



VICTORIA UNIVERSITY
MELBOURNE AUSTRALIA

Timor link, no. 55, March 2002

This is the Published version of the following publication

UNSPECIFIED (2002) Timor link, no. 55, March 2002. Timor link (55). pp. 1-12.

The publisher's official version can be found at

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

No.55 March 2002

Getting serious about justice

Indonesia has set up an ad hoc human rights court to try perpetrators for human rights abuses committed in East Timor in 1999, and appointed judges to it. However, prosecutions are restricted to events that took place in April and September 1999, and in only three of East Timor's 13 districts. The international community must now monitor the trials carefully, as all the signs are that this court will not measure up to international standards.

International campaigners preparing to lobby on East Timor at the UN Commission on Human Rights (UNCHR) at the end of March should draw attention to the following points:

- The key issue is the quality of the proceedings, not how soon trials can begin. Any UNCHR statement or resolution should reflect this. Requirements for a proper process include: review of Indonesia's Law on Human Rights Courts (Law 26/2000) to ensure that it is consistent with international standards; effective and comprehensive protection for witnesses and victims; and comprehensive training for judges and other officials in the implementation of international human rights law and standards. Concerns about the independence of the judges must be addressed before trials begin.
- The jurisdiction of the ad hoc court must be extended to cover the whole of East Timor from 1 January 1999 to 25 October 1999.
- The Office of the High Commissioner on Human Rights has suspended its technical assistance to Indonesia for the East Timor justice process pending a



Irene Slegt/CIIR

The transition to independence means more hard work for women. See story on page 9.

review of the Presidential Decree defining the court's jurisdiction. Reinstatement of the assistance programme should be contingent on a review of the decree.

- The CHR should express concern at Indonesia's failure to assist the UN Serious Crimes Unit in East Timor by providing access to witnesses and evidence, and transferring to East Timor suspects indicted by the UN administration in the territory. The UNCHR should call on the Indonesian government to comply with the terms of its Memorandum of Understanding with the UN administration.

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Countdown to independence

On 20 May East Timor will finally celebrate its independence – 25 and a half years after it was declared on 28 October 1975. It will be a day of celebrations, but for many, also, a day to remember what has been sacrificed to bring independence about.

CATHERINE SCOTT reports.

The date chosen for independence is the anniversary of the foundation of the Social Democratic Association of East Timor (ASDT), precursor to the largest political party, Fretilin. Given Fretilin's dominance of the Constituent Assembly independent observers have suggested that a more politically neutral date, such as that of the 1999 referendum on independence, might have been preferable.

UN Security Council Resolution 1392, passed on 31 January 2002, extended the mandate of the UN Transitional Administration in East Timor (UNTAET) until 20 May, but cut the number of peacekeeping troops from 8,000 to 5,000. The council has yet to receive the UN secretary-general's recommendations for the shape of the future UN administration which will remain to support the new state. Sergio Viera de Mello has recommended that a successor mission should stay until 2004, but France and the United States want to wind up the mission earlier to save money.

Presidential elections

Meanwhile, the Constituent Assembly has voted to turn itself into the territory's first government. The full implications of last year's elections hit home rather late: many people had not realised that the assembly they elected would have the authority to do this. Presidential elections will take place on 14 April. The candidates are Xavier do Amaral and Xanana Gusmão. Gusmão is likely to win.



Fretilin supporters during the campaign for the Constituent Assembly elections

The Constituent Assembly has debated the constitution and put out a draft for national consultation. Each district will hold discussions with assembly members, and comments will be fed back before a final signing ceremony on 16 March. A number of people, including Gusmão and Bishop Carlos Ximenes Belo, have called for a longer consultation process.

A major concern is the draft constitution's failure to protect gays from discrimination. A majority of assembly members voted to drop 'sexual orientation' from the list banning discrimination on the basis of colour, race, gender, marital status, and ethnic origin. João Carrascalao of the Timorese Democratic Union (UDT) described homosexuality as an 'illness', the protection of which would cause 'social chaos'.

Another controversial area was the relationship between church and state.

The title of this section in the draft constitution, originally 'Separation of the State from the church', now reads 'Relationship between the State and religious denominations'.

Outstanding issues

As East Timor prepares for independence, a number of outstanding issues remain. Indonesia is refusing to extradite to East Timor people suspected of crimes against humanity in the territory, claiming that no extradition agreement exists. But Indonesia signed a Memorandum of Understanding with the UN Transitional Administration in East Timor in 2000 to cooperate with criminal investigations and to hand over suspects. The UN is seeking an international arrest warrant through Interpol for 17 men currently in Indonesia.

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- There is a direct causal link between impunity for crimes committed in East Timor and the continuing human rights violations in Aceh, Papua and elsewhere in Indonesia. The slow and compromised justice process reinforces those responsible for violations in the knowledge that they will not be brought to account.

- If, as is likely, governments balk at threatening an international criminal tribunal, the UNCHR chairman's statement must at least remind Indonesia that the International Commission of Inquiry and the group of three UN Special Rapporteurs recommended just such a step. The Commission of Inquiry was set up as a result of the resolution passed by the UNCHR Special Session in

1999. The UNCHR should not be allowed to forget this for the sake of convenience.

Many groups have renewed calls for an international tribunal to be established – including solidarity groups, legal and human rights groups and church-linked organisations (see pages 4 and 8). This must be the ultimate deterrent to force Indonesia to take the issue seriously.

Timor Sea talks

Negotiations between East Timor, Australia and Indonesia to settle boundaries in the oil-rich Timor Sea started on 26 February in Bali. They aim to replace the 1989 Timor Gap Treaty between Indonesia and Australia. RICARDO TOMAZ reports.

