

EAST TIMOR

A Triumph of the Human Spirit

Report of the International Observation
Mission on the 1999 Popular Consultation

25 August – 2 September 1999

Asian Network for Free Elections
ANFREL

Asian Forum for Human Rights and Development
FORUM-ASIA

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Backcover: Local East Timorese assist the UN for the Popular Consultation.
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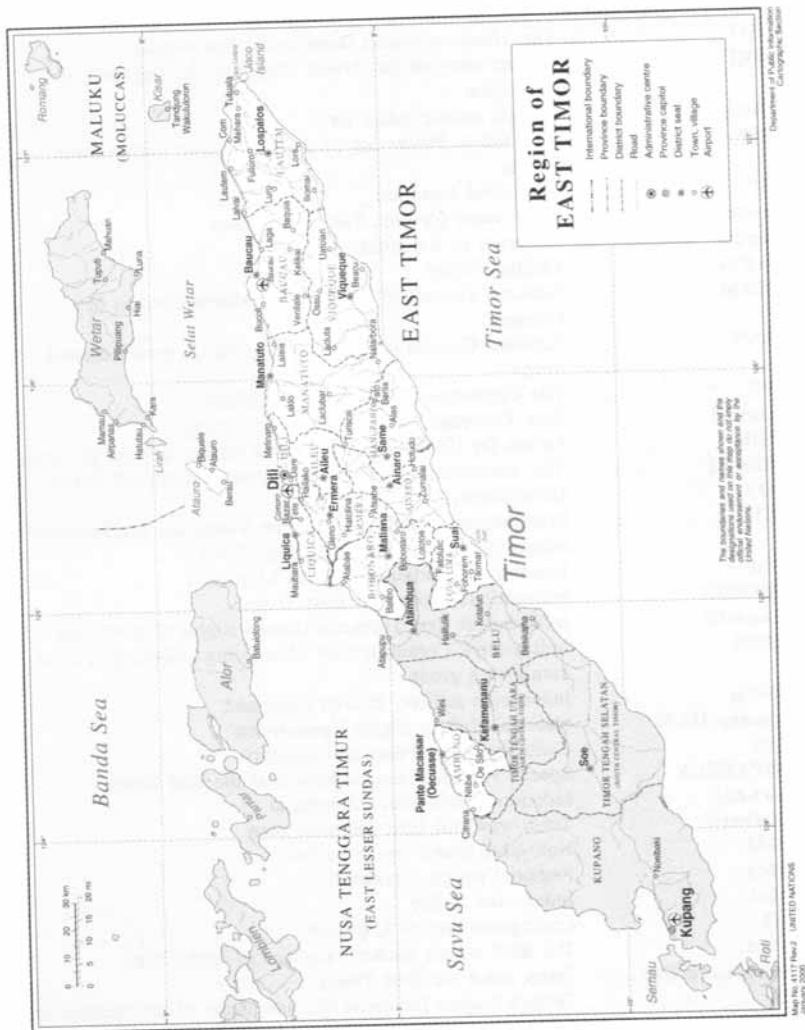
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TABLE OF CONTENTS

| | |
|---|-----|
| MAP OF EAST TIMOR | 5 |
| ABBREVIATIONS, TERMS USED..... | 6 |
| LIST OF PARAMILITARY UNITS AND MILITIA GROUPS..... | 7 |
| PREFACE..... | 8 |
| ACKNOWLEDGEMENTS..... | 9 |
| BACKGROUND OF ANFREL AND FORUM-ASIA'S INVOLVMENT ON..... | |
| EAST TIMOR..... | 11 |
| BACKGROUND HISTORY OF EAST TIMOR..... | 17 |
| THE INTERNATIONAL OBSERVATION MISSION..... | 31 |
| CONCLUSION AND RECOMMENDATIONS..... | 58 |
| REFERENCES AND ENDNOTES..... | 61 |
| APPENDIX SECTION..... | 63 |
| APPENDIX A - ANFREL JUNE PRESS RELEASE..... | 64 |
| APPENDIX B - ANFREL STATEMENT..... | 66 |
| APPENDIX C - ANFREL PRESS RELEASES DURING OBSERVATION..... | 70 |
| APPENDIX D - ANFREL SEPTEMBER STATEMENT..... | 74 |
| APPENDIX E - ANFREL ASIAN REGIONAL MEETING STATEMENT..... | 77 |
| APPENDIX F - TIMOR POLL SECURITY A SHARED RESPONSIBILITY..... | 81 |
| APPENDIX G - REPORT ON THE 1999 INDONESIAN ELECTIONS..... | 85 |
| APPENDIX H - QUESTION OF EAST TIMOR..... | 93 |
| APPENDIX I - BREAKDOWNS IN THE NEW YORK AGREEMENT..... | 121 |
| APPENDIX J - ANFREL OBSERVER LIST..... | 128 |

MAP OF EAST TIMOR



ABBREVIATIONS, TERMS USED

| | |
|-----------------------|--|
| ASDT | The Timorese Social Democratic Association |
| ABRI | Former name of the Armed Forces of the Republic of Indonesia |
| Brimob | Special mobile police force |
| BMP | Besi Merah Putih- one of the well-known militia death squads |
| BTT | Territorial battalion |
| Buibere | Tetun word for East Timorese women |
| Bupati | Governor of a district |
| CivPol | Civilian Police |
| CNRM | National Council of Maubere Resistance (formed by Gusmao) |
| CNRT | National Council of Timorese Resistance (pro-independence) |
| CPS | The Commission on Peace and Stability |
| Falantil | East Timorese National Liberation Army |
| FPDK | Forum for Unity, Democracy and Justice (pro-integration) |
| GRPRIT | The Timorese Movement for Reconciliation and Peace |
| GOS | Government organizations |
| IFET | International Federation for East Timor, an international solidarity group working on East Timor |
| IOM | International Organization for Migration |
| INTERFET | International Force for East Timor |
| Kihamtil | Independent East Timorese Human Rights Commission |
| KIPER | Independent Committee for Monitoring Balloting, a local monitoring group |
| Kodim | Indonesian military district command |
| Komnas HAM | National Human Rights Commission |
| KPS | Commission for Peace and Stability |
| KOPASSUS | Special Forces Command known as the 'Red Berets' |
| Koramil | Indonesian sub-district command |
| Maubere | Tetun word for East Timorese men |
| NGO | Non-government organization |
| Polda | Regional police command |
| Polri | Indonesian Police |
| SGI | Intelligence arm of Kopassus |
| Tetun | The most widely spoken language of East Timor |
| Timor Loro Sae | Tetun name for East Timor |
| TNI | Tentara Negara Indonesia-the new name of the Indonesian Armed Forces |
| UDT | The Democratic Union of Timor |
| UNAMET | United Nations Mission to East Timor |
| UNTAET | United Nations Transition Administration of East Timor |
| Wanra | People's resistance (civil defense) |
| Yayasan HAK | Legal and Human Rights Foundation, a local NGO |

LIST OF PARAMILITARY UNITS AND MILITIA GROUPS

Paramilitary Units

Halilintar, Lightening
Makikit
Tim Alfa
Tim Saka
Tim Sera

Militia Groups

Aileu Pencinta Integrasi (API)
Aitarak, Thorn
Aku Hidup untuk Integrasi (AHI), I Live for Integration
Alfa Ablai
Barison 59/79
Besi Merah Putih (BMP), Iron Red and White
Besi Semadok
Dadurus
Darah Integrasi, Blood of Integration
Guntur
Harimau 55, Tiger 55
Jati Merah Putih, Real Red and White
Kelompok Naga Mehra, Red Dragon Group
Komando Darah Mehra, Red Blood Command
Laksaur Mehra Putih
Loromea
Mati Hidup Demi Integrasi (Mahidi), Live or Die for Integration with Indonesia
Pana
Pro-Integration Front 59/75 Junior
Sakuna, Scorpion
Tatarah
Tim Pancasila

Source: Amnesty International, AI Index: 21/49/99

PREFACE

EAST TIMOR IS FREE!

It is with much pride and honor that the Asian Network for Free Elections (ANFREL) and the Asian Network for Human Rights and Development (FORUM-ASIA) have taken part in the making of history in East Timor. To have contributed, even a bit to the overall efforts towards the final attainment of long fought struggle for freedom, of reaching the seemingly impossible dream of self-determination- is indeed a triumph of the human spirit. This victory is something of great value to all of us, Asians and all of humankind. For it is a concrete realization of our aspirations and dreams. A free East Timor represents every struggling nation's victory. It symbolizes every struggling people's success. The triumph of the human spirit speaks of every human person's capacity to transcend the worst forms of human sufferings and miseries as what the East Timorese people have shown. Like in the Philippines and South Africa, the triumph of the human spirit manifests the peoples' real power long repressed by authoritarian and repressive rule.

In solidarity with the East Timorese people, ANFREL and FORUM-ASIA are presenting this report as a living testimony of that brief moment in East Timor's history, the popular consultation that gave the East Timorese people the chance in their lifetime to give their statement to the world: YES TO INDEPENDENCE!

East Timor has given us hope. It has taught us valuable lessons. It has given us a sense of direction for the present and the future. The struggle for self-determination waged by the East Timorese people for the past two decades has shown us that there is no impossible dream. And they stood to prove that when people are determined to be free, they can be free.

Viva Timor Loro Sae!

ACKNOWLEDGEMENTS

ANFREL and FORUM-ASIA owe much to the following groups and individuals who contributed their share in making the mission a success:

- General Saiyud Kerdphol and the members of the international observation mission who courageously joined and participated in the monitoring process despite the dangers posed by the situation especially in high-risk areas.
- To the resource persons, particularly to Professor Herbert Feith who shared his in-depth knowledge and long experience on Indonesia and East Timor.
- To Dr. Wittaya Sucharithanarugse and his team for the preliminary report on the situation in East Timor as part of the pre-consultation mission.
- To the media, local, international, including the Thai media for drumming up support to the mission and to East Timor especially in the aftermath of the popular consultation.
- To the other observation groups like the International Federation for East Timor (IFET), Canadian delegation, Australian delegation, Uniting Church of Australia, Carter Center, Parliamentary Solidarity Mission and other groups for sharing their experiences and later, their findings.
- To local churches, groups and families for providing accommodation and extending help to mission members.
- To the UN for the briefings and updates on situation, including security, logistics, etc. and for facilitating accreditation of ANFREL monitors that made possible their entry to Indonesia and their participation in the East Timor observation mission.
- To local East Timorese NGOs, interpreters, drivers and guides and to all the East Timorese people who allowed us to take part in this process and those who welcomed us in their homes and communities.

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

- To Indonesian NGOs, friends and volunteers who shared their findings and analyses and extended solidarity support towards a successful mission.
- To Dr. El Obaid Ahmod El Obaid, Ms Evelyn Balais-Serrano and Ms Somsri Berger who contributed in putting together this report and to those who commented on the drafts, Richard Barber and Aa Sudirman.
- To the Portuguese Government through His Excellency, Jose Tadeu da Costa Soares, Ambassador to Thailand, for the generous financial and moral support extended to the mission.

BACKGROUND OF ANFREL AND FORUM-ASIA'S INVOLVEMENT ON INDONESIA AND EAST TIMOR

The international observation mission to the 1999 popular consultation conducted from August 25-September 2, 1999 was not the first time ANFREL and FORUM-ASIA sent a mission to East Timor. A pre-popular consultation mission was sent from July 9-17, 1999, almost two months before the actual referendum. Prior to this, during the general election in Indonesia, a team was deployed to monitor the election in East Timor.

