Timor-Leste. It reached this conclusion after examining the scale and patterns of violations committed by the Indonesian security forces during the years 1975–1999. This finding was reinforced by what it learned of the strategic thinking and the institutional norms and culture that governed military policy and practice in Timor-Leste during these years.

The scale and pattern of violations indicated to the Commission that the Indonesian armed forces adopted an overall strategy which relied on the use of overwhelming force and terror to subdue the population. Many of the individual officers who had participated in operations during which widespread human rights violations were committed subsequently rose to senior positions in the military hierarchy (see Vol. IV, Part 8, Annexe 4, *Careers of Selected Officers Who Served in Timor-Leste*). The Commission considered this phenomenon significant as another indication of the impunity of the armed forces during their occupation of Timor-Leste. It also illuminates the mindsets of those who commanded those operations and of those who gained advancement as a result of them.

Against this background the Commission took the view that, aside from persons who were individually responsible for crimes against humanity and crimes under humanitarian law, a large number of senior members of the Indonesian military hierarchy and some senior civilian members of the Indonesian government, whose positions gave them authority over operations and activities in Timor-Leste during 1975–1999, may well satisfy the criteria for command responsibility and thus could be held accountable for the violations that occurred during that time.* A list of these people is contained in Vol. IV, Part 8, Annexe 3, Persons with High-Level Command Responsibility.

Responsibility for the mass violations of 1999

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

The Commission found that the militia groups were formed, trained, armed, funded, directed and controlled by the Indonesian security forces. Indonesian military personnel served as commanders of some militia groups and senior commanders gave public support to the militias. Militia groups operated from Indonesian military bases and frequently committed atrocities in the presence of, or under the direction of, uniformed members of the TNI.

The programme conducted by members of the Indonesian security forces used violence and terror, including killing, torture, beatings, rape and property destruction, in an attempt to force East Timorese to vote to “integrate” with Indonesia. When this strategy failed to produce the intended result, the security forces and their auxiliaries went on a rampage of violence directed against people and property.

.....
* The legal criteria for command responsibility are: a superior-subordinate relationship existed in which the superior had effective control over the subordinate; the superior “knew or had reason to know” that a crime was about to be or had been committed; and the “perpetrator” failed to take “necessary and reasonable measures to prevent such acts or to punish the perpetrator thereof”.

They also forcibly deported several hundred thousand East Timorese to West Timor.

Members of the local civil administration in Timor-Leste and national-level government officials, including ministers, knew of the strategy being pursued on the ground, and rather than taking action to halt it, directly supported its implementation.

The violations committed by members of the Indonesian security forces during 1999 included thousands of separate incidents which constituted crimes against humanity. The Commission holds the leadership of the Indonesian security forces at the highest levels responsible and accountable for their role in planning and executing a strategy of which widespread violations of human rights directed against the civilian population were an integral part, for failing to prevent or punish perpetrators under their command, and for creating a climate of impunity in which military personnel were encouraged to commit abhorrent acts against civilians known or perceived to be supporters of East Timorese independence. These senior commanders hold both direct and command responsibility for crimes that amply fit the definition of crimes against humanity.

In 1999 East Timorese auxiliaries (principally ones organised in militia groups) were the main direct perpetrators of all types of violations against civilians. However, Indonesian military personnel were also reported to have been directly involved in the commission of violations as joint or sole perpetrators.* The violations reported to have occurred in 1999 were heavily concentrated in the months of April, May and September.

These statistical patterns are consistent with the extensive qualitative evidence reproduced in the Report that in 1999 the Indonesian military and police, rather than seeking to control the East Timorese militias, set them up and aided and abetted the violence they wreaked. The Commission found that:

- Senior TNI officers formed the militia groups, gave them assurances that they would be funded, armed and otherwise supported by the TNI, and told them they would be used against pro-independence supporters.

.....
* 82.4% of reported killings and disappearances in 1999 were attributed to East Timorese militia groups, either acting alone (42.9%) or with the Indonesian military or police (39.5%); 8.5% of reported killings were attributed solely to the Indonesian military and police.

- Senior TNI officers publicly endorsed the militia groups at rallies and other public meetings.
- TNI personnel sometimes commanded and served in these militia groups.
- The TNI funded the militias. Government funds were also diverted to pay militia members. Regular payments made to thousands of militia members required significant planning, administration and coordination, involving both military and civilian officials.
- The TNI armed the militias and had the power to withdraw the arms at will.
- The TNI trained the militias at official TNI bases and other sites.
- The TNI allowed militia groups to use military headquarters as their bases, including at times immediately before and after they went on operations in which they committed gross violations of human rights, including the mass execution of civilians.
- Members of the TNI frequently committed violations together with members of militia groups, as part of a common enterprise.
- The TNI were able to regulate the incidence of violence at will, including the actions of the militia.
- With very few exceptions the TNI took no action against militia members who committed violations, despite the fact that it was commonplace for militia to carry arms openly, and to kill, torture and otherwise mistreat civilians in the presence of TNI personnel.

Senior TNI personnel issued threats and warnings that massive physical violations and the destruction of property would take place after the ballot, if the people of Timor-Leste voted for independence. The violence and destruction did in fact take place following the ballot, in accordance with the warnings.

Senior Indonesian government officials were advised to make a contingency plan which included mass evacuation and the destruction of facilities and key assets six weeks before those same acts were carried out by TNI and militia.

After the TNI was given martial law powers to handle the situation in Timor-Leste on 7 September 1999, far from abating, the violence and destruction reached new heights.

Members of the TNI, police and government officials involved in the violations were not arrested or disciplined for their role as perpetrators.

Almost no action was taken to stop the violations, despite repeated requests from the UN and governments, and despite the obvious capacity to overcome any militia resistance due to the vastly superior numbers and weapons available to the TNI and police.

A number of senior TNI officers who held command over troops in Timor-Leste at the time of the violations were rewarded through promotion, despite the fact that they and the troops under their control were involved in mass violations and failed in their duty to maintain security in the territory.

Institutional responsibility of the East Timorese political parties

The internal armed conflict

The Commission found that many factors contributed to the explosion of violence between the political parties in August–September 1975, known as the civil war. They included: the conduct of Portugal and Indonesia, the all-but-explicit backing for Indonesian designs from Indonesia's most powerful allies, including the US and Australia; and the inexperience of the East Timorese political parties.

The Commission found that when UDT launched its armed movement on 11 August 1975 it irreversibly altered the situation for the worse. The armed movement introduced large-scale armed violence as an element in the political conflict and triggered a response in kind from Fretilin. It definitively ended hopes that the Portuguese plans for a peaceful decolonisation process might work. UDT's subsequent defeat by Fretilin led to the flight of the party's leadership over the border into Indonesian West Timor where it aligned itself with Indonesian aims. This series of events gave the Indonesian Government a pretext for intervention, allowing it to claim that it was doing so to put an end to an intra-Timorese conflict that was threatening regional stability. The eventual result of this resort to violence was the death of thousands of East Timorese people.

Principal findings on the responsibility of the Resistance

About one tenth of all violations reported in statements given to the Commission were attributed to the Resistance. The Resistance was

reported to have been responsible for a relatively large proportion of killings and disappearances (22.7%). However, the pattern of killings and disappearances attributed to the Resistance over time is very different from that of killings and disappearances attributed to the Indonesian security forces. Killings and disappearances reported to have been committed by members of the Resistance are heavily concentrated in the early years of the conflict, primarily during and soon after the inter-party conflict known as “the civil war” and during the Fretilin intra-party purges of 1976 and 1977–78.

Witnesses and victims of violations identified representatives of Fretilin/Falintil as the perpetrators in almost half the reported killings of civilians during 1975. This figure dropped to about 16% during the period which included the internal purges, 1976–84. Following this there was a further significant drop in the proportion of executions carried out by Fretilin/Falintil, with only approximately 4% of the total during the years 1985–1998. During the mass violence in 1999 less than 1% of all the executions reported to the Commission were committed by representatives of Fretilin/Falintil.*

The Commission found that Fretilin was justified in taking up arms to defend themselves and the right of the East Timorese people to self-determination in response to the actions of UDT during the armed movement in August 1975.