The Timor Gap Treaty was signed in 1989, after 11 years of negotiations between the Australian government and the Suharto regime. This made Australia the first and only western country to legitimise Jakarta's *de jure* sovereignty over East Timor. The treaty gave substantial gains to the Australians, at the time a vital ally of the Suharto dictatorship, while the East Timorese received no benefit at all. As the treaty was signed by Canberra and Jakarta, it is not binding on the new state of East Timor. A new arrangement is needed.

The Timor Sea contains important and largely untapped deposits of oil and natural gas estimated to be worth billions of dollars. Since 1999 East Timorese and

UN negotiators have tried to claim an East Timorese entitlement to 90 per cent of all oil and gas profits. Australia offered Dili a mere 50-60 per cent. Over the years the Timor Gap case has become a legal tangle (even involving concessions granted by the Portuguese colonial administration to foreign companies, giving them the exclusive right to explore and develop petroleum resources of the then Portuguese Timor seabed). If unresolved, the issue could harm relations between Dili and Canberra. Both East Timor and Australia want an agreement that will finally delimit the boundaries in the Timor Sea. Until now political developments in East Timor and complex legal issues concerning maritime boundaries have prevented oil and gas companies from starting exploration.

For both countries, the sooner this matter is resolved the better. Both East Timor and the Northern Territory desperately need the profits from oil and gas to start flowing, as these are vital for their economic development.

Oil and gas royalties from the Timor Sea may soon become East Timor's main source of income and will contribute to its economic viability. They are expected to generate US\$7 billion in royalties over two decades.

Australia's Northern Territory stands to gain from the creation of a local industry. It expects eventually to earn millions of dollars from a pipeline linking Darwin to the rich gas fields offshore. Darwin wants all oil and gas to come onshore to be processed in its plants, which would create thousands of jobs and attract vital investment.

A proposal from Royal Dutch/Shell to construct a floating liquefied natural gas plant would remove the need to bring the gas onshore through a 500 km pipeline to Darwin.

This would enable development of the gas reserves of the Timor Sea, but puts at risk the plans for Darwin's development. Australia does not want to lose the Timor Sea profits to foreign companies.

HIV/AIDS: A new challenge for Timor

Although HIV transmission has been declining in the western hemisphere, it continues to grow in Africa and Asia. According to the World Health Organisation, since the epidemic began in the mid-1980s, more than 60 million people have been infected with HIV and almost 22 million have died of AIDS, leaving 13 million children orphans. By the end of 2001 an estimated 40 million people in the world were HIV positive. The economic and social consequences have been devastating. At the beginning of 2000, it was reported that the HIV/AIDS crisis in South East Asia could be as severe, if not worse than, the epidemic in Africa.

There is no definitive data about the extent of HIV/AIDS in East Timor. In December 2001, the health ministry confirmed the territory's first cases of HIV/AIDS infection: three members of an unidentified family were found to have the HIV virus. Despite the low figures, it seems that after the violence, rape and forced relocation after the August 1999 independence ballot, these figures might be the tip of the iceberg. Conflict and displacement are likely to increase vulnerability to the virus.

In February this year 28 East Timorese health workers took a five-day UN-funded HIV/AIDS training course, with the aim of increasing their ability to spread information and awareness about the virus. The course was organised in collaboration with the Ministry of Health and more courses have been held since.

Focus on prevention

Given the relatively young age of the East Timorese population, the UN Transitional Administration in East Timor (UNTAET) is pursuing a policy of HIV prevention. In April 2001, an All-Timorese Working Group on Sexually Transmitted Diseases/AIDS was set up, consisting of representatives from local NGOs, the Catholic church, women's groups and medical associations. The Catholic church has set up a programme, run by the Catholic NGO Caritas, to inform the population about the HIV/AIDS virus through clinics all over East Timor.

The possible spread of the disease is an issue of public concern. It is important that the authorities in Dili, the Catholic church, and local NGOs encourage more public discussion, and

above all, behavioural change, among young people in particular.

Education and consciousness raising must start immediately, not only in the main cities but also in the more conservative-minded countryside. East Timorese society as a whole remains very much under the moral influence of the Catholic church, which played a remarkable role and which gained a tremendous influence over the East Timorese population under the Indonesian occupation.

In other countries, those inclined to the rigid application of Catholic teaching have opposed certain aspects of HIV/AIDS prevention – use of condoms, for example. Nevertheless, the church hierarchy in East Timor seems open to addressing HIV/AIDS with seriousness and commitment. The main difficulty is to reach those in East Timorese society who are most at risk, such as men who have sex with men, and commercial sex workers. In a culture where talking about sex is taboo, and where the new constitution has dropped protection from discrimination on grounds of sexual orientation, this will present a tough challenge.

Why we need an international tribunal

ADRIEN ZOLLER takes issue with Jon Cina's argument, published in *Timor Link* 54, January 2002, that East Timor can achieve justice without an international tribunal.

The arguments Jon Cina puts forward for persevering with existing judicial processes to prosecute perpetrators of the violence in East Timor in 1999 (see *Timor Link* 54, page 6) are good in theory, and offer a developmental approach. But they fall down in practice. When it comes to bringing the 'big fish' to justice, Indonesia is very unlikely to cooperate. Although even the International Criminal Tribunal on Yugoslavia in The Hague does not try to arrest people and has had extreme difficulty in pursuing some individuals, sometimes things can suddenly change. Even in seemingly impossible cases, there comes a moment when recalcitrant nations are vulnerable to certain kinds of international pressure, economic pressure in particular, and decide to hand over individuals they have hitherto protected. This was the case with Serbia and Milošević.