FORUM-ASIA's involvement in Indonesia, including East Timor, dates back to early 1990s. When the regional preparatory meeting for Asia-Pacific Region to the World Conference on Human Rights was held in Bangkok, Thailand in 1993, FORUM-ASIA was one of the convenors of said meeting. One of the resolutions of this historic event was the adoption of East Timor as one of the countries in most difficult situation in the region. A year later in 1994, the first Asia-Pacific Conference on East Timor (APCET) was convened in Quezon City, Philippines, again, with FORUM-ASIA as one of the organizers. In the succeeding APCET events, in 1995 in Bangkok, in 1997 in Kuala Lumpur and in 1998, again in Thailand, FORUM-ASIA played key role in holding such events.

In response to the democratization process going on in Indonesia, FORUM-ASIA initiated the formation of the Asian Network for Democracy in Indonesia (ANDI) to develop capacities within local NGOs to undertake campaigns on human rights and other common concerns and to mobilize support from the international community, especially from the Asian region. ANDI played major role in FORUM-ASIA's activities not only focused on Indonesia but to issues related to East Timor as well.

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

One of the missions sent to Indonesia to address specifically the violence in the run up to the general elections in Indonesia, was a high-level mission comprising of representatives from Philippines, Thailand and Bangladesh held on May 5-6, 1999. The mission lobbied the Indonesian government to stop the killings in East Timor and to release immediately East Timor's leader, Xanana Gusmao and other political prisoners in Indonesia and East Timor.



High level mission members composed of Senator Aquilino Pimentel (Philippines), head of the mission, former Foreign Minister Kamal Hossain (Bangladesh), Dr. Chaiwat Sath-anand(Thailand) and Evelyn Balais-Serrano (FORUM-ASIA) met with President Habibie to appeal for peace and respect for human rights in East Timor. They also called for the immediate release of Xanana Gusmao and other political prisoners in Indonesia and East Timor.

In responding to post-referendum situation, ANFREL, FORUM-ASIA and ANDI mobilized their respective constituencies to put pressure through sending petitions, direct lobbying and representations, media campaign, etc. to the UN and the ASEAN members to send peace keeping forces and to pressure Indonesian government to heed to the call for justice and peace in East Timor.

**BACKGROUND OF ANFREL AND FORUM-ASIA'S
INVOLVEMENT ON INDONESIA AND EAST TIMOR**

A speaking tour of East Timorese in the first week of March 1999 in selected countries in Asia was sponsored by FORUM-ASIA and its network in the ASEAN region to drum up the issues in East Timor and to generate solidarity support to the struggle of the East Timorese people.

On the humanitarian side, FORUM-ASIA facilitated the formation of TIMOR HOPE, a campaign for relief assistance led by Thailand's former Prime Minister Anand Panyarachun. Already, substantial amount of goods, including medicines and cash donated by Thai civil society groups had been delivered to East Timor through the courtesy of Thai military.

FORUM-ASIA has also facilitated the visit of various groups to East Timor including a medical mission, Asian Parliamentarians' Mission, and a businessmen's exploratory mission. A donors' meeting for East Timor was convened on December 13-14, 1999 where FORUM-ASIA and ANFREL gave input on the situation and their experiences.

As a follow-up to the previous missions, an Asian Regional Meeting on Indonesia and East Timor was convened by FORUM-ASIA in Bangkok, Thailand from September 12-14, 1999. About 25 representatives from various organizations and sectors from different countries in the region participated and came out with a statement which they personally delivered to all concerned embassies of the ASEAN, North America and Europe in Bangkok. Said statement was read before the Indonesian Embassy representative during a big rally held aimed at putting pressure to the Indonesian government to stop the violence in East Timor. (see copy of statement in the Appendix Section)

A vigil, participated by various organizations in Bangkok was held in front of the Indonesian Embassy on September 7, 1999 to show protest against the killings and other gross violations of human rights in East Timor.

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

A Women's Mission was also organized on June 21-30, 1999 to look specifically on the violations of human rights committed against women in East Timor and explore how women's groups in the region can respond to such needs.

A Campaign on Violence Against Women in East Timor consisting of forums, marches, interviews before the media and meetings with the Prime Minister of Thailand and other concerned authorities was conducted which culminated in the formation of the Women Coordinating Committee for East Timor.



Thai NGOs, academics, students and other sectors march to the Indonesian Embassy to pressure the Indonesian government to respect human rights of the East Timorese people.



Demonstrators put flowers, photos and streamers in front of Indonesian Embassy to protest atrocities and other human rights violations in East Timor.

**BACKGROUND OF ANFREL AND FORUM-ASIA'S
INVOLVEMENT ON INDONESIA AND EAST TIMOR**

Women, mostly belonging to religious groups congregate outside the Indonesian Embassy to denounce violence in East Timor.



On November 13-23, a needs assessment team was sent to East Timor as a follow-up response to determine the extent of damage created as a result of the militia rampage and to identify the necessary help and support needed for NGOs in the region to respond to.

On February 4-6, 2000, FORUM-ASIA, together with the Thai Government hosted the visit of Xanana Gusmao and Jose Ramos Horta to Thailand. This visit was part of an ASEAN tour which FORUM-ASIA also coordinated with its member network in countries to be visited like Malaysia, Philippines and Singapore.



Xanana Gusmao, Jose Ramos Horta, Portuguese Ambassador Jose Tadeu da Costa Soarer and Jeannie Hallacy of FCCT during media forum at Foreign Correspondents' Club in Bangkok, Thailand.

Recently, an APCET Steering Committee meeting was held in Dili to plan for the next APCET General Assembly to be held in August, in time for the first anniversary of the East Timor independence.

For long-term capacity building of East Timorese NGOs and local activists, FORUM-ASIA and ANFREL and their respective member network make it a point to invite East Timorese in their trainings, internship programs, workshops, conferences and other events that they can benefit from in terms of gaining knowledge and experiences which they can make use of in their nation building process.

BACKGROUND HISTORY OF EAST TIMOR

BACKGROUND HISTORY OF EAST TIMOR

East Timor used to be one of the twenty-seven provinces of the Republic of Indonesia. It is located in the eastern part of Timor Island, which geographically is spread between 123, 25 – 127, 19 degrees East longitude, and 8, 17 – 10, 22 degrees South longitude. Along the North Coast is the Wetar Strait, to the East is the Banda Sea, to the South is the Timor Sea and to the West is the border with East Nusa Tenggara (NTT) province. It lies between Indonesia and Australia.

The area of East Timor is 14,609.38 square kilometers, which comprises of the main portion of twelve districts and the Ambeno enclave of 814.66 square kilometers.

The current population is approximately 800,000: 78% Timorese, 2% Chinese, and 20% Indonesian. There are 12 ethnic groups in East Timor, each with their own language; the dialects can be divided into 9 Austronesian language groups and 3 Papuan language groups.

East Timor is mountainous with many high peaks, deep valleys and fast flowing streams. It is situated on the very edge of two continental plates, viz. Asia and Australia and the rock formations reveal much evidence of metamorphosis, such as turning limestone into marble and twisting the other sedimentary stratas.

The island has a tropical monsoon climate with two fairly well – defined seasons. The minimum temperature varies from 18-23 degrees Celsius and the maximum temperature lies between 28 and 33 degrees Celsius.

PORTUGUESE RULE

Being part of the Spice Islands, Timor was very desirable territory during the era of European Colonialism. After several clashes

between the Dutch and Portuguese, the island was divided, and Portugal ruled East Timor for 300 years.

The Tetum, one of the Austronesian ethnic language groups, lives in two separate areas within East Timor. The early Portuguese rulers used a simplified version of the Tetum language in the capital of Dili to communicate with the East Timorese. As a result, some version of Tetum is now spoken by 60% of the population; however, Tetum is still not understood by all Timorese.

For many centuries, the East Timorese had primarily been subsistence farmers with only a few coastal Timorese involved in fishing. The extremely mountainous terrain meant that most East Timorese lived in isolation, separated from towns and outside influences. Despite the efforts of Catholic missionaries under the Portuguese era, more than 72% of the population retained their animist beliefs in 1975.

The Portuguese colonialists had limited interest and resources in developing East Timor. Since 1961 Portugal had been fighting wars in its colonies of Mozambique and Angola in Africa. In addition, Timor's main commodity of sandalwood had declined in its trading leaving a small, high-grade coffee production as the islands sole source of revenue. Thus, Portugal's desire and ability to develop the distant land of East Timor was minimal. Local Timorese kings still played an important role in the lives of the East Timorese and the Portuguese did not interfere with this pattern. In fact, when there were Timorese uprisings in 1894-1912 and in 1959, the Portuguese army (two-thirds of whom were ethnic Timorese) made a conspicuous appearance but only minimally interfered with the daily life in Timor.

After World War II, a small number of Timorese were able to gain an education from the colony's few schools. Some of the students were mestizos of Timorese and Portuguese descent, and other students came from the traditional Timorese ruling families. However,

BACKGROUND HISTORY OF EAST TIMOR

the majority of those receiving an education were native Timorese who learned at Catholic minor seminaries. This small, educated elite emerged in the 1960s and 1970s; these people had the education and nationalist desires that would allow them to become the nation's leaders in the absence of Portugal.

Also after World War II, the Portuguese built a new harbor, a hospital, government offices, and schools in the capital Dili and built numerous provincial health centres. However, the country's infrastructure, health services, and education services remained very limited overall.

TRANSITION PHASE

An important step in the evolution of the process of decolonization was the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples. The Declaration reemphasized "the necessity of bringing a speedy and unconditional end to colonialism in all its forms and manifestations." Ten years after, more details were added through the 1970 Declaration on Friendly Relations, reaffirming that "the territory of a colony or a Non-Self-Governing Territory has, under the [UN] Charter, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self Governing Territory have exercised their right to self-determination in accordance with the Charter, and particularly its purposes and principles."

Portuguese allowed and began to promote democracy in East Timor starting in 1974. That same year, three Timorese political parties were created. The Democratic Union of Timor (UDT) advocated a progressive process of autonomy under Portuguese rule. The Timorese Social Democratic Association (ASDT) later became the Revolutionary Front for an Independent East Timor (FRETILIN). FRETILIN was the most radical and leftist party and it advocated total independence for East Timor. Lastly, the Timorese Democratic People's Union (APODETI) was largely a construct of the

Indonesian government as it advocated the integration of East Timor into the Indonesian government.

Elections were held in February and March of 1975. Fretilin won the election with 55% of the vote with UDT a close second. Over 90% of the Timorese voted for one of the two independence groups. APODETI never had more than 300 supporters and had negligible returns despite Indonesia's generous backing.

Indonesia was concerned with East Timor for two main reasons. First, the Indonesian government was aware of the rich oil reserves off of East Timor's coast. Second, the Indonesian government feared that an independent East Timor would stimulate ethnic groups in Indonesian to rebel for freedom. In 1974, a special command called Operasi Komodo was set up to destabilize East Timor; instability would provide an acceptable excuse for Indonesian generals to invade for under the name of restoring order. When it became clear that APODETI was too weak to be a useful ally, Indonesia began to pull UDT leaders away from their alliance with Fretilin. In secret meetings with certain UDT leaders, Indonesia convinced the party to stage a coup.

UDT carried out the coup in August of 1975, which led to three weeks of fighting with Fretilin. Fretilin was more popular, better equipped, more disciplined and motivated; they won the battle handedly. Approximately 2,000 people died during the battle and a couple thousand refugees fled the fighting.