In responding to the armed movement Fretilin committed serious human rights violations against members and leaders of UDT and, on a smaller scale, of Apodeti which could not be justified under any circumstances. In particular members of Fretilin were responsible for the arbitrary detention, beating, torture, ill-treatment and execution of civilians who were known or thought to be members of UDT and Apodeti. These acts were violations of their obligations under Common Article 3 of the Geneva Conventions, which applies to internal armed conflicts.

Representatives of Fretilin executed prisoners in Aileu (Aileu), Maubisse (Ainaro) and Same (Manufahi) between December 1975 and February 1976. The Commission found that in addition to local-

* 49.0% of all documented killings and disappearances in 1975 were attributed to Fretilin/Falintil. This percentage (although in 1976–84 not the absolute number of killings and disappearances) falls sharply in each succeeding period, decreasing to 16.6% of documented killings and disappearances in 1976–84, to 3.7% in 1985–1998 and to 0.6% in 1999.

level Fretilin and Falintil leaders and commanders in Aileu, Maubisse and Same, senior leaders and commanders, including members of the Fretilin Central Committee present in these areas at the time, were responsible for the torture and execution of prisoners in these places in late 1975 and early 1976. While accepting that the Fretilin Central Committee did not issue a formal directive ordering these violations, the Commission found that these senior leaders and commanders were either aware that they were taking place, were directly involved in deciding that they should take place, or were present when they did take place.

The Commission found that when differences over military strategy and ideology emerged within the Resistance during 1976 and 1977–78, leaders of Fretilin belonging to the dominant faction within the party and their supporters responded in a grossly intolerant manner. This intolerance manifested itself in serious human rights violations, including the torture and ill-treatment of detainees and the execution of leaders and members of Fretilin and Falintil who disagreed with the mainstream Fretilin leadership. The victims were often treated in this way after being accused of collaborating with, spying for or otherwise acting as agents of the Indonesian security forces. The Commission finds that these accusations were often politically-motivated, and that Fretilin/Falintil condemned victims accused of these crimes to severe punishments, including indefinite periods of detention in deplorable conditions and execution, without any form of due process or procedural fairness.

The Fretilin leadership is also responsible for the detention between 1976 and 1979 of hundreds of persons in so-called *Renals* and detention centres. The *Renals* were established to re-educate persons who differed from the leadership in their political views or whose loyalty was in doubt. Those detained included many ordinary people living in Fretilin-controlled areas who were believed, often on tenuous grounds, to be planning to surrender to Indonesian forces or to have had contact with Indonesian forces or their East Timorese collaborators. They also included those accused of common criminal offences. These people were often subjected to inhumane conditions, beatings and torture leading to their death in detention, while many were simply executed.

The Commission found that when during this period it subjected persons it detained to a process of “popular justice”, the Fretilin

leadership within Timor-Leste was responsible for sanctioning trials which were grossly unfair and whose outcomes included the defendant's execution.

Forced displacement and famine

The question of whether individuals should or should not have been prevented from surrendering to Indonesian forces in the years following the invasion is complex, and some decisions are understandable when the totality of the situation is considered.

The Commission recognised the extremely difficult decisions faced by the Fretilin leadership at this time. The survival of those under their command was their direct responsibility, as was the survival of the entire Resistance movement. It was likely that if a portion of the group surrendered at least one would, either under duress or voluntarily, divulge the whereabouts of those who remained. If this happened the remaining group would be attacked through aerial bombing and ground attacks. The leadership was thus faced with life and death decisions concerning the entire group and the ability to continue the struggle to defend the right of the East Timorese people to self-determination.

At the same time families needed to make life and death decisions concerning their members. They were faced with the definite prospect of starvation and death if they did not surrender, and an uncertain future if they did. As the bombardments increased in intensity the ability to seek food diminished. The numbers of those who starved as a result increased sharply, until eventually a decision was made for all civilians to surrender to the Indonesian forces. However, the Commission found that the severe ill-treatment, torture, and, in some cases, killing of persons who favoured surrender was always inexcusable. Whatever the rights and wrongs of the debate over surrender, the Fretilin leaders who condoned and in some cases implemented these acts were responsible for extreme violations of victims' rights, which cannot be justified under any circumstances.

Between 1980 and 1999 there was a sharp drop in the number of killings attributed to Falintil. Many of the victims of Falintil killings were Hansip, village chiefs and other members of the civil administration, and ordinary civilians who had been forcibly recruited to perform security functions. The Commission believes that responsibility for

some of these deaths, particularly those of forcibly recruited civilians, rests primarily with those who put the victim in harm's way, namely the Indonesian security forces. Moreover, the Commission received credible information that in some cases of violations attributed to Falintil, including the small number of unlawful killings by Falintil members that occurred in 1999, the Falintil High Command did not institutionally condone these violations.

During the period before the ballot in 1999, Falintil exercised genuine restraint, including through the cantonment of its forces. In general they acted with extraordinary discipline in the face of widespread killings of civilians conducted by the Indonesian security forces and their auxiliaries.

Principal findings on the responsibility of UDT

The Commission found that on 11 August 1975 the leadership of the UDT party launched an armed movement, the purpose of which was to gain control of the political leadership of the territory of Timor-Leste. UDT had no legal authority to undertake this action, and by doing so acted in violation of the rights of the East Timorese people to determine voluntarily their own political destiny.

During the armed movement UDT committed widespread human rights violations against members of the civilian population and combatants not engaged in combat, and particularly against individuals believed to be leaders and supporters of Fretilin. Hundreds of civilians were arbitrarily detained, many of whom were tortured, killed and otherwise mistreated.

The Commission found that the actions of the members and leaders of the UDT party, and those associated with the party, in cases involving the detention, torture and killing of civilians, prisoners, the wounded and the sick, were violations of their obligations under Common Article 3 of the Geneva Conventions.

The Commission found that the leadership of UDT were responsible for inciting their members to participate in an armed action without putting in place systems of command and control which could effectively regulate the behaviour of their members. They also did not prepare adequate facilities for the hundreds of prisoners who were detained. The Commission therefore found those leading UDT at the time of the armed movement responsible for the violations

committed by the members of UDT who were acting under their overall command.

The Commission found that the local UDT leaders who incited hatred and who ordered victims to be detained, beaten, tortured or killed to be responsible and accountable for the consequences of these actions. The most extreme forms of abuse reported to the Commission occurred at the UDT headquarters in Dili, and in the districts of Ermera and Liquiçá, which were UDT strongholds.

The Commission holds the UDT district party leaders in Dili, Ermera and Liquiçá Districts in August 1975 to be responsible and accountable for the serious mass violations committed by those acting under their command and control. These violations included ordering or allowing the torture and summary execution of groups of unarmed civilians by party members acting under their authority.

The Commission found the leadership of the UDT party to be responsible for contributing to the violation of the right of the East Timorese people to self-determination by contributing manpower to assist the invading Indonesian forces, inviting Indonesia to invade Timor-Leste and signing the Balibó Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

Members of UDT joined Indonesian forces training in West Timor after September 1975 and participated in the military invasion of Timor-Leste, accompanying Indonesian military personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of UDT involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly.

The Commission found that UDT leaders assisted Indonesia by presenting false and misleading information to the United Nations and its member states in the period after the Indonesian invasion. It thereby inhibited members of the international community from gaining a true picture of the situation in Timor-Leste, which might have formed the basis of international initiatives on behalf of the people of Timor-Leste. By taking on this role they contributed to the suffering of the East Timorese people.

Principal findings on the responsibility of Apodeti

Although the Commission received significantly fewer reports of violations committed by members of Apodeti than by either Fretilin or UDT, the evidence clearly demonstrates that apart from their direct role in violations, members of Apodeti participated in the Indonesian invasion and supported the military occupation in a variety of ways.

Apodeti members worked with Indonesian intelligence agents, both military and civilian, inside Timor-Leste and in Indonesia during 1974–75. They were responsible for undermining the decolonisation process and destabilising the situation in Timor-Leste.

Beginning in December 1974 approximately 200 members of Apodeti participated in military training exercises near Atambua, West Timor, which led to their participation with Indonesian military personnel, in covert military action inside Timor-Leste from August 1975 and possibly earlier, including the attack on Balibó on 16 October 1975. These East Timorese “Partisans” subsequently took part in the invasion of Timor-Leste, accompanying Indonesian military personnel and assisting them both militarily and by providing local knowledge and intelligence. The leaders and members of Apodeti involved in these operations are responsible for the violations in which they were directly involved and to which they contributed, both directly and indirectly. They are also responsible for the consequences of signing the Balibó Declaration, which helped to provide a veneer of legitimacy to the illegal Indonesian occupation and annexation of the territory.