A global issue

The need to bring the guilty to account for the events of 1999 in East Timor is not simply an East Timorese issue. It is a world issue. Since the beginning of the 1990s the world has made tremendous steps towards a global system of human rights and humanitarian law, as well as international criminal law. Before this, there were no concrete initiatives to hold people personally accountable for crimes against humanity — states were considered responsible. Now political or military leaders can be held responsible abroad for their actions or their country's actions, and jailed if found guilty.

What happened in East Timor contravened two bodies of law — the laws of war and human rights law. For prosecutions to be valid, the abuses have to be widespread. They certainly were. They have to be serious breaches — and they were. After Nuremberg, a number of international conventions defined international crimes such as apartheid. After the massacres in Rwanda and Yugoslavia, the 'shame' list has been

getting longer. Violence against women and rape have now been defined as war crimes. More and more states have begun to implement law within the international jurisdiction.

Therefore, if an Indonesian general travels abroad, he opens himself up to the possibility of being arrested. But the case against him must be prepared, and the complaint lodged by the victims first. (A recent example was the Pinochet case in the UK.)

Many Latin American 'reconciliation' processes over the past 30 years may have conveniently glossed over cases of individual responsibility (usually because the perpetrators managed to position themselves beyond the law). They have come unstuck because years afterwards, a general has travelled overseas and found himself arrested on charges dating back several decades.

So increasingly, those guilty of crimes against humanity can no longer travel. For prominent figures with large bank balances used to the jet-set life style, this is galling, at the least. Those who are campaigning for justice to be done should be aware of pending cases, and the possibility of preparing new ones.

Increasing intervention

Increasingly in the 1990s the UN Security Council has intervened in conflicts. Its resolutions have contained more and more human rights and humanitarian law language directed at state and non-state actors. Therefore if an international tribunal is not held on East Timor, it would be a step backwards.

It is a mistake to compare East Timor with Sierra Leone and Cambodia. What happened in East Timor took place under a foreign occupation. UN resolutions had called upon Indonesia to remove its troops from East Timor. In the agreements of 5 May 1999, Indonesia guaranteed security for the popular consultation, and then failed to provide it.

Also, in this particular case, the United Nations itself became a target of human rights violations as three workers of the UN High Commissioner for Refugees (UNHCR) were murdered in West Timor in October 1999. The United Nations has a duty to protect its own staff, and to pursue

justice on behalf of those killed in its service.

Irresponsible

For East Timor, neither a national judicial process nor a truth and reconciliation process are enough on their own to resolve these issues satisfactorily. It would be a abnegation of responsibility for the international community simply to pull out of a poor country which has been totally destroyed, leaving it with a little money and the prosecution of only a few of the lesser perpetrators. How could it honestly say that that was a job well done?

The cost of an international tribunal for East Timor need not be prohibitive. It is not necessary to set up a new court. The structures of the International Criminal Tribunals on Yugoslavia and Rwanda might eventually be able to handle East Timor.

As far as the smaller fish are concerned, all that is required is a little more political will and the strengthening of the existing judicial system to see that justice is done. It is important that the trials in East Timor proceed properly so that they expose the chain of command between the militias and the Indonesian military.

It would also be possible to try the big fish in a third country. It is now possible to file civil and criminal cases against human rights violators in Belgium. A victim needs to make a complaint, and the case must be prepared by local lawyers so that were the suspect to travel to Belgium, he would have to face charges.

A number of human rights and legal organisations would be able to prepare such cases and fund the necessary research.

The East Timorese deserve justice. It is time to set Indonesia a deadline to deliver those suspected of serious crimes. However, the search for justice for East Timor will take time, so any strategy must include longer and shorter term elements.

Systematic attention is needed for each suspect, and all the organisations concerned should work together to produce a more coordinated strategy.

- Adrien Zoller is director of the International Service for Human Rights, Geneva.

Peacebuilding in East Timor

The role and contribution of the church

A talk by BISHOP CARLOS BELO delivered on his behalf to the Nobel Centennial symposium in Oslo in December 2001.

The events of September 11 are a tragic reminder that the world needs to find new and more effective ways of resolving conflict. The cornerstone of all great faiths is respect for the sanctity of life. Acts of violence, in which innocent men, women and children are both the targets and the pawns, are totally unjustifiable. No religious tradition can or will tolerate such behaviour.

Terrorism is by nature indiscriminate. It kills civilians of all ages, races and persuasions. It intimidates individuals and communities the world over. Its very existence depends upon its ability to perpetuate fear. It is perhaps the most dreadful tool used to express violence.

Remember the words of Dr Martin Luther King Jr. He said that hate, like cancer, 'begets hate and violence begets violence in a never-ending circle of destruction'.

For many decades now, we have learnt many hard lessons about the downward spiral of violence and have been misled by false expectations about the ability of military power to solve complex, intricate problems.

I share the appeal made by the Nobel Peace Prize Laureates in the aftermath of September 11 that 'terrorism threatens the very principles to which our societies aspire and which are enshrined in the Universal Declaration of Human Rights. The best response to those who would undermine democracy and the rule of law is to reaffirm those very values and institutions.'

Confronting violence

It is indeed a terrible coincidence that in East Timor, it was also in the month of September, two years ago, that the Indonesia-led militia went on a rampage after the announcement of the results of the 'popular consultation'. The crisis of September 1999 was the culmination of a long history of violence and intimidation within East Timor.



Irene Slegt/CIR

Discussions about East Timor's future are part of the reconciliation process

The church in East Timor struggled to confront this violence. We tried to respond both to the humanitarian and pastoral needs of the people and to address the issue of peace building and conflict resolution. We knew that diplomatic intervention, while helpful, is not enough.