Portugal had been gradually removing its civil and military personnel for the twelve months prior to the coup. On August 27, 1975, the Portuguese Governor, staff, and military left Dili stealthily at night to the offshore Timorese island of Atauro, where they remained until December when they returned to Portugal. From August 1975 on, there was no Portuguese administration. An official handover never took place; a well-designed and comprehensive program of decolonization did not occur.

BACKGROUND HISTORY OF EAST TIMOR

Portugal failed to discharge its international obligation. Ironically, this conclusion was supported by Portugal's case against Australia before the International Court of Justice. Portugal's main claim in the East Timor Case¹, was that Australia failed to respect its rights as "the administering power" over East Timor, by concluding an agreement with Indonesia in 1985 for the delimitation of the continental shelf between Australia and East Timor. Although the Court declined to exercise jurisdiction, it was clear that Portugal, by seeing itself as the administering authority, implicitly admitted its failure to live up to its obligations towards the people of East Timor in 1975.

Despite Fretilin's larger goals of independence, the party repeatedly asked the Portugal administration to return. The abdication of power occurred during the coup fighting with UDT. Having defeated the UDT coup and having won the local elections, Fretilin found itself in *de facto* control of the country. The Fretilin leaders set up programs in social, medical, education, and political education which met with some measure of success largely due to the party's popularity and proficiency with the traditional languages.

Indonesian generals augmented Operasi Komodo towards a direct military solution in light of the earlier failures to stimulate internal conflict. Indonesian troops crossed the border from West Timor in September of 1975 and began infiltrating the region. They attacked civilians and destroyed crops in an attempt to create the appearance that the civil war was continuing and anarchy continued. Such a situation would justify an invasion from Indonesia's perspective.

On October 16, 1975 five Australian-based journalists were executed by the advancing Indonesian army as they were trying to record their clandestine incursions. The journalists were killed in the border town of Balibo; the victims were obviously non-combatants and foreign. The evidence suggested that the killings were committed to prevent news of the Indonesian incursions from becoming public. When it became clear that the Portuguese government would not

return and that Indonesia would only increase its efforts, the Fretilin administration proclaimed the Democratic Republic of East Timor on November 28, 1975. The leaders hoped that independence would allow East Timor to appeal to and receive international help against the Indonesian aggression.

The Indonesian government responded to the declaration of independence the next day with the Balibo Declaration. The Balibo Declaration, which was written by Indonesian intelligence, was signed by leaders of the UDT and APODETI parties under coercion by threatening to return the leaders back to East Timor into the hands of their adversaries in Fretilin. The document was actually signed in Bali, Indonesia, but it was given the name Balibo, an East Timor border town, to make it appear that the plea came from within. The Declaration called for Indonesian assistance and provided an excuse to invade.

INDONESIAN RULE

On December 7, 1975 Indonesia invaded Dili. Soldiers there killed civilians indiscriminately and were involved in rape, looting, and committing public executions. A second invasion of December 10 resulted in the capture of Baucau, the second largest city in East Timor. By April 1976, Indonesia had 10,000 troops standing by in West Timor and had 35,000 active in East Timor. The Fretilin army, known as Falintil, consisted of 2,500 regular troops, 7,000 of whom had some Portuguese military training, and 10,000 underwent a brief military instruction course.

Fretilin managed to retain control of 80% of the land at the beginning of the conflict, however, the Indonesian encirclement and annihilation campaign of 1977-78 broke the main Timorese military forces. On December 31, 1978, Timorese President and military commander Nicolau Lobato was assassinated. At that point, the main force of the war was over and fighting was scattered in the mountain areas.

BACKGROUND HISTORY OF EAST TIMOR

It is estimated that 200,000 East Timorese were killed in the first years of the occupation (out of a population of 680,000). Since the resistance army numbered 20,000 at its peak, the majority of people killed were civilians. Indonesia engaged in deliberate attacks against civilians to crush East Timor in a policy often referred to as genocide.

Within weeks of the invasion, Indonesia set up a provisional government consisting mainly of APODETI party members. A Regional People's Assembly of 28 hastily gathered delegates convened on May 31, 1976 and passed the "Act of Integration." Indonesia has referred to this event as its legal justification for incorporating East Timor and the reason that no further referendum was needed. At the time, Fretilin still controlled 80% of the territory, which was not included by the provincial government in its assembly.

Although the fighting was sporadic, it continued over the next decades as major Indonesian offensives and Falintil guerilla attacks occurred. Indonesian troops fluctuated between 15,000 and 30,000. The Indonesian army committed numerous human rights violations that involved torturing, raping, and killing innocent civilians as a means of oppression. Extra-judicial and civilian executions were common; over 500 East Timorese were killed in cold-blood at the shrine of St. Antonio near Lacluta in September 1981. Timorese civilians and children were recruited to form anti-Falintil human chains that protected Indonesian soldiers by standing in front of them while they advanced.

A student march consisting of 2000 youths occurred on November 12, 1991 to coincide with a visit from the Portuguese parliament. While marching through a cemetery, officers in civilian dress and soldiers fired into the crowd. The wounded were beaten or shot by the soldiers. Between 50 and 200 wounded were taken to a military hospital. None survived, and reports accuse soldiers of killing them by force or with lethal pills. The final count lists 271 as dead, 250 as missing, and 382 as wounded. Journalists in Dili brought the scene

to worldwide attention. Although international condemnation resulted, no nation substantially changed its relations with Indonesia.

Villagers were often forced into concentration camps. Those survivors who were released were typically resettled into different lands with different crops and farming techniques. It is estimated that 80% of villagers were resettled; this especially conflicts with the majority's animist beliefs that provide a spiritual link between the farmer and his land.

Indonesia invested heavily in East Timor's infrastructure and development. The government built numerous roads, bridges, schools, hospitals, and government offices in Dili and the provinces. Indonesia highlighted its record here in comparison with the infrastructure left by Portugal to show the benefits of Indonesian integration. These improvements also greatly served Indonesian interests: the roads and bridges allowed for the transport of Indonesian soldiers and the schools provided indoctrination of Timorese youth by Indonesian teachers (who tried to replace the native languages with Indonesian). Indonesia also engaged in economic exploitation with military generals taking over the coffee and sandalwood industries and creating monopolies.

A campaign of sterilization began after the invasion. Birth control procedures were outlined in the five-year programs where intense pressure led to the sterilization of women without their knowledge or consent. The drug *Depo Provera*, which is banned in most developed countries due to severe side effects, constituted 60% of all contraceptives used in East Timor. Whole schools of high school girls were injected. In 1989 President Soeharto received the UN Fund for Population Activities Prize and the World Bank had financed 95% of the cost of the new family planning building in Dili.

The Timorese population control was accompanied by an immigration policy that led to an increase of Indonesian citizens who now make up 20% of the population. The Indonesian military and police

BACKGROUND HISTORY OF EAST TIMOR

number 1 for every 250 Timorese.

Indonesia has introduced a legacy of violence and mistrust in East Timor. The Indonesian government organized unemployed Timorese youths to act as thugs and death squads; they were assigned to burn and smash houses, kidnap, beat, and dispose of anti-Indonesian youths. In 1996, the Timorese *Gardapaksi* was formed as a youth intelligence organisation, which was trained to work with the elite Indonesian intelligence wing of Kopassus. The pressure and fear has pushed one East Timorese for every 10-15 residents to become an informer for the Indonesian government. An atmosphere of suspicion and division has been instituted.

TIMORESE RESISTANCE AND INITIATIVES FOR PEACE

The Fretilin army fought its battles under a centralized command for the first three years after the invasion. Eventually helicopter-borne troops and bombings overwhelmed the Timorese army, which lost 90% of its weapons and 80% of its troops by 1979. However, there was a dramatic turn-around under the new commander Xanana Gusmao. With local people's support, mobile guerilla units were established. Through clandestine efforts, the army of only a few hundred strong used captured Indonesian weapons from cooperative villagers and managed to reduce the Indonesian army by 20,000.

The Fretilin government escaped into the mountains of East Timor after the invasion and continued its military and political leadership from bases there. Xanana Gusmao, who formed the clandestine movement and reshaped the army, also created a new political structure to unite the resistance. The organization was called "Conselho Nacional de Resistencia Maubere" or the "National Council of Maubere Resistance" (CNRM). When Xanana was caught in November of 1992, the military leadership fell to Mau Huno who was also captured six months later. Nino Konis Santana followed; however, the new commander is Taur Matan Ruak.

The clandestine front set up by Gusmao conducts activities in two main areas. First, the front is responsible for providing intelligence, food, and medicine to the Falintil fighters. The other area of activities involves organizing demonstrations in cities like Dili and Baucau to gain media attention. From 1975 until 1989, East Timor was completely closed to journalists and visitors; after 1989 foreign media were allowed in under strict regulations. The clandestine front staged demonstrations and media events to coincide with visits such as the Pope's trip to Dili in October 1989 and the U.S. ambassador's visit to Dili in 1990.

The clandestine front and the Timorese army have not engaged in terrorist attacks as part of their resistance. The independence movement has not killed any Indonesian civilian in either East Timor or Indonesia; the movement hasn't utilized foreign-based terrorism against noncombatants unlike many other independence movements.

The diplomatic face of the resistance movement has been centered on Jose Ramos-Horta; he has been working in exile for the past 20 years working to keep the issue of independence alive. The diplomatic front has been successful keeping the East Timor situation an active topic in the United Nations, western governments, and in the international press.

Another segment of Timorese resistance has been established in the Catholic leaders in East Timor. The Vatican and official church has not supported the Timorese independence movement mainly fearing retaliation against the Catholic minority in Indonesia (3% of the population). The local clergy and especially the various Timorese Bishops of Dili have been extremely active in promoting independence. The clergy has repeatedly documented human rights abuses and has publicized the situation of East Timor internationally. Bishop Carlos Ximenes Belo of Dili became the foremost mouthpiece of the East Timorese through his pastoral letters, letters to the UN, church sermons, phone interviews with the press, and speeches, all of which earned him the Nobel Peace Prize in 1997. Despite pres-

BACKGROUND HISTORY OF EAST TIMOR

tures from the Muslim army, the number of Catholics has increased dramatically in East Timor from 28% in 1975 to the current figure of 85%.

RIGHT TO SELF-DETERMINATION

Simply stated, the 'right to self-determination' allows people to freely decide on their political status and future. Colonized people were deemed, under international law, to represent the quintessential archetype of a group that is denied such a right. Both of the declarations mentioned above made mention to this fundamental principle. It could be argued that the right was guaranteed to East Timorese as part of Portugal's withdrawal. The exercise of the right to self-determination was jeopardized by the Indonesian invasion. The invasion itself represented a clear violation of international law, which prohibits states from the unilateral use of force or from violating the territorial integrity of other states. From the very beginning of the invasion, both the UN General Assembly and Security Council called upon Indonesia to withdraw from East Timor to enable the people of East Timor to exercise the right to self-determination.² Indonesia's response was to claim sovereignty over East Timor and attempt to consolidate it as part of the Indonesian territorial jurisdiction. The ability of the people of East Timor to exercise the right was thus delayed for more than 24 years.

EAST TIMOR IN THE INTERNATIONAL ARENA

International support for the Timorese resistance movement has been varied at best. In fact, most Western governments supported the Indonesian invasion. The US government and the Australian Prime Minister appeared to have given tacit support to Indonesia for the invasion. Mr. Henry Kissinger, the US Secretary of State (Minister of Foreign Affairs) visited Soeharto and allegedly gave him a green light for the action.