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

Section 6: State Responsibility

Responsibility of the State of Indonesia

Indonesia's invasion of Timor-Leste violated a number of principles of international law, including:

- The prohibition under customary international law of intervention in the affairs of other states.*
- The peremptory norm contained in Article 2(4) of the United Nations Charter, as well as under customary international law, on the unlawful use of force against the territorial integrity of another state.
- Indonesia's obligation under customary international law to respect the right of the East Timorese people to self-determination.

The Commission found that the Republic of Indonesia was responsible for grossly suppressing the right of the East Timorese people to self-determination and subjecting them to a military occupation characterised by repression and violence.

The Commission found that by 1974 the Government of Indonesia had decided that Timor-Leste would be incorporated into Indonesia. It set out to achieve that goal using various tactics including propaganda, intimidation, subversion, and ultimately, military force. In setting itself the goal of incorporation and adopting these methods to achieve it,

.....
* See the *Case Concerning Military and Paramilitary Activities in and Against Nicaragua (USA v Nicaragua)*, which is discussed in Part 2, The Mandate of the Commission.

the Government of Indonesia ignored the wishes of the East Timorese people and their right to self-determination.

The Commission found that the session of the “Popular Representative Assembly” held in Dili on 31 May 1976 did not constitute a genuine act of self-determination. The Commission found rather that the “Popular Representative Assembly” was organised by Indonesia for the purpose of justifying its invasion rather than for providing the East Timorese people with a real choice about their future. The assembly was not representative of the East Timorese people. Its members were neither equipped to make an informed choice between options nor free to do so. The process did not therefore accord with the requirements set out in General Assembly Resolution 1541 for the integration of a non-self governing territory into a pre-existing State. It did not allow the East Timorese people to freely express their wishes, did not occur in a context in which Timor-Leste had attained a sufficiently advanced state of self-government to freely express those wishes, and did not take place in a relationship of complete equality between the two parties involved.

Indonesia maintained its unlawful presence in the territory of Timor-Leste until 1999. During this period Indonesia was responsible for continuously suppressing the right of the people of Timor-Leste to self-determination. It forcibly suppressed advocacy of self-determination within Timor-Leste, and sought to neutralise East Timorese, Indonesian and international civil society advocates of self-determination. By acting in this way Indonesia not only violated the right of the East Timorese people to self-determination, but also breached other fundamental human rights such as the right to freedom of expression, opinion and association.

The Commission found the State of Indonesia to be responsible and accountable for the violations of international human rights law, international humanitarian law and international criminal law which were committed by members of the Indonesian security forces and their auxiliaries, including civil defence groups such as Hansip and Ratih, the militia groups which were controlled by the Indonesian security forces, government officials, police, and other individuals who committed violations under the state’s direction. This responsibility covers multiple cases of crimes against humanity, including the crime of extermination; war crimes, including grave breaches of the Geneva Conventions; tens of thousands of serious human rights violations; and overall responsibility for the deaths of between 102,800 and 183,000 East Timorese people who died as a result of the systematic

programmes of violations which accompanied the 24-year long illegal military occupation of Timor-Leste.

During the occupation Indonesia further violated the right of the East Timorese people to self-determination by exploiting the natural resources of the territory for its own benefit rather than allowing the East Timorese people control over the disposal of those resources. Agents of the Indonesian state removed significant quantities of timber, sandalwood and other resources from Timor-Leste, and the Indonesian security forces forcibly implemented a programme under which East Timorese coffee growers received much less than the full value of their crops. The treaty entered into with Australia in 1989 for the disposal of the resources of the Timor Sea, which was concluded without consultation with or due regard to the interests of the people of Timor-Leste, also violated those rights, particularly as in its eagerness to reach an agreement Indonesia settled on terms that were far less favourable to the state than was normal in its own territory.

Indonesia also violated its obligations under the agreements entered into on 5 May 1999 between Indonesia, Portugal and the United Nations. Under these agreements Indonesia was responsible for “maintaining peace and security in East Timor in order to ensure that the popular consultation [was] carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side”.^{*} Indonesia was also responsible under the agreements for ensuring a “secure environment devoid of violence or other forms of intimidation” and “the general maintenance of law and order”, including by ensuring “the absolute neutrality of the TNI and the Indonesian Police”.[†] The Commission found that Indonesia failed grossly in meeting these obligations and was therefore in breach of its treaty obligations under the 5 May Agreements.

Responsibility of the State of Portugal

For almost the entire period of its rule in Timor-Leste, Portugal fostered an environment that was inimical to the realisation of the right to self-determination. No effort was made to achieve an even minimal level of East Timorese self-government, and democratic values were

.....
^{*} Article 3, Agreement between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor.

[†] Article 1, Agreement between the United Nations, The Republic of Indonesia and The Portuguese Republic Regarding Security.

not upheld either in theory or in practice. Under the Salazar-Caetano regime, Portugal:

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

After the change of government in April 1974 and the subsequent commitment to decolonisation, the colonial administration in the territory made some attempt to adjust to the new realities. However, successive Portuguese governments in Lisbon paid insufficient attention to developments in Timor-Leste, often gave conflicting signals about their true intentions for the territory, failed to use the diplomatic leverage available to it in ways that might have upheld the right of the people of Timor-Leste to self-determination, and made insufficient effort to prevent an Indonesian invasion even when it was clear that one was imminent.

For all these reasons the Commission found that Portugal fell short of meeting its obligations as the administering power, including its obligation to protect the people of Timor-Leste from harm.

Throughout much of the Indonesian occupation Portugal took few diplomatic initiatives to address the situation in Timor-Leste, whether bilaterally or through the United Nations. Although its position as the administering power in Timor-Leste was recognised by the United Nations, it took few steps to carry out the responsibilities entailed by this role. It was not until 1982 that it began to raise the question of Timor-Leste in international forums, and even after that time the steps that it did take were insufficient to compete with Indonesia's far more active diplomacy. The Commission found that Portugal, although committed in theory to the right of the East Timorese people to self-

* Article 73 required Portugal to promote to the utmost the well-being of the East Timorese people, including by ensuring, with respect for the Timorese culture, their political, economic, social and educational advancement, their just treatment, and their protection from abuses; and developing Timorese self-government, including by the development of free political institutions.

determination, took insufficient steps to assist in the realisation of this right during the period of Indonesian occupation.

Responsibility of the State of Australia

The Commission found that Australia contributed significantly to denying the people of Timor-Leste their right to self-determination before and during the Indonesian occupation. Australia was well-placed to influence the course of events in Timor-Leste. Rather than playing the role of honest broker, between April 1974 and December 1975 it tilted sharply in favour of the Indonesian stance on Timor-Leste, justifying this position by the need to maintain good relations with Indonesia, whose “settled policy” Australia understood to be the incorporation of the territory by any means. It took this position even though it violated Australia’s obligations under international law to support the right of the East Timorese people to self-determination.

The Commission found that Australian policy towards Indonesia and Timor-Leste during this period was influenced not only by a general interest in maintaining good relations with Indonesia, but also by an assessment that it would achieve a more favourable outcome to the negotiations on the maritime boundary in the Timor Sea if it was dealing with Indonesia rather than with Portugal or an independent Timor-Leste on the issue.

The Commission also found from its examination of the documentary record that the way Australia decided to approach the issue confirmed the Indonesian Government in its resolve to take over the territory of Timor-Leste. Australia’s indifference to Indonesian actions in the months preceding the invasion, including Indonesian incursions into the territory, almost certainly had a similar effect. Conversely had Australia in its dealings with Indonesia given greater weight to the right of the East Timorese to self-determination and to the inviolability of its sovereign territory, it might have been able to avert the Indonesian use of force.