Diplomatic efforts to resolve conflict in East Timor were complemented by a wide range of initiatives by the church. Even during the Indonesian occupation — while condemning and exposing human rights abuses committed by the military — the church had been involved in reconciliation work between pro-independence and pro-autonomy groups. These processes became well known as DARE I and DARE II. They brought together all the conflicting political parties and groups and factions.

A delicate transition

We are now into the final and most delicate stage of the transition process to full independence. We have gone a long way. We have now an elected Constituent Assembly, chosen in the first democratic, peaceful, orderly and honest election.

We are now in the process of writing a constitution. This will chart the kind of society we want to build and create. The process of writing a new constitution, I must add, is in itself part of national reconciliation. It is an essential contribution to peace. The church will also ensure that the values of peace, justice and democracy are reflected in the new constitution.

The peaceful election that took place on August 30 this year, two years to the day after East Timor voted overwhelmingly in favour of independence from Indonesia, clearly indicated what had been the source of violence.

Let us be clear on this. The violence and destruction that we experienced were not a civil war. The official Indonesian investigation of the events in East Timor, as well as the UN's own investigation, indicate that members of the Indonesian army (TNI) and administration had planned and orchestrated the campaign of violence and destruction in East Timor.

It was clear to us that militia members were manipulated, rather than themselves being independent actors. Many became

involved in the militias because of poverty, intimidation, drugs, alcohol and fears for their own safety.

The challenge for the church, and particularly for me as a Bishop and a pastor, is how to help create peace and reconciliation with justice.

A false dichotomy

I have been told that I favour justice more than reconciliation. I think this is an artificial distinction, a false dichotomy. In seeking to redress the wrongs of the past that brought about conflict, a just rule of law is the heart of reconciliation and lasting peace.

In a world where the personal and social consequences of sin are evident, peace must be built on the basis of justice. Christians are called to live out a tension between their vision of the reign of God and its concrete realisation in history. In East Timor we live in a tension between the 'already but not yet'. We already live in the grace of the kingdom, but it is not

yet the completed kingdom. We are a pilgrim people in a world marked by conflict, trauma and injustice.

Christ's grace is at work; his command of love and his call to reconciliation are not purely future ideals but call us to obedience today. Reconciliation is not about a restoration to the old ways. It creates a situation in which both the victims and the militias are taken to a new place. That place is the new society we are creating based on the values that guided our struggle for independence: human rights, justice, and peace. When we call for justice, the church and the people of East Timor are not calling for vengeance. Far from it.

The quest for truth

The justice that people demand is the quest for truth: 'You shall know the truth and the truth shall set you free.' Mothers, widows and orphans of victims in every village I visit want to know what actually happened. If this truth is established, then

we can replace a society that was based on lies and violence.

In the recent reconciliation meeting done in a sub-district of Cassa in Ainaro, a certain man named Ernesto stood up to say that he wants to go out and tend his field but he fears venturing outside his house. He feels that people view him with suspicion and he swears that he has done nothing wrong. He went on about how he wanted to live a normal life but it was difficult because the community is suspicious of him. A man stood up and said: 'Excuse me, we belong to the same village. Maybe it will be good to explain why you think people view you with suspicion.' The man responded by describing his very miserable life lived in constant fear. The man who asked the question stood up and said: 'Please explain why you think we are treating you unfairly.' The first man finally said: 'I was the coordinator of the Mahidi (a militia group) in that area but I tell you now that I have done nothing wrong...' and the other man replied: 'That is fine, we accept your explanation and understand your position. We only needed to hear that from you. When you first started to speak about how you feel and that people viewed you with suspicion, you did not mention that it was because you were the coordinator of the Mahidi at that time. Now that you have admitted that, we the people accept your explanation.' All the people wanted to hear was the truth. They are not out to seek revenge.

Truth and justice are two things required to bring about forgiveness and reconciliation. This is why the church supported the establishment of the Truth, Reception and Reconciliation Commission. We have a representative in that commission. This commission will try to seek the truth at the village and community level as part of the national reconciliation and healing process.

Retribution or retaliation?

Retribution or retaliation is another concern we have in East Timor, as militia members return to their communities. There is a concern that justice and judgement may be carried out informally at the community level because the fledgling justice system cannot yet address all of the crimes which have taken place.

True reconciliation will not be possible until justice is done. It will be incomplete. The establishment of the justice system is a high priority for peace building. If a



The church and the people must address the effects of conflict, trauma and injustice

reconciliation initiative is to be genuine, it has to be part of a broader initiative, which includes seeking justice through a credible legal system.

Internationally, the East Timorese demand that the international community pursue its obligation to apply the international law not just to junior officers and militias. Justice implies an international duty to prosecute the perpetrators of gross violations of human rights through an International Tribunal.

The international community

We must constantly remind the international community that East Timor was under its care. This was in accordance with a UN Security Council resolution and tri-partite agreement under which Indonesia took on the responsibility for its security.

I emphasise this as the leaders and citizens of the world have to decide how those responsible for planning and assisting in the violent attacks in the United States are to be brought to justice. They have also to decide how the international community can take effective measures against the threat and practice of terrorism wherever it occurs. It is therefore an imperative need that countries recognise the need for a strong international court as an important tool, other than war, to fight terrorism and violence in whatever shape and form.

The deliberate use of political violence to support the pro-integration side or to sabotage the ballot by the Indonesian army in 1999 has wider ramifications than just in East Timor. It actively undermined the UN's role of assuring peace and security through democratic and peaceful methods. The perpetrators, the generals and commanders, must be brought to account if UN authority and credibility is to be maintained.

Peace and development

The church's peace building efforts also look back to conflicts and tensions which existed prior to the Indonesian occupation of East Timor. Some of these could now come to the fore. An example is the issue of land ownership. Many Timorese people had their land occupied by squatters or Indonesians when they fled during the invasion in 1975. Other issues of conflict arise from different regional and class identities within East Timor (many created by the Portuguese colonial administration) and long-standing inter-family conflicts.