Arm sales also played a key role in determining nations' responses to the East Timor situation. The largest vendors of arms to Indonesia have been the US and UK; they are followed by Germany, Fin-

land, Sweden, Belgium, The Netherlands, and Australia. Since 1993, there have been reductions and specific weapons embargoes on sales by the US and UK. However, it was known at the time that these foreign-made weapons were being used by Indonesia in their fight against the Timorese.

The Timor Gap Oil issue influenced the Australian government to support the Indonesian claim. Originally, Australia and Indonesia agreed in 1972 to divide the waters between Timor and Australia. Portugal, though, was reluctant to negotiate, and thus a gap was left south of East Timor. When Indonesia invaded, Australia increasingly supported the move because it removed Portugal as a party and would resolve the dispute quickly. After exploration, it was revealed that the Timor Gap has the richest oil reserves of all the Timor sea. In 1989, a treaty dividing the area between Australia and Indonesia was signed.

East Timor was declared the 27th Province of Indonesia, but the UN refused to recognize Indonesia's claim. Officially, East Timor remained a colony of Portugal; in fact, the only country to recognize Indonesia's claim was Australia.

Outside support for Timorese independence movement was formed from the efforts of non-government organizations (NGOs) worldwide. Public opinion and NGOs in Australia and Portugal were the first and most sympathetic to East Timor's cause because of the histories with those countries. East Timorese student groups have formed a new ally with the Indonesian pro-democracy groups. The struggle for democratization and independence have been seen as having common aims and enemies. More support from within Indonesia for the Timorese resistance (or at least a lessening in its opposition) followed the 1996 Nobel Peace Prize Award given to East Timorese leaders Bishop Belo and Jose Ramos-Horta. The recognition by a respected, international committee of the Timorese independence movement countered much of what the Indonesian government had disseminated to its citizens.

BACKGROUND HISTORY OF EAST TIMOR

A landmark meeting occurred on July 15, 1997 in Jakarta when President Mandela, at his request, met with Xanana Gusmao as part of an official state visit of the President of South Africa to Indonesia. The meeting reiterated the international attention on the East Timor situation. Mandela followed the meeting with a written request to President Soeharto that Xanana be released; the request was denied, but it highlighted the new international perspective on East Timor.

THE PRESSURE FOR POPULAR CONSULTATION

The United Nations Security Council passed resolutions in December 1975 and April 1976 that demanded that "the Government of Indonesia withdraw all its forces from the territory." The Indonesian government has defied the resolution for over 20 years. Every year from 1976 to 1981, the General Assembly of the United Nations passed similar, but somewhat weaker, resolutions (No. 3485, section 385 and 389. The US delegate had voted against the proposals raised in the General Assembly; however, in November 1982, the US requested that the UN Secretary-General initiate dialogues between Portugal, Indonesia, and East Timorese leaders to find a comprehensive solution. There were no talks from 1983 to 1992; however, after the Santa Cruz massacre in 1992 which became widely publicized, US and UN pressure led to brokered talks with Indonesia that continued until an agreement was reached.

In 1992 the CNRM presented a peace initiative. The CNRM Peace Plan was introduced by CNRM's Special Representative Jose Ramos-Horta, who presented the plan to both the European Parliament and the US Council on Foreign Relations. The plan was endorsed by the Portuguese government who then submitted it on to the UN Secretary-General.

The East Timor Peace Plan of CNRM proposed that the UN work with Indonesia, Portugal, and East Timor in a three-phased plan. Phase 1: Preparation (1-2 years) — this phase focuses on confi-

dence building measures between the participants such as ending armed activities, reducing Indonesian troops to 1,000, releasing all political prisoners, and stationing UN agencies and officials in East Timor. The next phase — Phase 2: Autonomy (5-10 years) — would develop an internal government via a locally elected provincial assembly with a five-year term. Furthermore, political parties would be legalized, a Governor elected, and the remaining Indonesian troops withdrawn. Phase 3: Referendum consists of holding a UN-supervised referendum to choose one of the three options outlined by the UN General Assembly Resolution 1514 of December 15, 1960: (i) Independence, (ii) Free association with the colonial power Portugal, or (iii) Integration into another independent state (Indonesia).

The economic and financial crisis in 1997 in Thailand, Indonesia and Malaysia has devalued Rupie of Indonesia significantly. The economic situation in Indonesia was impacted by the regional economic slow down and made Indonesia politically unstable as well. The democracy movement that had been fighting against Soeharto's military regime took advantage of this opportunity to demand reform as well as protest the over 30 years of power taking by the President and his family. The government began to lose its unity, and it split into several factions. There has been less support from military ever since, and it eventually had forced Soeharto to resign and nominate Habibie to be the new President. The continuing pressure from both outside and inside the country pushed President Harbibie to accept self-determination for East Timor.

Finally, Habibie government accepted to sign an agreement with the Portuguese Republic witnessed by the United Nations. The deal was organized at New York on the 5th of May, 1999. The Agreement was signed by Mr. Jaime Gama, the Foreign Affairs Minister for the Government of Portugal and Mr. Ali Alatas, the Foreign Affairs Minister for the Government of Indonesia, witnessed by Kofi A. Annan, the Secretary General of the United Nations.

THE INTERNATIONAL OBSERVATION MISSION

THE INTERNATIONAL OBSERVATION MISSION

MISSION OBJECTIVES

In the over-all, ANFREL aimed at contributing to the creation of an atmosphere to ensure the free exercise of people's right to self-determination through a free and fair popular consultation.

Specifically, ANFREL aimed at:

1. Demonstrating the concern of the international community for the East Timorese people during this crucial period of their history.
2. Observing and reporting on the period prior to the popular consultation and the levels of pre-consultation irregularities and possible human rights violations.
3. Helping ensure through the presence of international observers, a free and fair popular consultation
4. Assisting local NGOs in their awareness drive on the people's right to self-determination.
5. Informing the international community of the developments before, during and after the consultation.
6. Minimizing, through its strong presence, violence or attempts of committing violence by the militia and other forces involved in the attacks on the people before, during and after the popular consultation.

ANFREL and FORUM-ASIA have so far sent and participated in five missions to East Timor: 1) team sent during the Indonesian election (June 1-10, 1999); 2) Pre-Consultation mission; 3) actual Popular Consultation Mission (August 25-September 2, 1999); 4) Asian Parliamentarians' Mission (August 25-September 2, 1999); and the 5) Needs Assessment Mission (November 13-23, 1999).

The first team was composed of four monitors: two from Japan, one from Canada and one from Thailand. The second team was composed of five monitors: two from Thailand, one from

Philippines, one from Indonesia and one from Japan. The third mission will be discussed below; the fourth was composed of parliamentarians from Thailand, Philippines who participated in a broader Parliamentarians' Solidarity Mission with participants coming from Japan, New Zealand, United Kingdom, Netherlands and Scotland. The last mission was composed of four representatives of different organizations that are interested to do follow-up work in East Timor.

THE INTERNATIONAL MISSION DURING POPULAR CONSULTATION

The mission was composed of forty-two (42) monitors from fourteen countries in Asia and the Pacific (35), North America (4) and Europe (3). (list of mission members in Appendix Section). They are lawyers, academics, doctors, human rights NGO workers, religious, development agency representatives, journalists and professionals involved in various democracy and human rights-related work. Some of them are heads of their organizations and some are program and technical workers. Of the forty-two members, sixteen are women.



ANFREL monitors pose outside the Boy Scouts headquarters in Dili before their deployment. [Photo: Stephen Beeby]

This mission has been one of ANFREL's major missions for 1999. ANFREL had earlier sent 82 international monitors in Indonesia, 13 in Malaysia and 15 in Sri Lanka. Considering East Timor's small population and land area, this mission comprising of 40 monitors is

THE INTERNATIONAL OBSERVATION MISSION

already considered a big one. Some of the constraints in organizing a bigger mission for East Timor were the lack of facilities like accommodation, transportation, limited interpreters and guides and the over-all security situation.

METHODOLOGY

BRIEFING AND ORIENTATION

Mission members were briefed by UN authorities and other resource persons on the context of the East Timor popular consultation, the actual conduct of the popular consultation, security measures, etc.



Prof. Herbert Feith, an expert on Indonesia, briefs ANFREL monitors on the historical context of Indonesian involvement in East Timor.

[Photo: Stephen Beeby]

MEETINGS WITH VARIOUS GROUPS AND INDIVIDUALS

The mission representatives also met with other groups and individuals to share each other's expectations, observation and analyses. Among those they met were the delegation of Canadian parliamentarians, the Parliamentarians Solidarity Mission, Independent Committee for the Monitoring of the Balloting (KIPER), Uniting Church in Australia, KIPP, Carter Center, etc. They also met Bishop Belo, Mr. Ian Martin and other personalities. There were a total of 100 groups who were officially listed as observers for the popular consultation. ANFREL monitors coordinated with most, if

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

not all of other monitors present in their respective areas of assignment.



ANFREL joins other observer groups during UN briefing at the UNAMET office.



Canadian parliamentarians and diplomats share their observation and analysis with ANFREL monitors.

DEPLOYMENT TO AREAS

The mission members were deployed in ten (10) districts to observe actual campaign, voting and counting and conduct interviews among voters, election officials and other members of the community.

THE INTERNATIONAL OBSERVATION MISSION

The choice of areas for deployment was made in consultation with the local NGOs and contacts on the basis of accessibility of areas, availability of transportation, local contacts and interpreters and the security situation.



*Observers deployed to Manatuto and Baucau get ready for their trip.
[Photo: Stephen Beeby]*

MEDIUM-TERM OBSERVER

A member of the mission arrived in East Timor at the beginning of August to observe developments prior to the popular consultation and make reports to ANFREL to assist the latter in the assessment of the situation. She joined an advance team from the International Federation for East Timor (IFET). Prior to this, she had been compiling a chronology of major events happening in Indonesia and East Timor since June 1999 leading to the actual date of the popular consultation. (see chronology of events in published report: *Democratization in Indonesia*, ANFREL/FORUM-ASIA, December 1999, Bangkok, Thailand)

USE OF MEDIA

Two press conferences were called, one at the opening, and the other one after the referendum to announce the mission's findings. Statements were also released to the media in between the two media conferences held. Interviews were also given to the media at



ANFREL observer sharing her experiences in Ambeno during a press conference.

[Photo: Stephen Beeby]

different times during the mission. (see copies of statements and press releases at appendix section). The presence of both local and international members of the media and their interest to the issues involving the East Timor question was noted.

FOLLOW-UP ACTIVITIES

In the aftermath of the popular consultation, ANFREL and FORUM-ASIA continued to undertake activities to follow-up the developments in East Timor. They conducted campaigns and participated in other activities of other organizations to support the democratization process in East Timor.

MISSION FINDINGS

PRE-CONSULTATION MISSIONS

The reports of the two previous missions sent to East Timor, first, the team sent during the general elections in Indonesia on June 1-10, 1999 and second, the team sent for the pre-consultation period on July 1-10, 1999 bear relevant information in relation to the findings of the third mission conducted during the actual period of the popular consultation from August 25-September 2, 1999. (see copies of reports in Appendix section)

THE INTERNATIONAL OBSERVATION MISSION



First mission members with Bishop Belo after their meeting.

For the first report, the mission took note of the following observation:

1. General indifference and apathy of East Timorese voters towards Indonesian general elections.
2. General presence of threats and intimidation, and
3. Numerous procedural errors at polling stations.