The Commission found that during the Indonesian occupation successive Australian governments not only failed to respect the right of the East Timorese people to self-determination, but actively contributed to the violation of that right. After supporting the first resolution in 1975 it abstained from or voted against subsequent General Assembly resolutions recognising the right of the East

Timorese people to self-determination. It refused to receive José Ramos-Horta or other Fretilin representatives, and even banned their entry to Australia for a number of years. In 1978 it recognised *de facto* Indonesian control over Timor-Leste, and implicitly gave *de jure* recognition in 1979 when it began negotiations with Indonesia for the delimitation of the maritime boundary between Australia and Timor-Leste. In 1985 it unequivocally gave *de jure* recognition to the integration of Timor-Leste into Indonesia, and in 1989 concluded the Timor Gap Treaty with Indonesia. Australia also provided economic and military assistance to Indonesia during this period and advocated the Indonesian position in international forums.

Australia played the leading role in the Interfet force that ultimately ended the violence surrounding the ballot in 1999, and has consequently tended to portray itself as a liberator of Timor-Leste. However the Commission finds that even when President Habibie was moving towards his decision to offer the East Timorese a choice between remaining part of Indonesia and independence, the Australian Foreign Minister, Alexander Downer, made it clear that his Government believed that it should be several years before the East Timorese exercised their right to make that choice and that it would be preferable from an Australian point of view if Timor-Leste remained legally part of Indonesia.

The actions of the Government of Australia in supporting Indonesia's attempts to incorporate Timor-Leste through the use of force was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination* and to take positive action to facilitate the realisation of this right.†

Responsibility of the United States of America

The Commission found that the United States of America failed to support the right of the East Timorese people to self-determination, and that its political and military support to Indonesia was crucial in denying the people of Timor-Leste that right. US support for Indonesia was given out of a strategically-motivated desire to maintain a good

.....
* Article 1(3) ICCPR and Article 1(3) ICESCR.

† Human Rights Committee General Comment 12, para 6.

relationship with Indonesia, whose anti-communist regime was seen as an essential bastion against the spread of communism in South-East Asia.

The Commission found on consideration of the available documentary evidence that the United States was aware of Indonesian plans to invade and occupy Timor-Leste. It also found that the United States was aware that military equipment which it had supplied to Indonesia would be used for this purpose in violation of agreements between the two countries.

US-supplied weaponry was critical to Indonesia's capacity to intensify military operations from 1977 in its massive campaigns to destroy the Resistance in which aircraft supplied by the United States played a crucial role. These were the campaigns which resulted in severe suffering and hardship to tens of thousands of civilians sheltering in the interior at the time. The campaigns forced the mass surrender of tens of thousands of civilians, who were then held in the highly restrictive conditions of the resettlement camps where thousands of civilians died from starvation and illness. During the famine of this time US administration officials refused to admit that the primary reason that East Timorese were dying in their thousands was the security policies being pursued by the Indonesian military. Instead they maintained that the deaths were due to drought, an argument which the Commission finds to have been without merit.

Successive administrations, even those such as the Carter administration which made much of its commitment to human rights, consistently stressed the overriding importance of the relationship with Indonesia and the supposed irreversibility of the Indonesian takeover, even as they acknowledged that the people of Timor-Leste had been denied their right to self-determination.

The United States failed to use its unique position of power and influence to dissuade Indonesia from invading Timor-Leste, to urge its withdrawal from the territory, or to bring a halt to the widespread and systematic human rights violations that were occurring in the territory. In response to the massive violations that occurred in Timor-Leste in September 1999 President Clinton threw the considerable influence of the United States behind efforts to press the Indonesian Government to accept the deployment of an international force in the territory, demonstrating the considerable leverage that it could have exerted earlier had the will been there.

The actions of the Government of the United States of America in supporting Indonesia's invasion of Timor-Leste was in violation of its duties, under the general principles of international law, to support and refrain from undermining the legitimate right of the East Timorese people to self-determination* and to take positive action to facilitate the realisation of that right.†

Responsibility of the United Nations

The Commission found that the United Nations took inadequate action to protect the right of the East Timorese people to self-determination during the period of the invasion and military occupation.

The General Assembly passed a resolution on the situation in East Timor every year from 1975 until 1982. During this period the texts of the resolutions became increasingly weak and the number of countries voting in favour of them steadily diminished until in 1981 only about one third of the member states voting on the resolution supported that year's resolution. In 1982, to keep the question of Timor-Leste alive at the United Nations, the overseas representatives of the Resistance and their supporters at the United Nations narrowly managed to secure the General Assembly's approval of a resolution referring the question to the "good offices" of the Secretary-General. This formula did contribute to keeping the question of Timor-Leste on the United Nations' agenda, which was to prove particularly important after President Soeharto fell from power in 1998.

The Security Council, as the organ of the United Nations with primary responsibility for the maintenance of international peace and security, had the chief responsibility to address the situation in Timor-Leste. Although the Security Council condemned the Indonesian invasion in 1975 and again in 1976, it did not find that a threat to international peace and security existed. The Commission considers that it would have been entitled to do so under Article 39 of the United Nations Charter and therefore would have been entitled to take enforcement action under Chapter VII of the Charter. After 1976 no further Security Council resolutions were passed on the question of East Timor until May 1999, when the Council endorsed the 5 May Agreements between Indonesia, Portugal and the United Nations.

* Article 1(3) ICCPR and Article 1(3) ICESCR.

† Human Rights Committee General Comment 12, para 6.

Under Article 24(2) of the United Nations Charter the Security Council is required to act in accordance with the purposes and principles of the United Nations set out in Articles 1 and 2 of the Charter. Those purposes and principles include the following:

- The maintenance of international peace and security (Article 1[1])
- The development of friendly relations among states based on respect for the principle of equal rights and the self-determination of people (Article 1[2])
- The promotion and encouragement of respect for human rights and fundamental freedoms (Article 1[3])
- The sovereign equality of all member states (Article 2[1]).

The Commission found that by failing to take any enforcement action, and by maintaining silence on the issue between 1976 and 1999, the Security Council failed to act in accordance with the principles and purposes of the United Nations, and with the specific duties set out in the Charter of the organisation.

Moreover, the Commission found that for most of the period of the Indonesian occupation the five permanent members of the Security Council – the United States, the USSR/Russia, China, the UK and France – as well as states, such as Japan, which were non-permanent members at crucial times during the mandate period, put their economic and strategic interests above the purposes and principles of the United Nations, which as members of the Security Council they had a duty to uphold. Like the United States, by sanctioning the sale to Indonesia of arms which were used against the Resistance and the civilian population in Timor-Leste, the UK and France were directly involved in supporting an illegal occupation and suppressing the right of the people of the territory to self-determination.

Section 7: Reconciliation

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

The Commission's main reconciliation initiative at the grassroots level was its Community Reconciliation Process (CRP) programme. This was a novel and previously untested programme designed to promote reconciliation in local communities. It aimed to achieve this through reintegrating people who had become estranged from their communities by committing politically-related, "less serious", harmful acts during the political conflicts in Timor-Leste.^{*} The underlying belief of the programme was that communities in Timor-Leste, and those

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

who had harmed them in less serious ways, were ready to reconcile with each other. The CRP procedure was based on the philosophy that community reconciliation could best be achieved through a facilitated, village-based, participatory mechanism. This mechanism combined practices of traditional justice, arbitration, mediation and aspects of both criminal and civil law.

Accordingly, the Commission was given a mandate by Regulation 10/2001 to organise community-based hearings. At these hearings, victims, perpetrators and the wider community could participate directly in finding a solution to enable perpetrators of “harmful acts” to be reaccepted back into the community. The regulation set out the basic steps to be followed in a CRP but did not spell out the precise procedure, allowing flexibility for the inclusion of elements from local traditional practice.

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

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

.....
* As referred to in UNTAET Regulation 10/2001, section 1(g).

The results of the CRP programme indicate that it has made a real contribution to community reconciliation in Timor-Leste, and the reintegration of perpetrators of past wrongs into their communities. 1,371 perpetrators successfully completed a CRP, surpassing the initial target of 1,000, and many people requested that the CRP programme continue. Perpetrators, victims and other participants have reported to the Commission that the CRP programme contributed significantly to the maintenance of peace in their communities and to settling past divisions. This is borne out by the fact that the predicted revenge attacks on the perpetrators of violence in 1999 did not take place.