Looking forward to a future of justice with reconciliation. Children in Ossu Rua, Viqueque

Empowerment of the East Timorese is extremely important. Because of their experience of colonisation, occupation and oppression, the East Timorese people have a level of distrust of foreigners. Only now are they beginning to have some control of the future of their country on either a national or international level. Furthermore, the Timorese people have not had experience with democratic processes and institutions.

Efforts towards peace building must be included in all aspects of any development programme. Over the short term, there is a great potential for conflict over very basic issues of access to food, adequate shelter, and employment. This will be particularly the case when the expatriates working for the UN and some international NGOs leave East Timor early next year.

Dealing with trauma

As well, many people are dealing with emotional and psychological trauma resulting not only from the crisis in September, but also from living in an oppressive and militarised context for more than 25 years. One way the church has addressed this is through radio broadcasts on the diocesan Radio Timor Kmanek. We have had programmes involving a counsellor from Caritas Dili speaking about emotional and psychological issues. Other people have spoken about their own experiences. There were announcements regarding people who have been found and families

which have been reunited. This gave people a sense of hope.

The return of refugees currently in West Timor is an urgent need. It will be more difficult to make meaningful steps towards reconciliation and rebuilding if a significant number of people still have not been able to come home. Pressure must continue to be put on Indonesian authorities to control and prosecute militia activity and to allow humanitarian organisations to operate.

The church and other local and international groups have been involved in a variety of reconciliation initiatives to address different situations of conflict — at the family level, community level, national level. The role that culture, language, history and belief systems play in reconciliation work is essential.

For the church, it will be important that any peace building initiatives must first examine the nature of the conflict. In many cases, the conflict may be related to the settling of old scores, rather than current issues. Without getting to the root of the conflict, the initiatives will not be successful.

The importance of democracy

The Timorese people will need to learn how to function in a democratic context and how to manage political differences within a democratic framework. During the election the church conducted civic education on citizens' rights and

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Freedom without justice?

Christian organisations and churches are calling for the prosecution of perpetrators of human rights abuses in East Timor under the Indonesian occupation. CATHERINE SCOTT reports.

An international support network of Christian groups and churches at the Twelfth Christian Consultation on East Timor, held in Antwerp from 7-9 December 2001, joined its voice to a mounting international campaign calling for Indonesia to be set a deadline of July 2002. After this, an international tribunal should be set up to deliver justice. This would allow the East Timorese a chance to move on from the events of the Indonesian occupation.

The groups participating in the consultation made the following recommendations to UN bodies:

- 1) There should be a deadline for the full prosecution of perpetrators named in the Indonesian Human Rights Commission's investigation of January 2000. We consider that the UN should state a deadline of July 2002 for this to have been achieved.
- 2) The international community should, as a matter of urgency, ensure that the Serious Crimes Unit in East Timor has all the resources in terms of personnel and equipment in order to complete its work efficiently. This would

include specialist advisers, technical experts, access to information, including from classified sources, and IT. There should be contingency plans for the granting of protection of key witnesses, including the provision of asylum as and when necessary, and specialists in crimes such as rape and sexual abuse.

- 3) The East Timorese judicial system should be properly resourced by the international community including for its non-legal functions such as translation facilities, administrative support, transport, etc.
- 4) We welcome the establishment of the Reception, Truth and Reconciliation Commission, and trust that its work will complement and reinforce the work of the judiciary and the Serious Crimes Unit, rather than place additional burdens upon it.
- 5) The international community should continue all of the above support well beyond 20 May 2002, Independence Day.
- 6) The Indonesian government authorities should compensate East Timor as well as individual citizens, for all damage and loss of life inflicted by its armed forces and proxies since the beginning of 1999.
- 7) The remaining militias in West Timor must now be effectively disarmed and prosecuted if necessary, so that



Irene Slegt/CILIR

How long must East Timor wait for justice?

potential future cross-border destabilisation is averted. This will enable the remaining refugees to return to East Timor if they so wish. In addition, all remaining armed groups within East Timor should now be fully disarmed.

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obligations, about political parties, election processes, and how to discuss political issues in an appropriate manner. During this time we also clarified the respective role of church and state.

Without the establishment of democracy — and especially processes and forums to discuss different ideologies — peace and reconciliation will not be possible.

Education for peace is essential. Peace building activities should be included as part of the new school curriculum. I would add, too, that part of this curriculum should include a realistic representation of Timorese history. We need to retain in our collective memory the history of our struggle for human

rights, justice and peace. The very development of this history could be a helpful process not only in developing our national identity but also in our collective healing.

Finally, the church in East Timor is also renewing itself. Priests, sisters and lay people are together reflecting on the role of the church in an independent East Timor. We have just recently launched an intensive pastoral planning exercise to define our vision of the church in the new society. I am committed to make it a church of the people, a participatory church.

Peace with justice

I end where I began. The tragic events of September 11th and September 1999 serve to remind us that the world today is increasingly interconnected. As borders

come to lose their meaning, no nation can afford to isolate itself. We are moving toward a single world with a single agenda and that agenda must be set with a view to fostering reconciliation and understanding.

This will be, I hope, the contribution and gift of East Timor to the world: that as the first country of this millennium, we achieved our independence and gave birth to a new country not only because of international support and solidarity but above all because of people's deep faith in God, resilience, undying hope and commitment to peace with justice.

Carlos F X Belo
Oslo, Norway
December 2001

Hope in hard times

IVETE D'OLIVEIRA (right) began working with CIIR's Women's Advocacy Programme in August 2001. She talked to CATHERINE SCOTT about the experiences of East Timorese women in the transition to independence.