For the second report, the following were noted:

1. The main stumbling bloc to the holding of a free and fair voting in East Timor is the presence of the Indonesian military and its para-military forces.
2. The need for very strong international pressure for parties to the New York Agreement to abide by the principles contained in the Agreement. (copy of Breakdowns in the New York Agreement in the Appendix Section)
3. The crucial role of local, regional and international NGOs to ensure free and fair popular consultation.
4. The high turn-out during the registration process gives a glimpse of people's determination to express their will in the face of threats and intimidation by the Indonesian forces.

Both reports gave common account of the presence of tremendous threats and intimidation and the common perception of volatility of the situation leading to the actual holding of popular consultation.

The UN authorities in to the run up to the actual date of the popular consultation were very much concerned about the level of violence and the obvious lack of will on the part of the Indonesian government to put sanctions against those who commit such violations. They could not fix the date of the popular consultation from the original date of August 8 or some other later dates as the situation did not seem to be favorable to holding a free and fair referendum. Finally, August 30 was announced as the final date. Despite pronouncements from Indonesian authorities like President Habibie, Ali Alatas and General Wiranto that Indonesia would abide by the New York Agreement, the Indonesian military and para-military forces continued to create havoc in East Timor. Alleged killings of pro-independence leaders and forced displacement of known pro-independence communities were reported, in an attempt to harass and intimidate people to vote for integration.

THE ACTUAL POPULAR CONSULTATION MISSION

In general, the following observation were made:

CAMPAIGNING

Under the New York Agreement, Indonesia was to provide security in order to ensure a secure environment for a free and fair popular consultation process and would be responsible for the security of the UN personnel. The environment in East Timor was far from that in the days preceding the vote. The bulk of ANFREL mission members arrived in Dili the same day reserved for the campaign of pro-integration forces. The rally ended by members of the militia setting up roadblocks throughout the capital. In an afternoon trip to the center of town some ANFREL observers had to pass through three roadblocks set up by the militia in the heart of down town Dili. In one case, a lone militia person within the watching eyes of at least eleven well-armed Indonesian police ran the roadblock. The police

THE INTERNATIONAL OBSERVATION MISSION



Pro-integration supporters dominated the campaign with long motorcades and noisy rallies, oftentimes culminating in killings, torture and other human rights violations .

were inquiring initially about the observers' destination. The militia person grew more violent as the conversation was progressing. He banged the sides of the car with his fist and then started to poke the driver's assistant who was riding with the rest of ANFREL observers at the back of the minibus, with a screw driver while some of the policemen were watching. He grew angrier when some members of the team attempted to prevent him from hurting the assistant. Tension grew high and the police intervening to convince the militia person that the observers were only foreigners and that he could let us go back to where we came from. In another incident ANFREL observers had a teenager militia member stopping the car with a homemade gun pointed at all of them. A brief conversation with the driver, the young man gave the observers a thumb up and let them go. The observers were told through the interpreter that the driver told him that the observers were heading towards Bishop Belo's house.

Most of the opportunities for campaigning were given to the pro-integration forces. In Maliana, for example, three of the four groups allocated time for campaigning belong to pro-integration camp. Pro-integration rallies often ended in raids, killings and burning. A pro-integration rally in the town of Maliana ended by one of the speakers calling the people to go to the town of Memo (a few kilometers

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

away from Maliana) known to be mostly pro-independence. Three people were killed, 23 houses were burned to the ground and several cars were also burned according to the UN report.

In CNRT stronghold areas like in some parts of Dili, in Ambeno, supporters of pro-independence managed to hold big rallies and motorcades. Thousands gathered and drove around showing Xanana posters and CNRT banners. However, such show of force always received tremendous repercussions from the pro-integration groups. After the final day of campaigning where pro-independence supporters mobilized more than 300,000 people in a big rally, the next day, pro-integration forces burned cars, houses and harassed those who joined the rally.



Above: Food rations were timed during the campaign to generate support for pro-integration vote. In some cases, military trucks were used for delivery

Left: CNRT graffiti below the 56th anniversary of Indonesian Independence sticker (top left corner) in downtown Dili.

[Photo: Stephen Beeby]

THE INTERNATIONAL OBSERVATION MISSION



Above: A huge Indonesian flag and pro-autonomy billboard in Manatuto, where streets were also lined with hundreds of Indonesian flags.

[Photo: Stephen Beeby]



Left: A sample of Megawati's pro-autonomy sticker.

Megawati's party, PDI, won the June 1999 Indonesian Elections.

POLLING AND COUNTING

HIGH VOTER TURNOUT

East Timor holds a record of the highest voter turnout in the world with almost a 98 per cent of the nearly 450,000 registered voters actually casting their votes. The highest recorded voter turnout in

the world is in Malta with 96.7 per cent. In Asia, Indonesia recorded the highest turnout in Asia during its 1999 general elections, the freest election so far after the fall of Soeharto, with 90.2 per cent. Mongolia comes second with only 82.3 per cent and Maldives third, with only 81.5 per cent. Philippines had 76.7 at the height of people power in the 1986 election which voted out its 20-year dictator Ferdinand Marcos. (see table 1 for ranking in Asia)

Table 1

Asia: Ranking of average turnout in the 1990s

| Asia: Ranking of average turnout in the 1990s | | |
|--|------------------|--|
| Country | vote/VAP% | |
| 1 Indonesia | 90.2 | |
| 2 Mongolia | 82.3 | |
| 3 Maldives | 81.5 | |
| 4 Philippines | 76.7 | |
| 5 Sri Lanka | 74.1 | |
| 6 Nepal | 71.2 | |
| 7 Taiwan, Republic of China | 70.1 | |
| 8 Republic of Korea | 70.0 | |
| 9 Burma | 64.6 | |
| 10 Malaysia | 63.4 | |
| 11 Bangladesh | 63.0 | |
| 12 Thailand | 62.5 | |
| 13 India | 59.2 | |
| 14 Japan | 57.0 | |
| 15 Pakistan | 39.8 | |
| 16 Singapore | 39.4 | |

Key: VAP=Voting age population

Source: *Voter Turnout from 1945 to 1997, A Global Report on Political Participation, IDEA, 1997*

THE INTERNATIONAL OBSERVATION MISSION



Pro-independence supporters show their force during the last day of campaigning. [Photo: Somsri Berger]

Across the territory, as early as 4:00 o'clock in the morning, voters were starting to queue at their respective polling stations. In many cases across East Timor, voters had to walk overnight to be at their polling stations on the day of voting. Some of those interviewed said they wanted to make sure they would be able to cast their vote. They said they knew that there would be attempts by pro-integration groups to stop them from voting e.g. setting-up road blocks and checkpoints so they made sure by coming the night before.

ANFREL observers actually witnessed massive flow of voters walking down from the mountains on their way to voting centers.

'Such a magnificent sight!' said an ANFREL monitor deployed in Ermera. 'They were like ants marching down the slope, so organized, flowing like lava from the crater of an erupting volcano.' He also observed that after each person has voted, he/she waited for others until everybody else had voted and altogether, they marched back to where they came from. It was a most touching experience by monitors who witnessed such organized and courageous act.

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT



A sea of people greeted the day during actual polling across East Timor on August 30, 1999.

Later, talking to a community leader, he explained: 'It was the people's way of overcoming their fear – that if they came alone or in a few number, they could be attacked and harassed and forced to return by the pro-integration forces. But if they came together, no one could stop them because they were superior not only in number but in strength. It was a strategy.'

THE INTERNATIONAL OBSERVATION MISSION

PRESENCE OF THREATS AND INTIMIDATION

Most of ANFREL teams had to go through various militia roadblocks to make it to the polling stations where they would be observing the process. Signs of intimidation and violence were evident throughout the territory. The night of the same day, offices of the CNRT were also attacked. The next day (August 28) a number of people left and most shops remained closed in Maliana. By noon of the same day, roadblocks were up and the militia was said to be preparing for another showdown. Several days, after the vote, while Dili is being described as “a living hell”, Maliana was said to be a town of smoldering ruins and unspoken atrocities.



*After polling day
militia groups
started burning
houses and entire
villages.*

UN and other agencies like Amnesty International, Human Rights Watch, not to mention the efforts of some local and Indonesian NGOs in monitoring violations of human rights in East Timor before, during and after the popular consultation, received reports of numerous killings, torture, disappearances of several persons, mostly identified as pro-independence. The number of displaced rose to up to more than 600,000, practically affecting all of the population of East Timor as they fled for safety during the militia rampage. Many were killed as they attempted to flee to take refuge in other places. According to estimates, there are over 200,000 refugees in West Timor alone. These refugees live in most difficult situation as they are controlled

by the militia. They constantly live in fear for the safety of their lives and physical survival. Damage to property and public infrastructure and facilities was unimaginable.

Not only houses were burned but public buildings like hospitals and schools as well. Electricity and water source was destroyed and means of transportation totally paralyzed.

THE NEW YORK AGREEMENT

The New York Agreement represented a breakthrough despite some of its significant flaws. It was perhaps the most meaningful achievement since the invasion in 1975. Although not a party to the main agreement, the UN was allowed complete discretion in the technical conduct of the vote. The UN was also given the power, under Article 3 of the Agreement (regarding the Modalities for the Popular Consultation of the East Timorese through a Direct Ballot), to ascertain that "the necessary security situation exists for the peaceful implementation of the consultation process." (Appendix H)

Obviously, the decision was made that though a serious security situation existed prior to the vote and, marked by campaigns of intimidation and violence, the setting was conducive for holding the vote. The campaign of violent intimidation was noted by most, if not all, ANFREL observers. Another common observation was that despite the deterioration of the security situation, there was a marked determination on the part of the people of East Timor to vote. On one hand, it was obvious that the security situation was unstable but, on the other, any delay of the vote for that reason would have set a dangerous precedent.

Although, technically, Indonesia has no legal claim to the territory of East Timor, its consent was necessary for the finalization of the New York Agreement. Ironically, it may be the only time that its occupation had ever been given any form of legal recognition. The agreement was made between Indonesia and Portugal "without prejudice to the positions of principle of the respective Governments on the final status of East Timor."³ The UN, under whose auspices the

THE INTERNATIONAL OBSERVATION MISSION



Sample of UNAMET posters disseminated to all areas and printed in four languages.

agreement was made, was not party to the Agreement. There may have been political motivations underlying the agreement between the two states that raise certain ethical questions. Presumably, Portugal was acting in the interest of the people of East Timor by virtue of its status as the “administering state”, but what about its responsibility for handling the issue of independence in 1974 and 1975.

A positive aspect of the Agreement was that it provided for the voter eligibility of East Timorese regardless of their geographical location. Under the agreement, special centers were designated in most major Indonesian, European, North American, and Australian cities. In Australia specifically, where there are large numbers of East Timorese, the UN was allowed to use the services of the Australian Electoral Commission. In other parts of the world, the UN was to use the services of the International Organization for Migration (IOM). The clear stipulation of the Agreement regarding the criteria for voter eligibility excluded practically all Indonesians in East Timor.⁴

ROLE OF UNAMET

Under the New York Agreement signed on May 5, 1999, the UN Secretary-General shall have the responsibility and authority to monitor and verify 'compliance' of both parties, Indonesia and Portugal to this Agreement. As a mechanism to enable him to



UNAMET personnel briefing local election workers.

perform this task, under Article 2 of said Agreement, an appropriate UN mission in East Timor is being requested by both parties. Consequently, UNAMET was created and appointed as its head was Mr. Ian Martin, former Secretary-General of Amnesty International.