Section 8: Acolhimento and Victim Support

The importance of *acolhimento* (reception) to the Commission's work was reflected by its inclusion as the first of the three guiding principles mentioned in the name of the Comissão de Acolhimento, Verdade e Reconciliação. Unlike truth and reconciliation, *acolhimento* is not directly mentioned in Regulation 10/2001. Unlike reconciliation, victim support and truth-seeking, it was not an explicit function of the Commission, but something both less tangible and more far-reaching. *Acolhimento* was the spirit that informed all aspects of the Commission's work. It became the centrepiece of the Commission's work out of recognition of the importance of Timorese people accepting each other after so many years of division and conflict.

Most immediately it was a response to the situation of East Timorese who had gone to West Timor in 1999 – those who had returned to Timor-Leste as well as those who remained in camps and settlements in West Timor. Two specific programmes were developed in response to their needs:

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

Victim support, by contrast, was an objective of the Commission that was specifically spelt out in Regulation 10/2001. Section 3 of the regulation provided that the Commission was to “help restore the dignity of victims of human rights violations”. The regulation did not, however, prescribe how the Commission should go about achieving this objective.

Like *acolhimento*, the principle of supporting victims of human rights violations was integral to the way the Commission worked in carrying out its other functions of truth-seeking and reconciliation, and in producing its Final Report. Helping the recovery of individuals and communities who had suffered, and restoring their sense of dignity, was inseparable from the task of repairing relationships damaged by conflict and of building lasting reconciliation. The Commission was to be the voice of the victims, who had for so long been unable to express the suffering that they had experienced, and to make a practical contribution to their healing.

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

Public hearings at the national and sub-district levels

Public hearings offered recognition and healing in a symbolic way. This work began with the taking of a statement from a survivor by a member of a district team. Listening with care and recording their story were the first steps towards help in healing. Some survivors went further by telling their stories at a public hearing. At the national, sub-district and village level, hearings placed victims at the centre of their communities. The community listened to and honoured their stories, acknowledged their suffering, and helped them to feel that they were cared for and that their burden was shared.

The Commission held eight national public hearings. The first, held on 11–12 November 2002, was called a victims’ hearing that was intended to honour the suffering of victims of human rights violations in general.

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

- Political Imprisonment (February 2003)
- Women and the Conflict (April 2003)

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

At the end of the three-month programme conducted in each sub-district, district teams held public hearings in 52 of the 65 sub-districts. Known as Victims' Hearings, they gave selected community members who had given statements to the Commission the opportunity to recount their experiences to Regional Commissioners, community leaders and the community.

In the eyes of the public the national victims' hearing and the national thematic hearings were perhaps the high point of the Commission's work. They received full national media coverage, and were followed across the country and reported in the international media. Their high public profile made them an exceptionally effective vehicle for creating wider understanding of, and support for, victims and of the Commission's work.

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

The Commission raised sensitive issues at public hearings, especially the national hearings. For the first time the community heard direct testimony about terrible violations committed by Timorese political parties in 1974–1976. Victims told of violence committed by East Timorese in the Indonesian military and its auxiliaries. The family and community dimensions of this sort of violence are profound. Women spoke openly of the sexual violence committed against them, challenging the widely-held view that Timorese culture forbade discussion of this subject. Hearings brought home the personal dimension of the massive and prolonged violence of the Indonesian military over the period of the Commission's mandate.

An Urgent Reparations Programme for victims

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

The types of reparations that the Commission offered included:

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

The programme was implemented in cooperation with non-government organisations and religious groups involved in assisting victims.

The Commission itself did not have the funds to develop a reparations scheme. It was assisted through a partnership with the Community Empowerment and Local Governance Project (CEP), a project managed by the Ministry of the Interior and funded through the Trust Fund for East Timor (TFET) administered by the World Bank. The CEP had a programme for helping "vulnerable groups" and its support of the Urgent Reparations Programme was managed through that programme.

Healing workshops at the Commission's national headquarters

The Healing Workshops had four main objectives, all related to developing a deeper relationship between the Commission and victims of human rights violations. These objectives were to:

- Provide greater support to victims within the Commission's capabilities
- Refer survivors to other services and organisations for further assistance
- Help survivors plan the use of their Urgent Reparations grants
- Listen to survivors' perspectives on what the Commission should recommend for further action in its Final Report.

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

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

The 297 Community Profile workshops that were held added a group dimension to the district team victim support and truth-seeking work. Small groups from village communities discussed the impact of human rights abuses at the community level. The workshops were facilitated and recorded by the victim support members of the district team. Communities were thus able to examine the history of conflict from their own, local perspective. The communal focus of the workshops also acknowledged the fact that communities, just as much as individuals, were victims in the years of conflict and needed support.

Section 9: Recommendations

Under Regulation 10/2001 the Commission was required to recommend measures “to achieve the objectives of the Commission”, and specifically to prevent the repetition of human rights violations and to respond to the needs of victims of human rights violations.*

This section summarises the main recommendations made by the Commission, which are reproduced in full in the Executive Summary and in Part 11 of the Report.

.....
* The Commission's objectives are set out in Section 3.1 of the Regulation. They include:

- “(a) inquiring into human rights violations that have taken place in the context of the political conflicts in East Timor;
- (b) establishing the truth regarding past human rights violations;
- (c) reporting the nature of the human rights violations that have occurred and identifying the factors that may have led to such violations;
- (d) identifying practices and policies, whether of State or non-State actors which need to be addressed to prevent future recurrences of human rights violations.
- (e) the referral of human rights violations to the Office of the General Prosecutor with recommendations for the prosecution of offences where appropriate;
- (f) assisting in restoring the human dignity of victims;
- (g) promoting reconciliation;
- (h) supporting the reception and reintegration of individuals who have caused harm to their communities through the commission of minor criminal offences and other harmful acts through the facilitation of community based mechanisms for reconciliation; and
- (i) the promotion of human rights.”

Overview

The Commission's recommendations address both the people and state institutions of Timor-Leste and the international community.

Many of the Commission's recommendations flow from its identification of the need to promote peace and prevent a return to violence. This imperative underlies the choice of the single word "*Chega!*" to be the title of the Report. While all the objectives of the Commission – establishing the truth, restoring the dignity of victims and promoting reconciliation – plainly have value in themselves, each is also important in so far as it contributes to the achievement of this overriding objective. The Commission believed, for example, that preserving the memory of past atrocities would not only give victims the recognition and respect that was due to them but would also serve to prevent a repetition of such acts.

Not surprisingly therefore the recommendations have a strong domestic focus. Timor-Leste is a society still overcoming the consequences of protracted conflict. The Commission reached the conclusion that preventing a repetition of the violence associated with these events lies largely within the power of the people of Timor-Leste themselves. For that reason many of its recommendations are directed specifically to them and to the institutions of their new state.

The Commission is confident in the feasibility of its domestic recommendations, despite the strong tendency of the conflict to create divisions among the population. One reason for this confidence was that, as the Commission acknowledged in the Introduction to the Report, Timor-Leste has always been fortunate in having peacemakers dedicated to overcoming differences and nurturing an overarching national East Timorese consciousness that transcended political or other allegiances.

The CNRT's initial vision for the Commission was that it should reach a wide range of the Timorese people in all its activities, including in its search for the truth about the past.*

In the course of its truth-seeking activities – when taking statements, at Public Hearings and Community Reconciliation Procedures, or in

* *Outcomes of the CNRT National Congress*, 21–30 August 2000, pp.15-16.

Community Profile workshops – the Commission consistently asked the many thousands who testified to it to make recommendations based on their experiences and needs. It found that for many East Timorese the demand for justice was a fundamental issue, and the spur that had driven them to come forward to tell their stories in the first place. As well as telling the Commission that they sought some kind of accountability on the part of the perpetrators, people also commonly told the Commission that they wanted help to enable them and their children to participate on an even footing in the new democratic Timor-Leste. It was part of the Commission's mandate to channel and give voice to the views of those who spoke to it. Thus, the Commission felt beholden to record, and endorse, the persistent demands it heard in the course of its work for accountability and reparations.

At the same time the Commission could not ignore the fact that throughout the mandate period the conflict had international dimensions, engaging a wide range of players that included, besides Indonesia and Portugal, Australia, the USA, the UK, Japan and the UN. In legal terms the conflict became fully internationalised with Indonesia's launch of large-scale incursions in September 1975. Indonesia's full-scale invasion in December 1975 and its formal annexation of the territory in July 1976 were condemned as breaches of international law by the UN Security Council and General Assembly.