With high male unemployment — especially among former employees of the Indonesian civil service — many men now depend on their wife's income. They do not necessarily respond well to this. 'Take the Salvador family of one of the Dili suburbs for example,' says D'Oliveira. 'He lost his job in the administration. They are not at all well-off — in fact the family of five live in one room, and have only a double bed between them. Mrs Salvador has been supporting the family since 1999 by working as a house-keeper. But it does them no good because when she brings home her wages, Mr Salvador takes the money and spends it on drinking and cock-fighting. There is often terrible violence and the children are really suffering.'

It is not that women find it easier to get jobs, says D'Oliveira, but 'they will try harder. Many women were employed as domestics by the Indonesian families that lived here. When they left, those jobs disappeared. The UNTAET [UN transitional] administration prefers to employ younger people, actually, women as well as men. So the older women are resorting to the informal sector — baking food to sell, going to market, etc.' Men would not do this because they see those activities as women's work: 'They would feel demeaned to be associated with it — in fact they would rather do nothing at all!'

So what do the men do with themselves? 'That is the trouble. Their idleness feeds bitterness, and then some of them take it out on their wives. That's why the domestic violence rate has gone up so much in the last two years.'

'And often the work is not easy on the women. Many are employed in the informal restaurants which have grown up around the UN presence. They are paid low wages, and are often abused by their bosses. Some have been lured into prostitution to make up the low wages, and this gives all the women the same reputation, regardless.'

'Women who work with Chinese or

Malay immigrants have a raw deal. They are often abused, but mostly keep silent about it, as working for these immigrants is also disapproved of by the Timorese community. They have no real job descriptions, so they are made to do all sorts of irregular tasks.'

Women selling goods in the market get very low prices for their wares because only poor people shop there. 'In Indonesian times, the cassava and banana sellers used to do quite well from the Indonesian clientele. Now they have gone, and the foreigners in the employ of UNTAET prefer to buy their food from the small grocery stores because they are more likely to be wrapped, and the environment is more familiar to them.'

Some market vendors make no profit at all. 'We sat down with one community and did some basic calculations with them on the price of inputs and the price recouped and they were only breaking even! They had not realised this at all. But they did not mind — they said that at least it gave them something to do. So we worked with them and identified some ways in which they could make at least a tiny bit of profit.'

International efforts

International agencies are trying to help women make a living. For example, the World Bank Community Empowerment Programme has started micro-finance projects to help them start small businesses. 'Some of these have taken off,' says D'Oliveira. 'But other funders don't always succeed with our women because they lack basic skills, and are ill-equipped to write proposals and so on.' She adds that some women started restaurants, but failed because they were unable to offer the variety and superior physical conditions provided by their competitors — Australian business people. Many of them went bankrupt.

D'Oliveira too is working with women to help them earn an income. 'In Baucau, we have been giving small grants to women's organisations. One of them is repairing and rebuilding a hostel with the money so that they can open it for paying visitors. Another woman is starting a bakery. Another group has started a chicken farm. One group produces handicrafts, but needs some help in marketing their products, especially in Dili.'



Claire Grogan/CIIR

Women's courage

Many women have husbands in the West Timorese refugee camps, and are trying to help them by growing food for direct consumption or to sell. 'The whole process has turned some of them into quite enterprising business women, because they bring back goods from West Timor and sell them back in Dili for sometimes quite reasonable profits. Some of the husbands are militia leaders and are scared to come home. Their wives do not attract so much suspicion, and can in this particular activity, move around more easily.'

'But that is typical of women's courage', says Ivete. 'In 1999, I was there when the militias ran amok. So many of the men fled to the mountains to save their own skins. It was the women who stayed to defend their children. Then [the men] came back and took it for granted that they were the ones who should stand for political office.'

Despite the hard times for women, D'Oliveira believes there are grounds for hope: 'The women's resolve in itself is impressive. On the domestic violence front, there has been a lot of publicity about it, which is good. Even [Foreign Minister] Ramos Horta admitted it in his address to the UN Security Council. Both the church and the government have been taking positive steps to deal with the issue. [...] And Chief Minister Alkatiri made a speech during the anti-violence against women campaign (25 November-10 December) promising to create a safe environment for women and children in the future. 'Now I know that these are promises, and that the situation is not good, but there is a commitment to work for change. That gives me a lot of encouragement to go on with CIIR's work here.'

East Timor's lost children

The fate of East Timorese children separated from their parents amid the violence following the 1999 independence ballot has become a political football in a deadly game.

HELENE VAN KLINKEN reports.

Many East Timorese child refugees are believed to be in Indonesia, although the identities and whereabouts of many are unknown. But it is known that 169 children were taken to Central Java — possibly without the knowledge and proper agreement of their parents — by Hati Foundation, which is led by pro-Indonesian East Timorese politicians. Of these children, 123 have been in the care of the Catholic church, while another 46 are cared for in a private institution 40 km east of Yogyakarta.

The Abilio Soares family

The Hati Foundation was set up (possibly in the early 1990s) as a foundation for East and West Timorese 'partisans' who helped the Indonesian special forces, Kopassus, to invade East Timor in 1975–76. Its director was Siti Hediati (Titiek) Prabowo, the middle daughter of then President Suharto; her husband, Prabowo Subianto, commanded Kopassus. The foundation has long been managed by the family of Prabowo's protégé, Abilio Osorio Soares, governor of East Timor in 1999.

After becoming governor in 1992, Soares sponsored Gadapaksi, the prototype of later militia groups. His relatives sponsored other organisations that served as fronts for military interests, such as the East Timor Student Movement (led by his nephew, Octavio Soares, in Yogyakarta), and the Morok militia in Manatuto district. Abilio Soares refuses to recognise the results of the independence vote in August 1999, and continues to campaign for the 'return' of East Timor to Indonesia.