In the run up to the actual date of the referendum, UNAMET accomplished in a considerable short period of time the necessary groundwork for the holding of the referendum although, Mr. Ian Martin openly expressed UN's difficult role vis-a-vis the intransigence of the Indonesian government, including the military in abiding by the agreements signed by the parties as contained in the New York Agreement (copy as appendix H). ANFREL observers as well as other members of observation missions that shared their findings with ANFREL, in general, noted the commitment and efficiency of most UNAMET personnel in the management of the preparations up to the actual referendum. Most of them reported how UNAMET

THE INTERNATIONAL OBSERVATION MISSION

carried out the process in orderly and peaceful manner, with few exceptions in some areas where there were problems, like in some parts of Dili, there was apparent lack of staff, forcing some polling stations to merge to be able to attend to the voters more efficiently. In many areas where there were long queues, there were instances where the crowd could not be managed well, causing more delays and discomfort among voters especially those



International observer, Dr. El Obaid, watches local police and UN officials try to organise voters to queues.



Chalida, an ANFREL observer from Thailand, is warmly welcomed by the community she monitored.

exposed under the heat of the sun and those who brought their small children. In some areas where there was violence, UNAMET staff had to be supported by other observer groups and reinforced by nearby UNAMET offices and local communities.

Voter education was done well by UNAMET and complemented by joint efforts of the churches, local NGOs and peoples' organizations.

ROLE OF DOMESTIC AND INTERNATIONAL OBSERVERS

There were more than a hundred observer groups which monitored the process, consisting of both domestic and international monitors and representing both government and non-government entities. The presence of monitors in almost all districts gave the East Timorese people in general and the voters in particular, some level of encouragement and assurance that they were not alone in this important act and that they have the support of the international community. The strong presence of international monitors also diffused the tension in many polling centers where there were highly visible signs of intimidation from armed militia groups stationed at or roaming around the polling stations, in blatant violation of referendum rules and regulations. For example in Ambeno, the monitors acted as liaison between the local people and UNAMET, reporting acts of violence about to be committed and actually committed by militia groups to authorities e.g. police, UNAMET in Dili. In Ermera, monitors banded together to reinforce UNAMET and the local communities to counter militia attacks and to allow the ballot boxes to be airlifted to Dili.

Consequently, the observers played significant role in reporting to the international community what they observed in East Timor, contributing much to putting the issue in the limelight for the succeeding weeks and months and adding to the pressure to the UN and member countries to decide to send peace keeping forces and for Indonesia to withdraw its forces, including the militia from the territory.

THE INTERNATIONAL OBSERVATION MISSION

ROLE OF MEDIA

Media played significant role not only in projecting the situation of the East Timorese people in the height of the attacks before, during and after the popular consultation but also in forming public opinion in making Indonesia accountable for the unimaginable violence committed against the East Timorese people.

At the local level, media contributed to voter education, raising the awareness of the population in general and the voter in particular about the significance of the vote, their rights and duties, the procedures, etc. UNAMET made use of radio, leaflets, posters, billboards, memos and other forms to reach out to the general population.

ROLE OF THE CHURCH

The role of the churches of different denominations, especially the predominant Catholic church in East Timor played a major role in providing moral support to the people as well as concrete assistance to facilitate the exercise of their will. The entire hierarchy, from Pope Paul the IV to the bishops, down to the priests and nuns, lay leaders and community members played active role in whole consultation process. The parishes and convents, as well as the schools ran by the different congregations operating in the territory served as venues for awareness building and refuge for displaced families and communities and those persons under great risks. It was reported that known pro-independence people, including the parents and relatives of CNRT leader, Xanana Gusmao, were taken under the care of religious congregations at the height of the militia rampage.

In Suai, Bishop Belo's initiative to reconcile groups in conflict diffused to a large extent the violence in that area. This initiative was attempted in other parts of the territory, with religious leaders taking up the brokering role to achieve peace, at least during the popular consultation.

In the pre-consultation, a big procession was organized around Dili, led by priests and nuns to foster peace and pray for reconciliation in the run up to the popular consultation. ANFREL monitors actually witnessed the activity and observed how the whole exercise created an atmosphere of unity and strength among the people.

Many religious houses opened their doors to the international monitors for accommodation and sharing of information on the situation of the people, particularly of those under great risk like the displaced and the refugees and those targeted by the militia.

Because of their humanitarian concern, they are generally perceived by pro-integration forces to be supportive of pro-independence, making them targets of attacks by the former. Bishop Belo's residence was burned at the height of the militia rampage after the vote. Among those killed during the rampage was a missionary priest.



Local people led by priests and nuns marching around Dili to call for peace and reconciliation in the run up to the popular consultation.

POPULAR CONSULTATION AND CONSEQUENCE

On August 30th, 1999 approximately 90 percent of eligible voters turned out. After waiting for five days for the results, the UNAMET

THE INTERNATIONAL OBSERVATION MISSION

chose September 4th to announce the outcome: **78.5%** voted for independence, and the remainder, **21.5%**, chose to stay with Indonesia.

As soon as the outcome was announced, militias, assisted by Indonesian troops, began an operation where they killed, robbed, tortured and raped the Timorese people, burning down people's houses in most towns. Such genocidal operations and human rights violations were recorded and taped by international press and media to inform the world. Protests and condemnation worldwide were aimed at the Indonesian army and militias.

About 200,000 people escaped the cruel killing by fleeing to West Timor; thousands were killed and tortured, and many of them fled the city to go into hiding in the jungle and mountains. These human rights violations were investigated by the United Nations High Commission on Human Rights led by the former President of Ireland, Mrs. Mary Robinson. This could lead to the formation of the Tribunal Court like in the cases of Yugoslavia and Rwanda. That establishment brought a new political dimension that allowed the human rights violators to be punished in a world court.

SOME QUESTIONS ON THE NEW YORK AGREEMENT

One of the main flaws of the Agreement was that Indonesia was designated, under Article 3 of the Agreement, as the party responsible for "maintaining peace and security in East Timor in order to ensure that the popular consultation is carried out in a fair and peaceful way in an atmosphere free of intimidation, or interference from any side." A further tripartite agreement, this time including the UN, further noted that "the absolute neutrality of the TNI (Indonesian Armed Forces) and the Indonesian Police is essential in this regard." The same agreement called for activating the Commission on Peace and Stability (CPS) and the elaboration of the necessary code of conduct to abide all parties within East Timor. Many concerns were voiced at the conclusion of the New York Agreement because the TNI and other security institutions have been responsi-

ble for most of the atrocities committed in East Timor since the invasion in 1975. In other words, it was difficult to see how anyone would expect the armed forces and police to remain neutral while their history consistently reflected otherwise. There was also an abundance of evidence pointing to their participation in violations that preceded the vote. As evident from the report in this publication, the consultation was preceded by concerted campaigns of violence and intimidation. Although these campaigns did not seem to have intimidated the people of East Timor—who cast their vote regardless—it was clear the terms of the agreement were not being respected. Below is the case according to the IFET:

Although IFET-OP [Observer Project] believes that UNAMET administered the process in a “free and fair” manner, we have serious concerns about the environment in which the consultation has taken place. The context surrounding the consultation process was not free and fair. Rather, it was one characterized by violence, intimidation, and fear created by pro-integration militia groups backed by significant portion of the Indonesian security apparatus. These efforts biased the context in favor of the pro-autonomy camp, and has perhaps distorted the outcome of the vote.⁵

Another shortcoming of the Agreement was the way it dealt or failed to deal with issues that arose after the election was completed. The Agreement focused a great deal on the technicalities of the actual conduction of the vote without making adequate provisions for ensuring the protection of certain human rights (e.g. freedom of assembly and association) before, during, and after. This was perhaps the most important issues to address since it was evident that the militias continued the suppression of these rights after the voting, often with the help of the army and police.

THE INTERNATIONAL OBSERVATION MISSION

The New York Agreement was in short supply of adequate post-election security arrangements. The Agreement's Code of Conduct, to be developed by the CPS in collaboration with the UN, was supposed to include provisions to ensure the laying down of arms by all sides and other steps for disarmament. Presumably, the TNI was to be responsible for such disarmament. The same concerns raised before in terms of the level of trust on the TNI can be raised here. The Agreement was clear about the responsibility of the Indonesian police in maintaining law and order during the election, with the UN police acting simply as advisers. It was not clear what would happen to these roles in the period between the conclusion of the vote, announcement of the results, and the establishing the transitional authority agreed upon.

It is obvious from the foregoing analysis that the New York Agreement, though it had many positive aspects, was far from adequate. The conclusion of the Agreement and the principles upon which it was based may not be incongruent with international law, but it was more of a political compromise aimed at appeasing Indonesia while realizing the long-awaited dream of the people of East Timor. The price for this compromise was heavy, given the atrocities committed before and especially after the vote. Although the lack of foresight may have contributed to this, it is the international community's complacency that led to such costly compromises.

THE ROLE OF THE UN AND ASEAN AFTER POPULAR CONSULTATION

The cruel and inhuman activities that occurred after the referendum moved the West, especially the US and Australia, to pressure the Indonesian Government to accept their request for international troops to be deployed and to control the situation in East Timor. On September 10th, General Hugué Celton, the US Chief of Military Intelligence forced General Wiranto, the Chief Commander of the Indonesian Army to accept the deal. On September 12th, President Harbibie urged for international assistance and three days later, on the 15th of September, the Security Council of the United Nations

issued resolution No. 1264 to send Peace Keeping Forces to East Timor.

It was estimated that the International Force for East Timor (INTERFET) could recruit 8000 troops, of which 4500 troops would come from Australia, 1000 from Thailand, 600 from Canada, 600 from Italy, 500 from France, 500 from South Korea, 250 from the United Kingdom (Gurkah troops), 50 from Brazil and 50 from Argentina. Some countries did not send troops but instead sent technicians and other officials to assist in other ways; those countries included the US, Singapore, Fiji and so on. Some countries also supported the cause with money like the US, Japan, Finland, Germany, and Portugal.

The Association for South East Asian Nations (ASEAN) has been known as an ineffective association. The original purpose of ASEAN more than 33 years ago was to establish political collaboration among the anti-Communist countries. After the end of the 'Cold War', ASEAN tried to change their aim to economic collaboration, but again it was not effective and lacked the vision and intention needed to work together. It was clear that the 'Constructive Engagement' policy and the rushing to get more members, particularly the taking in of Burma as a new member, made ASEAN lose more credibility and efficiency. Needless to say, ASEAN's policy on East Timor seemed to be paralysed.

Thailand and Philippines are considered more democratic than the other member countries, and both were expected to play a leading role in having Asian people involved in the operation in East Timor while allowing Indonesia to save face as well. That way the operation team does not have to be only from the West; the unit would receive assistance from Asian themselves. Indonesia had no other alternative that would allow them to reject the deal because of Indonesia's malpractice policy for more than two decades and because of its dependence on the West's financial and military support.

THE INTERNATIONAL OBSERVATION MISSION

At the beginning, the Malaysian military desired to serve as the second leadership role under the Australian Chief because Malaysia had been sending peace keeping troops to several places around the world. This desire made M.P. Mahathir himself uncomfortable because of his conservative approach, which sympathised with Soeharto and the Indonesian country. He was also concerned with the future problem regarding the border of the two countries, particularly the relationship between Indonesian and Malaysia at the Malakar channel as well as with the rebels in Aceh. It was not worthwhile for Malaysia to play such role, and it gave way to the Thai military instead.