Moreover, the Commission found overwhelming evidence that in Timor-Leste the Indonesian security forces committed crimes that amounted to crimes against humanity as defined in international law. In keeping with the gravity of this finding it sought to identify those responsible, and recommended that they be held accountable for their actions.

At the same time it concluded that, whatever route to justice was taken, achieving it would require a commitment from the international community, mobilised through the United Nations. Such a commitment would be consistent with the undertakings made in successive Security Council Resolutions with regard to accountability and justice in Timor-Leste for crimes committed in 1999.

This approach has been validated by the UN Secretary-General and the Office of the UN High Commissioner for Human Rights, both in

general terms^{*} and specifically with regard to crimes committed in Timor-Leste in 1999. With regard to the events of 1999 in Timor-Leste, the UN Security Council, in successive resolutions adopted between 1999 and 2005, repeatedly asserted that grave violations of human rights had been committed, that those responsible for those violations should be brought to justice and that the UN had an important part to play in achieving that goal.[†]

In the two most recent of these resolutions the Security Council reaffirmed the need to fight against impunity (Security Council Resolution 1573 of 16 November 2004) and the need for credible accountability for the serious human rights violations committed in Timor-Leste in 1999 (Security Council Resolution 1599 of 28 April 2005). In January 2005 the Secretary-General, citing among other things the most recent Security Council Resolution on Timor-Leste, Resolution 1573, and its reaffirmation of the need to fight against impunity, appointed a Commission of Experts to assess the judicial processes established in East Timor and Indonesia to prosecute crimes against humanity committed in 1999 and to recommend further measures “so that the perpetrators are held accountable, justice is secured for the victims and the people of Timor-Leste, and reconciliation is promoted”.[‡]

The Commission took the view that there was no reason to limit accountability to the crimes of 1999, and that it should also extend to crimes of similar gravity committed at any time during the entire 25-year period of the Commission’s mandate.

.....
^{*} In 2004 the United Nations Secretary-General urged the Security Council to act on the principle that it is never permissible for war crimes, crimes against humanity and gross violations of human rights to be amnestied. (Paras 10, 32, 49 and 64, Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies [UN Security Council Document S/2004/616]). The same principle has been incorporated in the UN Commission of Human Rights’ Set of Principles to Combat Impunity, both in its original form and in its proposed updated version (E/CN.4/2003/97; Commission on Human Rights resolution 2003/72; and E/CN.4/2005/102.Add.1). The Special Representative of the Secretary-General in Timor-Leste, Sukehiro Hasegawa, was upholding this principle when he told Indonesian and East Timorese Commissioners of the bilateral Truth and Friendship Commission (TFC) in February 2006 that UN support for the Commission would be forthcoming only to the extent that the TFC adopted it in their work. (UNOTIL, Daily Media Review, 28 February 2006).

[†] See Resolution 1264, 15 September 1999, S/RES/1264 (1999), Resolution 1272, 25 October 1999 S/RES/1272 (1999), Resolution 1319, 8 September 2000 S/RES/1319 (2000); Resolution 1338, 13 January 2001 S/RES/1338 (2001); Resolution 1410, 17 May 2002 S/RES/1410 (2002); Resolution 1543, 14 May 2004 S/RES/1543 (2004); Resolution 1599, 28 April 2005 S/RES/1599 (2005).

[‡] Letter dated 11 January 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/96).

Justice: an international approach

The Commission called on the international community to press Indonesia to achieve accountability for the abuses committed in Timor-Leste and make cooperation conditional on the progress achieved in reaching this goal.

The Commission called on the Security Council to establish an international tribunal, should other measures be deemed to have failed to deliver a sufficient measure of justice.

To promote reconciliation and democratisation, Indonesia should strengthen “the independence and efficiency of its judicial system in order to be able to genuinely pursue justice and reverse the record of impunity that regrettably has been the norm regarding the crimes committed in Timor-Leste”.

The Commission recommended that the Serious Crimes Unit of the Office of the Prosecutor General and the Special Panels on Serious Crimes should have their mandates renewed.* Out of recognition of the political and practical difficulties that prevent the Government of Timor-Leste from setting these two bodies up, the Commission recommended that both be placed under the jurisdiction of the UN.

The scope of the Serious Crimes Units and the Special Panels should be extended to cover crimes committed during the whole period 1975–99. The Commission identified a number of specific cases which it recommended that the Serious Crimes Unit should investigate and prepare for prosecution. These exemplary cases comprise crimes attributed to members of both the Indonesian security forces and the East Timorese parties and their armed wings. This list of cases should not be regarded as exhaustive or precluding the prosecution of other cases.

Indonesia should be encouraged to contribute to the achievement of justice, by cooperating with the Special Panels, by strengthening its own judicial system and acting in other ways to break the cycle of impunity that was a feature of its agents’ conduct in Timor-Leste.

.....
* These two bodies were created by UNTAET Regulations 11/2000 and 16/2000, which gave them exclusive jurisdiction over the prosecution and trial of serious crimes. Both continued to exist after independence in May 2002, but were closed in May 2005. By that date 87 of the 440 people indicted by the Serious Crimes Unit had been tried before the Special Panels; the overwhelming majority of indictees who were not brought to court were beyond the reach of the East Timorese authorities in Indonesia. Following the establishment of UNMIT in response to the 2006 crisis, a Serious Crimes Investigation Team (SCIT) was set up to complete investigations into human rights violations committed in 1999.

The Commission did not call immediately for an International Tribunal but recommended that the United Nations “remains seized of the matter of justice for crimes against humanity in Timor-Leste” and be prepared to set up an International Tribunal if other measures fail.

However, the Commission urged the international community to take measures that will accelerate the prosecution of persons accused of crimes against humanity.*

The CAVR urged that the bilateral Commission for Truth and Friendship (CTF) established by Indonesia and Timor-Leste should act in ways that strengthen, not weaken, the foundations of criminal justice in Timor-Leste and Indonesia. It should, for example, oppose granting blanket amnesties without regard to international standards of due process.

Other recommendations about CTF were intended to ensure that the CTF’s principles and operations did not conflict with CAVR’s own, and in particular that they do not impede the achievement of justice.

Thus:

- It called for the CTF to act so as not to diminish the chances of criminal justice taking its course.
- It recommended that the Governments of Indonesia and Timor-Leste guarantee the independence of the CTF.
- It urged the CTF to uphold the principle that persons accused of serious crimes should be cleared of guilt only after undergoing a judicial process that accords with international legal principles.

.....
* These include:

- Ensuring that their law enforcement authorities are enabled to transfer those indicted to the Serious Crimes regime established by the UN, to try those indicted themselves or to extradite them to a jurisdiction genuinely interested in trying them.
- Ensuring that persons responsible for the crimes described in this report are not allowed to continue profitable careers regardless of their crimes.
- Establishing a special board of investigation under the auspices of the United Nations to establish the extent, nature and location of assets held by those indicted for crimes against humanity in Timor-Leste.
- Freezing the assets of all those indicted for crimes against humanity in Timor-Leste, subject to national and international laws and pending hearing of cases before the relevant tribunal.
- Placing travel bans on those indicted for crimes against humanity in Timor-Leste.
- Linking international aid and cooperation to specific steps by Indonesia towards accountability, such as cooperation with the Serious Crimes process, the vetting of perpetrators who continue their careers in the public sector, and the scrutinising of Indonesian members of peacekeeping missions and training courses to ensure that alleged perpetrators of violations are not included.

- It urged the CTF to show respect for the work of Timor-Leste's Serious Crimes Unit and CAVR. It should, for example, seek to build on, not undermine, CAVR's truth-seeking work.

The Commission also urged the CTF to respect fully the rules governing access to information which has been given under promise of confidentiality to previous institutions, including the CAVR and the Serious Crimes bodies.

Reparations

The Commission recommended a reparations programme aimed at alleviating the plight of the most vulnerable and that would also go some way to meeting the requirements of justice and national reconciliation.