Abilio's nephew, Octavio, is now the general secretary of Hati Foundation. Like his uncle, he has always passionately supported integration with Indonesia. As a student at Gadjah Mada University in Yogyakarta, Octavio took part in pro-integration activities. Throughout 1999 and into the following year, Octavio and a small group of pro-Indonesian East Timorese students attacked and threatened to kill and

burn the houses of pro-independence East Timorese living in Yogyakarta.

Academic George Aditjondro has revealed that in 1997 Hati Foundation funds were invested in two companies set up by Titiek Prabowo: Dilitex textiles, and an iodised salt factory in Manatutu, home district of the governor's family. Gil Alves, Soares' brother-in-law, was the president of both companies.

Since independence in East Timor, the Hati Foundation has relocated to Indonesia. Its website claims it was founded in April 2000 and that Prabowo continues to support it, as does Major General Zacky Makarim, also of Kopassus, who is accused of being a chief organiser of the post-ballot destruction in East Timor.

East Timorese children

The first group of 123 children arrived in Semarang, the capital of Central Java, in late 1999. The church agreed to take care of them because of the urgency of their situation. Brother Paulus Mujiran, head of the church's social welfare organisation, told Australian journalist Lindsay Murdoch that the church suspected the political motives of those who brought them. The children were dispersed to four institutions in Central Java.

Details of the children in Central Java were broadcast on UN radio in East Timor. Some of the parents were located and 16 children were matched up with 14 sets of parents, all of whom said they wanted their children back. They wrote to their children to that effect. The UN High Commissioner for Refugees (UNHCR) made arrangements for the return of the children in early 2001. However, on 15 March, at the very last minute, the plan was aborted because the Hati Foundation was angry that the UNHCR had met the children without the foundation's knowledge. According to Murdoch, the people running the institutions taking care of the children feared that if they let this group of children go, the rest could be exposed to threats from the Hati Foundation.

Octavio Soares told Murdoch that his motives for bringing the children to Java were purely humanitarian: he just wanted to help. The idea of putting them into the orphanage in Semarang was spontaneous.

However, he later told Murdoch that he had the written consent of parents for the children to be there, and that he would kill anyone from an international organisation who tried to remove them.

Murdoch went to East Timor and interviewed several parents of these children. He learned that some parents disputed the foundation's claims to have written consent to act as guardian. Many of the parents Murdoch talked with felt they had been tricked into giving up their children, although some were pleased that their children would receive a good education in Java.

In early August 2001, the UNHCR again arranged to return 12 children whose parents were back in East Timor. Eighteen were supposed to return, but only 12 were prepared to go — the others were too afraid. At the last minute, one of the children phoned Octavio Soares saying they were afraid to go back. Instead of taking the children to the airport, Octavio Soares took them to his house.

The Hati Foundation brought a second group of 46 children from refugee camps in West Timor to Central Java in June 2001 and placed them in a private institution about 40 km from Yogyakarta.

In a letter to the West Timor paper *NTT Express* on 22 August 2001, a group calling itself the Hati Foundation Parents' Association accused the UNHCR of trying to kidnap the children. The article was signed by Miguel Epifanio Amaral, a friend and contemporary of Octavio Soares. In 1999 he was a university student in Bali and a member of the East Timor Student Movement. He is not listed as a parent of one of the children, although he claims to speak on their behalf.

On 14 September the UNHCR facilitated the return of eight children to Dili. The sisters from the institutions where the children live had to trick the children into believing that they were only meeting their parents in Denpasar. Otherwise the traumatised children might have refused to leave Java. The children acted distantly towards their parents, and two angrily refused to return to Dili. The sisters are worried that the children rejected their parents and that most children brought to Java by the Hati Foundation do not want to

go home. They wonder what the children were told to make them feel that way. They have heard that those who did go back to East Timor are now happy.

Conclusion

The Indonesian government, as a signatory to the Convention on the Rights of the Child, has an obligation to facilitate the reunion of parents and children, and

to ensure the children's best interests and that they are free to make their wishes known. It is also obliged to investigate and stop illegal removals and to monitor child refugees. These children must not be denied the right to live with their parents, with the identity that is their inheritance.

The problems is not confined to the 161 children still in Central Java and Yogyakarta. It is just as urgent to trace the other East Timorese children who are thought to be

held secretly elsewhere in Indonesia. While other East Timorese are celebrating their transition to freedom and independence, this most vulnerable group of their fellow citizens must not be forgotten.

- Helene van Klinken is an Indonesian teacher from Brisbane. This is an edited version of an article which first appeared in *Rantau* magazine on 2 September 2001.

Uncertainty for refugees

Between October 1999 and 8 February 2002, 193,505 East Timorese refugees returned to East Timor. It is estimated that of the 60,000 who remain in West Timor, at least 30–40,000 will wish to return at some point. But their options are far from clear, reports an aid worker.

Both the Indonesian government and the UN Transitional Authority in East Timor (UNTAET) are sending mixed messages on who is welcome back and the process for return. The UN High Commissioner for Refugees (UNHCR) is collaborating with the Indonesian military on information campaigns. Until recently, UNTAET was sponsoring extended holidays for infamous militia leaders. The Indonesian government is seeking money to continue to support East Timorese refugees while its local military commander talks of forcibly closing the camps.

The militias

The most obvious, and most talked about, deterrent to return is the continuing presence of armed militias in the refugee camps. After the brutal killing of three UNHCR staff in Atambua in September 2000, the UN Security Council demanded the disbanding of the militias. However, the Indonesian government was unable to do this, despite what appears to be a genuine effort by Indonesian General Willem da Costa to rid the country of this embarrassing and expensive problem. Because disarmament and disbanding has failed, UN officials are looking to a process of reconciliation and dialogue with the militia.