Certainly, it was not an easy decision for the Thai government, but it was an opportunity for the Thai military to play a role internationally. That could help Thailand in building up prestige for their army. (The Thai army had been pushing to participate in a benefit of Anarchist groups for a long time since the 1947 Coup to the October 14, 1973 and October 6, 1976 until the May Massacre in 1992.)

In the meantime, if both Thailand and the Philippines could collaborate and get support from Singapore and Malaysia, they might be able to help ASEAN build up a new face. Thirty three years ago, ASEAN had been led by conservative leaders during the 'Cold War' like Ali Alatas and so on. That old generation should no longer lead the association in the modern era world, and it is time for them to lay down their leadership. So, the problem of East Timor serves as an indicator for ASEAN to whether they will be able to adapt themselves and successfully move into the future. It is a great challenge for ASEAN's new generation.

CONCLUSION

The stories are many but the morale is the same, the people have shown a tremendous amount of courage in the midst of so much violence and atrocities. Behind this courage are two main strong determined streaks. One is to make the choice and determine the fate of their land and life. The other is the equally strong expectation that the international community in the form of the UN has finally come to help them in fulfilling their long lasting dream and with the promise to be there for them regardless of the choice they make. People seemed determined to endure death and violence for the sake of the belief that their vote may finally redeem them and pave the way for a better life. The greatest lesson we can all learn from the vote in East Timor is that it is a testament to Aung San Suu Kyi's statement that "the spirit of man can transcend the flaws of human nature".

Indeed, it was the triumph of the human spirit. The strong fear was overcome by a much stronger desire to be free. After decades of domination, of tremendous sufferings and misery, the people's will has prevailed. It is now the time to pick up the pieces and start to heal the wounded lives and build the destroyed nation.

RECOMMENDATIONS

Since almost all the provisions of the Agreement were violated within days after said Agreement was signed, and recognizing the initial efforts made by the UN and by the Human Rights Commission of Indonesia and other initiatives both from GOs and NGOs, it is necessary to sustain the investigation and push through with the prosecution of those responsible for the violations of the Agreement especially those relating to human rights. Mechanisms for sustained process to render justice to hundreds and thousands of victims and their families should be a priority.

CONCLUSION AND RECOMMENDATIONS

UN and other inter-governmental bodies as well as international NGOs should support programs towards rehabilitation of victims, reunification of families and providing basic needs to communities. Full participation of the East Timorese people in all these processes should always be ensured.

The destruction of infrastructure and facilities has been massive, making it extremely difficult to allow the East Timorese people to survive and sustain their efforts for building their lives and their new nation. Concerted humanitarian and all kinds of support are needed to help them realize their dream for independence - politically, economically, socially and culturally.

The plight of the refugees in West Timor is a deplorable one. To date, there remain around 100,000 East Timorese living in camps and under the control of Indonesian forces. These refugees have to be protected so they can exercise their right to a free choice to return to East Timor or to remain where they are. Protection means not only in terms of assuring their food and other material needs but more in terms of guaranteeing their security, their freedom to express themselves through the exercise of their right to access to relevant information and communication to allow them to make an informed decision and to build their lives.

The transition to self-governance is crucial to the future of East Timor. Support is needed to build basic governance structures from the grassroots level to district and national level. UN and NGO programs should gear towards capacity building at all levels towards self-governance and self-reliance. Simultaneously, the formation and or strengthening of NGOs should be supported as they are major potential contributors to the building of civil society in East Timor. The role of women in nation building has to be taken into serious consideration when developing these programs.

Educational materials on East Timor, in various popular forms like videos, booklets, tapes, have to be developed and produced to

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

disseminate the lessons learned from the experience of this new nation, highlighting the values of courage, unity and self-determination and the impact of solidarity, of human rights education, faith, etc. Campaign on East Timor should be sustained to continue international support in its building/rebuilding process.

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ENDNOTES

¹ (1995) International Court of Justice 90.

² See, UN General Assembly Resolution 3485 (1975) and Security Council Resolution 384 (1975).

³ Under the auspices of the United Nations, talks between the two countries began in 1982 with minimal success. It was only when Indonesia proposed a limited autonomy for East Timor in 1998 that the talks progressed and eventually led to the signing of the New York Agreement.

⁴ These criteria are stipulated as follows: "The following persons, aged 17 years and above, shall be eligible to vote in the popular consultation:

- (a) persons born in East Timor,
- (b) persons born outside East Timor but with at least one parent having been born in East Timor, and
- (c) persons whose spouses fall under either of the two categories above."

⁵ IFET-OP Report #9, 2 September 1999.

APPENDICES

SECTION

APPENDIX A - ANFREL PRESS RELEASE

Press Release

9 June 1999

XANANA TO BE FREED AFTER 8th AUGUST - HABIBIE

A five-member Asian delegation from Thailand, Cambodia, Nepal, Japan and the Philippines belonging to the Asian Network for Free Elections (ANFREL), met today with President Habibie at the Presidential Palace. The delegation are among the 75 international observers deployed by ANFREL to 20 provinces during the June 7 election.

Asked right away about the release of political prisoners like Xanana Gusmao, East Timor opposition leader and Budiman Sudjatmiko, president of PRD, one of the political parties contesting in the election, he said that upon his assumption as president, he already released a number of political prisoners based on five criteria including the prisoner's allegiance to the constitution. He said that Xanana has been accused of criminal offense and sentenced to life imprisonment, then it was reduced to 20 years so he has 13 years more to serve. The delegation asserted that he should be freed before the August 8 referendum so he could participate freely in the negotiation process. Habibie committed to the group that Xanana will automatically be released on August 8 when the people of East Timor vote for their independence.

Asked how his government intends to address the post-election scenario like the possibility of violence and instability, he assured the group that everything is on the pipeline until the next president, whether it is a 'he or a she' will be elected. Asked if there is possibility to elect the new president earlier than Novem-

APPENDIX SECTION

ber as demanded by the opposition political parties, he said 'that is against the constitution' and he will not do anything against the constitution. He said 'democracy is just a technique' so this election only serves this function towards a long-term democratization process. The post-election challenge he considers important is the socialization of the values of democracy where the lessons learned of the past will be experienced by everyone.

Expounding on East Timor, he said it is something that will have to be decided by the people and he hopes whoever wins in the election will respect the will of the East Timorese people. He emphasized the role of the MOU signed by Portugal, Indonesia and East Timor under the auspices of the UN- that this is binding as far as the parties involved are concerned.

Habibie narrated his administration's accomplishments as far as human rights are concerned. He mentioned Indonesia's ratification of the ILO conventions and how, through the decrees and laws passed during his short time as president he was able to address the economic issues of the country. He cited the increase in currency exchange from a low of 16,000 to a dollar to the current 7,800 to a dollar and the positive change in the interest rate.

The meeting was attended by his cabinet including General Wiranto and nine other ministers and advisers.

APPENDIX B - ANFREL STATEMENT

ANFREL Expresses Grave Concern on the East Timor Situation Prior to the August Popular Consultation

A five-member team of observers organized by the Asian Network for Free Elections (ANFREL), a Bangkok-based network of human rights and election monitoring groups in Asia conducted a pre-consultation observation mission in East Timor and Indonesia last July 10 to 20, 1999 to assess the situation prior to the scheduled August 21 popular consultation and to observe the on-going voter registration in East Timor and in Jakarta, respectively.

The team, composed of monitors from Thailand, Philippines, Japan and Indonesia visited offices of United Nations Mission in East Timor (UNAMET), the agency in-charge of supervising the popular consultation, Peace and Stability Commission (KPS), met with representatives of pro-integration and pro-independence groups, local organizations working on human rights, local and international election monitoring organizations, religious congregations and organizations working with internally displaced persons and students. Besides Dili, the team also visited Los Pallos and Bacau in the eastern part of the island. The team also spent a few days in Jakarta to observe voter registration and meet with some East Timorese in the capital.

Based on the meetings and consultations held and actual observation conducted, the team expresses the following concerns which need to be addressed immediately by authorities concerned:

On the security situation

The reported incidents of militia attacks on the UN offices and personnel in Liquicia and Mallana happened a few days before the team arrived in Dili. People interviewed said that although the situation

APPENDIX SECTION

is a little bit better compared to the past months, still nobody dare to stay late at night outside their homes because of fear. The team was informed that a number of big businessmen had already left East Timor. A number of districts besides Liquica and Mallana, remain sensitive areas as militia forces continue to threaten the local population, creating fear among the people.

Along the border of East and West Timor, more troops were deployed in the area, creating fear among the people living in the vicinity areas. Just before the group left, the Suai incident happened, causing the death of one and serious injuries to four local residents. The team was informed of the past cases of killings, torture, disappearances and harassment of people identified with pro-independence movement by the groups and individuals they interviewed.

Generally, the security situation is tense and uncertain. Although in some areas, it is generally peaceful but it is obvious that people have deep fear of the government military and police. This kind of atmosphere is obviously not conducive to holding a free and fair polling, rather this would affect the willingness of people to come out to register and vote. If even the security of the UNAMET personnel and international observers could not be guaranteed, the ordinary people have reason to be afraid of their own security especially after the polling when reprisal is most likely to take place against those who voted in favor of independence. People expressed fear especially after the polling when the UNAMET and international observers are no longer around and they have to bear the acts of reprisal of the losing side. There is a need to address urgently the security situation as this would undermine the people's right to exercise their free choice.

On the situation of internally displaced persons

The team was informed of the increasing number of internally displaced persons ranging from 80,000 to 100,000 in different parts of East Timor both in the urban centers and rural areas due to

militarization. In Atambuan alone, an estimated 6,000 have fled to the site and yet there is no registration of voters in the area. Aside from their miserable situation of not having enough food and proper housing and sanitation, their rights to register and vote would be deprived because they don't have or they lack the legal documents to prove their real identity. The idea of returning to their villages where they are supposed to register is most unlikely as they consider it a threat to their security and lives.

On the rights of political prisoners

Hundreds of political prisoners languish in various detention centers in East Timor, Bali, Jakarta and other parts of Indonesia. The team was informed that the detainees are not informed of the requirements for registration and the procedures for both registration and voting.

On East Timorese living outside East Timor

There is also quite a big number of East Timorese living outside East Timor. Most of them went on exile after the Indonesian troops' occupation in 1975. Concentration of East Timorese are found in Jakarta, Yogyakarta, Sumatra, Ujung Pandang in Indonesia; Darwin, and Melbourne in Australia, Macau and Portugal. The team was informed that most people are not well aware of the requirements and process related to the registration and voting.

Based on the Agreements of parties involved in the popular consultation, *a 'secure environment devoid of violence or other forms of intimidation is a pre-requisite for the holding of a free and fair ballot in East Timor'*. To the team's assessment, this environment is not present in East Timor and therefore undermines the people's confidence in exercising their free choice during the actual popular consultation.

ANFREL calls on the Indonesian Government to fulfill its responsibility under the May 5 Agreements to ensure the security of East Timorese

APPENDIX SECTION

people. The team believes that unless the troops are withdrawn and the local militia are disarmed, there is no guarantee that human rights violations, threats and intimidations will come to a halt. While there are other requirements to achieve a conducive atmosphere for the holding of the polling, this is a very important first step to ensure a less threatening atmosphere for the holding of the popular consultation.

ANFREL believes that the Indonesian Government's responsibility can be best fulfilled and its goodwill demonstrated by pulling out its troops from the territory and disarming and disbanding the local militia.

Action on the numerous human rights violations need to be done to restore the people's confidence and to lessen their fear and anxiety.

ANFREL calls for immediate action on the situation of internally displaced persons and requests the authorities to allow them to register wherever they are.