The Commission believed that such a programme of reparations was consistent with the Constitution of Timor-Leste, international human rights law, East Timorese tradition and the Commission's own founding legislation.*

The Commission listened to thousands of victims in a wide variety of settings, and asked them what they needed. Within its limited means it also sought to give them moral and material support to assist in their rehabilitation.

As it listened to survivors speaking at public hearings and workshops or giving statements and interviews, the Commission was struck by the modest nature of what most of them were asking for.

Overwhelmingly they wanted perpetrators to be held accountable in some manner. In the case of those still suffering severe hardship as a result of the losses, pain and disability inflicted on them, people also requested small scale assistance to enable them and their children to participate on an even footing in the new democratic Timor-Leste.

* See Section 11 of the Constitution ("The State shall ensure special protection to the war-disabled, orphans, and other dependents of those who dedicated their lives to the struggle for independence and national sovereignty, and shall protect those who participated in the resistance against foreign occupation"); Regulation 10/2001, Sections 3.1 (f) and (g), and 21.2; and Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, approved by the Human Rights Commission of the UN on 20 April 2005 [UN Doc. E/CN.4/RES/2005/35, Annex].

As the occupying power whose agents committed by far the largest number of human rights violations, the State of Indonesia has the greatest moral and legal responsibility to repair the damage caused by its policies and agents.

All East Timorese people have been victims of the conflict in one way or another. The Commission does not take issue with the Government of Timor-Leste when it asserts that for most Timorese the attainment of independence and the benefits flowing from it, including the fruits of national economic development, will offer compensation for their suffering during the years 1974–99. The Commission also acknowledges that since 1999 many states which had previously obstructed the right of the people of Timor-Leste to self-determination have supported Timor-Leste in a variety of important ways, thereby making amends in some measure for their indifference to, or complicity in, the plight of the East Timorese in earlier years.

However, in the course of its contact with communities throughout the country the Commission became acutely aware that many still suffer daily from the consequences of the conflict and that their children are likely to inherit their parents' disadvantages. This includes those who live in extreme poverty, are disabled or who are shunned or discriminated against by their communities. The Commission seeks to have this reality acknowledged and alleviated through a programme of reparations specifically directed at such groups.

The Commission's recommendations on reparations have been widely misinterpreted: the Commission did not propose that governments support a massive programme of restitution aimed at the comprehensive indemnification of the East Timorese people for losses suffered in consequence of Indonesia's illegal invasion. The Commission has been portrayed as putting Timor-Leste in the position of a vengeful mendicant, reproaching the world for failing to grant its strident demands for alms.

What the Commission actually proposed was a modest, time-bound reparations programme targeted at identified groups who are considered to be in greatest need of assistance.

The Commission also identified what it regarded as appropriate sources of funding for this reparations programme, including:

- Indonesia, which as the occupying power bearing direct responsibility for the overwhelming majority of violations, had "the greatest moral

and legal responsibility” to help repair the damage caused by its policies and agents.

- Permanent members of the Security Council, governments which provided military assistance, including weapons sales and training, to the Indonesian government during the occupation, and companies that benefited from the sale of weapons to Indonesia.
- Member states which supported the illegal occupation of Timor-Leste and thus indirectly allowed violations to take place.
- Portugal, as the administering power, should also assist the Government of Timor-Leste in the provision of reparations to victims of human rights violations from the conflicts in Timor-Leste.

This list is indicative only. It is based only partly on the principle that those who bear direct or indirect responsibility for inflicting suffering on the people of Timor-Leste in what was deemed under international law to be an illegal cause should bear responsibility for alleviating the plight of those who continue to suffer as a result of their actions. At the same time the Commission made it clear that implementing the programme should not be contingent on each of these possible sources of support responding positively to appeals for funds.

Moreover, while it believes that the countries and organisations named above should fund the reparations programme out of a sense of moral obligation, this should not bar other governments (including the Government of Timor-Leste), as well as international agencies and NGOs, from also contributing out of a concern for social justice.

The reparations programme that the Commission recommended is designed to address the manifest unmet needs of those who continue to suffer the sequelae of abuse inflicted on them or those closest to them.

A targeted reparations programme to alleviate the plight of the neediest

The highest priority should be targeting those most in need of support.

Target groups should include: victims of torture; people with mental and physical disabilities; victims of sexual violence; widows and single mothers; children affected by the conflict; and communities which suffered large-scale and gross human rights violations.

The programme should acknowledge the special experiences and vulnerabilities of women, which led the Commission to recommend

that at least 50% of the programme's resources should be directed to female beneficiaries.

The programme's initial focus should be victims who came to the attention of CAVR during the course of its work; a two-year period should be set aside to identify other beneficiaries.

A National Reparations Agency should be established to run the programme for an initial five-year period with the possibility of an extension. The agency would work with government ministries, NGOs and church-based organisations involved in the delivery of services relevant to the needs of beneficiaries. A proposed scholarship programme for children should continue until the last eligible child has turned 18, that is, until 2017.

Acknowledgement

The Commission discharged the responsibility imposed by its founding legislation to inquire into human rights violations committed by all sides. The Government of Timor-Leste has acknowledged that errors and excesses were committed by pro-independence forces, particularly in the early years after the invasion. The President, Xanana Gusmão, the Prime Minister, Mari Alkatiri, and the Foreign Minister, José Ramos-Horta, have attested to the Report's accuracy both in general and on specific points.

While violations were committed by all sides in the conflict, by acknowledging this fact the Commission did not imply there is equivalence between the different parties to the conflict as to their responsibility for the violations that occurred. Acknowledgement is not just a gesture, but an absolute precondition for reconciliation in the broadest sense. It can also have beneficial practical consequences, for example, by opening the way to the kind of bilateral cooperation needed to locate the remains of the dead and establish the fate or whereabouts of the disappeared.

Upholding human rights in Timor-Leste

The Commission made a number of recommendations suggesting practical ways in which respect for human rights could be fostered in Timor-Leste.

The Commission urged the Government to uphold the human rights standards to which it has committed itself by ratifying an impressively wide range of international instruments.*

Specifically the Commission recommended that the Government use its human rights reporting obligations as a tool to evaluate the implementation of its commitments under these treaties, including by making the reports widely available for public discussion in Timor-Leste.

Among its recommendations aimed at fostering respect for the right to life, the Commission urged that the lives of those who died be honoured, the disappeared located and the dead receive proper burials. The Commission proposed specific steps such as the erection of memorials in honour of victims of major human rights violations at the sites where they occurred; and the compilation of a public register of the disappeared and a systematic inquiry into the fate and whereabouts of those on list, in collaboration with the Government of Indonesia.

Acknowledging that during the period 1974–99 the people of Timor-Leste experienced constant personal insecurity, taking many forms including arbitrary detention, torture, inhuman and degrading treatment or punishment, interrogation, invasion of privacy and unfair trials, the Commission proposed concrete ways in which the right to security of person could be upheld. They included a national commitment to non-violence that would involve a national debate on the issues surrounding the culture of violence which was a feature of the 25 years of conflict covered in the Report. Such a commitment would be in keeping with the principles which guided the East Timorese

.....
* Timor-Leste has approved accession, among other instruments, to the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment; the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women; the two Optional Protocols to the International Covenant on Civil and Political Rights; the two Optional Protocols to the Convention on the Rights of the Child and the Rome Statute of the International Criminal Court. Its officials have also recognised that accession is meaningless unless it is accompanied by implementation. See, for example, Speech of José Ramos-Horta at Heinrich Böll Foundation, Berlin, 29 November 2002: "On December 10th our parliament will ratify the most relevant, the most important international human rights instruments making East Timor one of the countries that is acceding to ratify the largest number of international human rights instruments: Convention on the Rights of the Child, Convention on Refugees, Convention against Torture and many others. But we are not only ratifying them, we are conscious that ratification brings also responsibility: responsibility to the people and responsibility to the international community."

Resistance and the Church during much of the occupation and were reaffirmed during the elections held during the UN transitional administration and since independence.

The Commission outlined a number of steps to guarantee and foster those essential freedoms necessary if citizens are to participate fully in the political and other aspects of the life of the nation. The means for this include a programme of civic education designed to equip all East Timorese with an adequate understanding of the institutions and processes of democracy and of their rights and obligations as citizens. This includes education regarding such rights as the right to education and health, which underpin a functioning democracy.