UNHCR and UNTAET have long seen dialogue with senior militia leaders as the

key to bringing home the refugees, but the strategy is controversial. Dialogue and reconciliation may be important for the future security of East Timor, but they are not necessarily linked to the return of refugees. Sponsoring 'go and see visits' for militia leaders can strengthen their authority and power in West Timor. There is no way to monitor whether or what they report back to the refugees in their camps. The policy has not resulted in any significant refugee return. More significantly, it leads to disillusionment and distrust in UNTAET among victims of human rights abuses, who see UNTAET seemingly legitimising the very people it has pledged to bring to justice.

The militias appear to have lost most of their Indonesian military support, money and arms. They are also internally fragmented. By acknowledging and legitimising the militia's power in West Timor, UNTAET and UNHCR have helped to perpetuate it. Non-governmental organisations (NGOs) on both sides of the border, working directly with refugees and returnees, have long argued for a more holistic approach to the refugee problem.

Wrong target

The refugees live in village-based groups which make communal decisions on whether to return or not. These decisions are influenced by various factors but the heads of villages, traditional kings and village elders, make the final choice. A process aimed at these people will prove much more effective than previous attempts to court the militias. 'Go and see visits' for *chefe de sucos* will have an impact on the core grassroots refugee population.

Mass information campaigns can be targeted at these influential people.

UNHCR information campaigns are currently channelled through the Indonesian military and the government's Refugee Task Force. Any materials coming from these groups are seen as propaganda and lack credibility with the refugees. Information must be disseminated through more trusted sources, such as the church and the excellent NGO network in West Timor.

Another crucial issue is salaries and pensions for former government employees, which affects up to 19,000 East Timorese refugees in West Timor. UN agencies and the Indonesian government have appealed for US\$23 million for a special pension fund to be administered by the UN Development Programme. The appeal largely failed to attract donors, mainly because the Indonesian government appears reluctant to contribute a significant amount. The government should be pressed to take more responsibility.

Closure threat

It is widely expected that returns will decline until after independence, with a possible increase just before Easter and the presidential election. However, Willem da Costa has been talking of forcibly closing the camps at the end of April. Although the UNHCR and the international community will condemn this unless it is carried out in the most free and transparent manner possible, it is unlikely that any steps will be taken to stop it. Already the Indonesian government has stopped food distribution. Health provision is expected to cease at the end of February, electricity and water supplies at the end of March. The Indonesian

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Bitter Dawn:

East Timor – a People's Story

by IRENA CRISTALIS, Zed Books, April 2002, 320pp, £14.95

Irena Cristalis is no ordinary journalist. And this is no ordinary book about East Timor. Cristalis has spent months at a time living among the people and travelling the length and breadth of the country. When she went back to Timor in 1999, she was one of the handful of foreigners who stayed after the UN mission evacuated, determined to stay alongside a people she has grown to hold in great affection.

While many published accounts focus on the famous politicians and churchmen — Xanana Gusmão, Ramos Horta, Bishop Belo — *Bitter Dawn* introduces us to a lesser-known cast. Cristalis introduces us to people who, no less bravely, also played important roles in East Timor's liberation. The reader quickly comes to share Cristalis' own fascination for them. Take Antero, for example — brilliant, awkward, shy, unpredictable, brave,

terrified, above all he is a charismatic student leader, eager to take his country forward, deeply committed to the techniques of conflict resolution that he acquired abroad.

And then there is Maria Lourdes — Mana Lou. In the immediate aftermath of the mass displacement to West Timor of around a quarter of the population, Maria Lourdes went regularly over the border, preaching to the toughest, hardest-bitten militia leaders and trying to persuade them to come home.

Disillusioned with life as a Canossian sister, Mana Lou founded a 'secular institute' in the mountains of Dare behind Dili, and fired up a generation of young women to serve their country as members of the order. They take vows, live celibate lives, but live most of the time out of community, sharing basic healthcare, agricultural and animal husbandry skills in remote villages. Their spirituality is informed by Latin American liberation theology and the works of Paulo Freire, but at the same time suffused with traditional East Timorese culture and beliefs. Mana Lou brings together a dedication to hard work and service to the poor with a healthy contempt for the posturing of leaders, political or religious. She is strong — a quality not necessarily valued in a woman in East Timor, especially when accompanied by a willingness to speak out. For years she struggled to advance her projects, hampered at every turn by church bureaucrats. It took an international award from the peace



movement Pax Christi International for the East Timorese church to wake up to the jewel in their midst. Cristalis gives an honest account of an inspiring woman who would do anything for her people, but still scolds them if they fail to 'show respect' even to their enemies.

The real triumph of this book, however, is the remarkable way in which Cristalis weaves the complex web of historical background, relationships and inter-connections between her protagonists and their stories. The reader is treated to a depth of reality and texture rarely found in journalistic accounts. The analysis is penetrating and questions received historical wisdoms. Irena Cristalis always has more questions than answers. The book is highly recommended.

• Review by Catherine Scott

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government has also stated that those East Timorese who remain in West Timor after the end of April will lose their refugee status and will be classified as Indonesian citizens. Those who do not go home will be offered the options of local resettlement or transmigration to another part of Indonesia; land has already been identified in Kalimantan for this purpose. Without a mechanism to monitor the registration process needed to implement

such a plan, there would be a grave risk of intimidation, fraud and violence.

UNTAET needs to publicise a consistent policy on return, reconciliation and prosecution so that refugees know what their rights are on both sides of the border. It is unacceptable that over two and a half years after the popular consultation on independence, 60,000 of East Timor's people have not yet come home.