Aside from the reparations programme, the Commission proposed other measures to protect and promote the rights of the most vulnerable, in particular women and children. For example, it stressed the need to devise means to halt the still-unbroken cycle of violence and fear within the home which afflicts the lives of women and children (particularly girls).

It also proposed steps to promote and protect human rights through the institutions of the new state, including Parliament, the judiciary, the public service, the Office of the *Provedor* (Ombudsman), civil society and the Churches. It strongly urged that specific measures be undertaken to ensure the defence force (F-FDTL) and police remain politically neutral and under civilian control.

Reconciliation

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

From the CAVR's Community Reconciliation Process (CRP) programme, it is evident that communities continue to need help in coming to terms with the divisions caused by the long years of political conflict. The Commission recommended that consideration be given to establishing a community-based mechanism that builds on the lessons learned from the CRP and, as with the CRP, adheres to a framework based on the respect for the rule of law and human rights.

The Commission concluded that reconciliation among the East Timorese political parties requires them to address the human rights violations committed by their leaders and members in the past and more broadly to remove the threat of violence from East Timorese political life.

The Commission was of the view that if friendship between Timor-Leste and Indonesia is to flourish, acknowledging the truth of the past, providing accountability for criminal violations, and showing generosity towards those who have been harmed by those violations is vital.

During its extensive work in the community, especially with victims of serious violations perpetrated by members of the Indonesian security forces, the Commission was struck by the generosity of those victims towards Indonesia. Communities in all parts of the country told the Commission that they wanted to see justice done for the serious crimes committed during the conflict. However this call for justice was rarely expressed in a vengeful or hateful way, or directed against Indonesia or the Indonesian people as a whole.

The Commission identified a range of actions that, if undertaken by the Government of Indonesia, would greatly enhance the process of reconciliation. They included:

- Acknowledging and apologising for violations committed by its agents during the occupation.
- Reviewing educational materials and official accounts relating to the Indonesian presence in Timor-Leste.
- Providing information about the names and details of personnel of East Timorese origin who died while serving with ABRI/TNI.
- Providing the particulars of children who were removed by state agents or institutions during the occupation and, more generally, assisting in the protection of the rights of separated children as specified in the memorandum of understanding signed by the Governments of Timor-Leste and Indonesia in 2004.
- Fostering contacts between East Timorese in Timor-Leste and East Timorese in Indonesia, particularly West Timor.
- Providing the names of political prisoners who died in custody during the occupation.
- Giving its full cooperation to any future international or East Timorese initiatives to address justice for violations of human rights committed in Timor-Leste between 1974 and 1999.

The Commission's archives

The Commission recommended that:

- The National Parliament of Timor-Leste adopts legislation regulating the preservation, organisation and use of national archives.
- The archives of the Commission be maintained at the site of the former Balide Comarca and be administered as part of the official national archives in accordance with the access policy decided by the CAVR Commissioners until national legislative provisions are determined.
- The archives form an integrated part of an active human rights centre to be developed in the former Balide Comarca whose overall purpose will be to remember, honour and learn from Timor-Leste's recent human rights history.
- Financial support be provided by the Government for the maintenance and development of this centre and an ongoing programme of research and education.

The follow-on institution

At the conclusion of its mandate the Commission was strongly convinced that aspects of its work should be continued as part of an ongoing national effort to acknowledge the truth about the past, and to foster non-violence and reconciliation. It proposed the creation of an institution to carry on this work.

For this reason the Commission recommended that the National Parliament mandates a national consultation under Presidential auspices on the role, terms of reference and feasibility of a follow-on institution. The findings of the consultation would be presented to the National Parliament for its consideration. Issues to be considered should include:

- The implementation of the Recommendations in the CAVR Report.
- Mechanisms for furthering reconciliation in Timor-Leste.
- The preservation of the Balide Comarca prison as a national centre for education, for the commemoration of victims of human rights violations and for the preservation and use of the CAVR archives.

Resources available from the Post-CAVR Technical Secretariat

Chega! Full Report

- English version – 5 volumes plus Plain Guide (2013). Also available from Gramedia, Indonesia: www.gramediaonline.com.
- Indonesian version – 5 volumes plus Plain Guide (2010). Also available from Gramedia, Indonesia: www.gramediaonline.com.
- For information on other language editions, visit www.cavr-timorleste.org.

Short versions of Chega!

- *Chega!* A Plain Guide, 104 pages (2013). Also available from Gramedia, Indonesia: www.gramediaonline.com.
- Indonesian version: *Chega!* Buku Panduan, 112 pages (2010). Also available from Gramedia, Indonesia: www.gramediaonline.com.
- *Chega!* Comic book version (cartoon style, 5 slim volumes). Available in Tetum and Portuguese.
- Permanent *Chega!* Exhibition (located at the CAVR in Dili – a former political prison – and open to the public).
- Mobile *Chega!* Exhibition (designed especially for districts outside Dili).

Speeches on the CAVR Report by former President Xanana Gusmão (Available in Tetum, Indonesian, Portuguese and English)

- On the presentation of *Chega!* to the President (31 October 2005).
- On the presentation of *Chega!* to the Parliament (28 November 2005).

Public Hearing books (Available in Tetum, Portuguese, Indonesian, English)

- Women and the Conflict
- Massacres
- Forced Displacement and Famine
- Political Imprisonment
- Internal Political Conflict 1974–1976
- Self-determination and the International Community
- Children and the Conflict

Other books

- *Hear Our Voices* (Tetum and English)
- *The Balide Comarca Prison* (Indonesian and English)
- *History of Timor-Leste in Posters* (English, Tetum, Portuguese, Indonesian)

Video and radio documentaries

- *Dalan ba Dame* (Road to Peace): full length version 144 mins, DVD (Tetum with sub-titles in Portuguese, Indonesian and English); shorter version 75 mins.
- *Dalan ba Dame* audio version (Tetum only, in five 30 minute segments).

Website

- <http://www.cavr-timorleste.org>

Contact details Post-CAVR Technical Secretariat

- Street address: Ex-Balide Comarca, Rua de Balide, Dili, Timor-Leste.
- Postal address: PO Box 144, Dili, Timor-Leste.
- Tel: (+670) 3311263
- Executive Director: Rev. Agostinho de Vasconcelos
- Email: stpcavr1@gmail.com

After looking at forty truth commissions world-round, I concluded that the truth commission of East Timor was among the five strongest. It was an impressive, passionate and scrupulous exercise. And its report, *Chega!*, stands in testament to this careful and rigorous exercise, honestly reflecting the victims' stories as well as the far-reaching conclusions that emerged from this work. It is wonderful that this will now be available, in full, in English; it will be an important reference for others embarking on a similar path.

Priscilla Hayner,

Author, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed., 2011)

"The extensive CAVR Report is an encyclopedia of our history, rich in both teachings and suffering. We must utilise its great teachings to better understand today's crisis and to help prevent future crises."

Jose Ramos-Horta,

Nobel Peace Laureate, former President and Prime Minister of Timor-Leste (July 2006)

"*Chega!* is troubling testimony. This report will jolt Indonesian readers who think that under the Soeharto regime everything was peaceful in Indonesia's then 27th province. Page after page recounts the stories of victims of massacres, rape, forced disappearances, torture, and other unimaginable crimes ... Indonesia can learn from *Chega!* This report is an important contribution to democratisation and security sector reform in Indonesia."

Ifdhal Kasim,

Chair, Indonesian Commission on Human Rights (August 2010)

"The CAVR Report constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. It is my sincere hope that (it) will be an enduring contribution to building the Timorese nation and will help to prevent the recurrence of such tragic events in Timor-Leste and elsewhere."

Kofi Annan,

UN Secretary-General (July 2006)

KPG (KEPUSTAKAAN POPULER GRAMEDIA)

Gedung Kompas Gramedia, Blok 1 Lt. 3
Jl. Palmerah Barat 29-37, Jakarta 10270
Telp. 021-53650110, 53650111 ext. redaksi 3366
Fax. 53698044, www.penerbitkpg.com
redaksi.kpg@gramediapublishers.com
Facebook: Penerbit KPG; Twitter: @penerbitkpg



cavr-timorleste.org



timor-leste.gov.tl

KPG: 901 13 0737
ISBN: 978-979-91-0642-1



9 789799 106421