Political prisoners should have access to information and be allowed to exercise their right to register and vote.

East Timorese citizens living outside East Timor should also be informed of the requirements, the place for registration and voting and the procedures.

ANFREL appeals to the international community and to the media to keep their vigilance in the monitoring of the situation in East Timor and in supporting the people of East Timor in their exercise of their freedom to choose and determine their own fate and their long search for justice and peace.

APPENDIX C - ANFREL PRESS RELEASES DURING THE INTERNATIONAL OBSERVA- TION MISSION

PRESS RELEASE

Friday, August 27, 1999

ANFREL OBSERVERS AND STAFF INTIMIDATED AND THREATENED BY PRO-AUTONOMY MILITIAS IN DILI

Yesterday's pro-autonomy rally in Dili, which culminated in the killing of several people, and intimidation and violence directed at international observers and journalists, seriously threatens the viability of holding a free and fair ballot in East Timor on August 30.

During the day, ANFREL observers saw first hand evidence of police officers carrying and wearing pro-autonomy paraphernalia during campaigning by pro-autonomy groups. Any campaigning by the police is a violation of the May 5 New York Agreements, signed by the UN and the governments of Indonesia and Portugal, which require the police to be absolutely neutral.

In the late afternoon, ANFREL observers witnessed militia group members openly carrying guns, machetes and sharpened sticks, with no intervention by the police officers who were present. The police are responsible for maintaining law and order and their failure to intervene is also a violation of the New York Agreements.

One ANFREL observer, who was walking one block away from the CNRT headquarters, had a gun pointed at him by a militia member. A group of ANFREL observers, who were travelling in a van, were stopped twice by groups of heavily armed militia

APPENDIX SECTION

members and on the second occasion the ANFREL driver was threatened with death.

ANFREL has concluded that the Indonesian government has failed to maintain security in East Timor. In order for there to be a free and fair ballot, the following conditions are essential:

- (1) The militia groups and other armed parties in East Timor must be disarmed immediately.
- (2) The UN should substantially increase its role in maintaining security in East Timor.
- (3) The Indonesian military should be completely withdrawn from East Timor.

PRESS RELEASE

Tuesday, August 31, 1999

HIGH VOTER TURNOUT REFLECTS THE WILL OF EAST TIMORESE PEOPLE FOR SELF- DETERMINATION

The Asian Network for Free Elections (ANFREL) is encouraged by the high turnout of voters at yesterday's vote and congratulates the East Timorese people on their resolve to exercise their right to self-determination.

Despite the intimidation of voters, mainly by pro-integration militias, in the months leading up to the popular consultation, ANFREL observers, numbering 40 people from 12 countries, reported that turnout was high in all areas.

In many areas, hundreds of voters, ranging from the elderly to young mothers with babies, were waiting before the polls opened to cast their ballots.

Despite reports of intimidation by militias and police at some polling stations, it appears that very few, if any, voters were scared away.

The next step is to see what effect the intimidation may have had on the choice voters made. "The high turnout is very encouraging," said ANFREL Head Of Mission, Gen. Saiyud Kerdphol "but intimidation can still affect people's voting choice. We will have to await the final results before we fully assess whether it is truly an act of conscience."

By cautiously applauding today's events, ANFREL does not regard the popular consultation process as complete. The encouraging response of the East Timorese people may well determine the status of East Timor, but it may not offer protection from reprisals in the coming days and weeks. The high turnout, despite intimidation, may actually have further jeopardised the safety of many people.

In this regard, ANFREL repeats its recommendations that :

- (1) The militia groups and other armed parties in East Timor must be disarmed immediately.
- (2) The UN should substantially increase its role in maintaining security in East Timor.

PRESS RELEASE

Wednesday, September 1, 1999

ANFREL OBSERVER ATTACKED AND AIRPORT BLOCKED BY MILITIA GROUP

Yesterday, an Australian observer from the Asian Network for Free Elections (ANFREL) and his driver were attacked by a militia group outside Dili and Thai observers from ANFREL witnessed the airport being blocked by members of the same group.

In the early morning, an ANFREL observer from Australia, was

APPENDIX SECTION

attacked along with his driver by an Aitarak militia group numbering about 40 men on the road from Dili to Manatuto. The driver was pulled from the car by several men armed with sticks, machetes and homemade handguns, and punched and kicked. When the ANFREL observer attempted to intervene, he was also kicked.

The two of them were brought inside the militia headquarters and interrogated for 20 minutes before they were allowed to leave. The ANFREL observer noted that his interrogator was wearing army fatigues and had an army haircut.

Later in the morning, several Thai members of ANFREL witnessed intimidation at the Dili airport by members of the Aitarak militia group. Following a statement by Aitarak leader, Eurico Guterres, in which he reportedly said that East Timorese leaders should not leave East Timor, militia members blocked the doors to the airport and prevented East Timorese staff from entering.

A human rights lawyer from Thailand, who is also an ANFREL observer, was initially blocked from entering, and was only able to do so when an Australian parliamentarian observer intervened. The police simply watched and did not stop the militia members.

ANFREL is concerned that observers remaining in East Timor may increasingly become targets of militia reprisals and that local East Timorese staff are particularly vulnerable in this regard.

ANFREL will be addressing this issue along with its preliminary assessment of the popular consultation at a press conference at the Resende Hotel at 3:00 p.m. today.

APPENDIX D - ANFREL STATEMENT

ANFREL STATEMENT

02 September 1999

ANFREL JOINS EAST TIMORESE IN AUGUST 30 POLLING VICTORY

The overwhelming turn-out of 98% of the registered voters at the August 30 popular consultation has proven once more the strength of the "people power" in Asia. The courageous act of the East Timorese people to prevail over the long and most difficult period of violence and intimidation prior to the poll is victory in itself. The fact that they have gone beyond and have transformed their fear and sufferings into courage and strong determination by asserting their right to express themselves and to make their collective voice heard has made them emerge as a winner in the process. As a people, they did not only overcome their past but showed some directions for democratization for other peoples in Asia and elsewhere in the world.

The Asian Network for Free Elections (ANFREL) numbering to 40 observers from 12 countries proudly joins the East Timorese in this historic victory.

We are aware that like the East Timorese, many other peoples are suffering under repressive rule and struggling for freedom and self-determination, for human rights and democratization. The precedent set by this event will have implications for the future of other peoples.

ANFREL gives due credit to UNAMET people, especially the local personnel for making the process of registration and polling successful despite the high risks provided by the difficult security environment and other constraints. Though some administrative weaknesses on the part of UNAMET were observed, like lack of organization and training, its performance was generally satisfactory.

APPENDIX SECTION

ANFREL also has high regard for the important role of international and domestic observers, of the media, the religious groups, medical teams and other sectors that contributed to the over-all success of the poll.

ANFREL is concerned about the provocation caused by some media and observer groups, such as the incident involving the Australian TV team "60 Minutes" in Liquica. Such provocation creates unnecessary tensions, and is a serious misunderstanding of the appropriate role of international observers and the media.

Though a number of major cases of threats and intimidation happened before, during and after the polls ranging from verbal threats to actual killings and burning of houses, some segments of the police and military, including the militia and other armed groups should be commended for their cooperation in maintaining peace and order during the process. Those who figured in some cases of violence in different parts of East Timor, notably in certain parts of Dili, in Ermera, in Liquica, Los Palos, Ambeno and Viqueque causing deaths and injury to hundreds of people and the displacement of thousands of East Timorese, are urged to respect the will of the people by ensuring their security in their effort to rebuild their society.

PROSPECTS FOR THE FUTURE

Whatever the result of the poll will be, reconciliation will be very crucial in determining the future of East Timor. Regardless of the outcome, all parties concerned should respect the will of the people.

ANFREL expresses very serious concern over the security of the UNAMET personnel, especially the local staff, local observer groups and the people in general in both the immediate post-polling and long-term period.

ANFREL calls on the Indonesian government to fulfill its commitments under the existing agreements to ensure the security and well-being of the people of East Timor. We reiterate our previous calls for immediate pull-out of troops and withdrawal of arms. ANFREL calls on the military and the militia to exercise restraint and to respect the rights of the East Timorese people.

ANFREL calls on the international community, including the media to continue its vigilance in monitoring the situation in East Timor.

Lastly, ANFREL calls for solidarity with the East Timorese people and for an all-out support in their effort to build a society according to their decision and determination.

APPENDIX E - ANFREL STATEMENT

**ASIAN REGIONAL MEETING ON
INDONESIA AND EAST TIMOR**

12-14 September 1999

Bangkok, Thailand

STATEMENT OF PROTEST AND CALL TO ACTION

We, the representatives of various organizations from different countries in Asia, express our protest over the violence being inflicted on the East Timorese people by the Indonesian government and call the international community for immediate action on the situation in East Timor.

Since the East Timorese people voted overwhelmingly for independence on August 30, they have been subject to brutal repression at the hands of the Indonesian armed forces (TNI) and pro-autonomy militia groups. Widespread killings, forced evacuations, massive destruction of property and infrastructure, and a worsening food crisis amongst displaced communities now dominate the landscape.

The announcement by President Habibie to allow the deployment of international peacekeeping forces in East Timor is an important step in the resolution of the crisis. The Indonesian armed forces, as the prime perpetrator of the violence in East Timor, continue to promote a policy verging on genocide. We fear that they will disrupt the peace-keeping process through a continuing program of support for the militias.

However, there remains an urgency in responding to the security and humanitarian situation in East Timor, as well as for the internally displaced people in West Timor and throughout Indonesia. The responsibility of the international community must be immediate and

comprehensive, extending beyond the peacekeeping operation.

As representatives of organizations from different Asian countries, we make the following demands:

To the Indonesian government,

- The declaration of martial law, introduced outside the mandate of the New York Agreement, must be formally revoked;
- The Indonesian armed forces must immediately begin a full withdrawal from East Timor;
- The will of the East Timorese people as expressed in the result of the August 30 referendum must formally recognize the independence of East Timor from Indonesia at the People's Assembly (MPR) Session in November;
- The UNHCR and Indonesian and international humanitarian agencies must be provided complete access to the internally displaced persons in West Timor and throughout Indonesia;
- Protection of the internally displaced persons and Indonesian supporters must be guaranteed.
- To the United Nations,
- The peacekeeping forces must be introduced immediately to provide protection to the East Timorese people and disarm the militia groups, but its mission must be clearly defined in consultation with the CNRT and other East Timorese representative groups;
- Prior to the deployment of peacekeeping forces, airdrops of food and medicine supplies from aircraft based in Darwin must be organized to provide relief to the people seeking refuge in the hills and facing severe hunger and disease;
- The UNHCR must send an urgent mission to West Timor and provide asylum for displaced East Timorese in Jakarta and other Indonesian cities;

APPENDIX SECTION

A commission to investigate crimes against humanity must be created.

To ASEAN governments and the international community,

ASEAN governments and the international community should prepare humanitarian aid missions to accompany the arrival of peacekeeping forces in East Timor and put pressure on the Indonesian government to provide full humanitarian access to internally displaced peoples in Indonesia;

After twenty five years of persecution, the East Timorese people have earned their freedom. The United Nations, ASEAN and the international community have a duty to ensure that their aspirations for an independent East Timor are fully realised.

As organizations working for human rights, peace and development, we commit ourselves to the cause of the East Timorese people in their long struggle for human rights, peace and democracy.

SIGNATORIES

SOMCHAI HOMLAOR
Forum-Asia

AA SUDIRMAN
AJI-Indonesia

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EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

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APPENDIX F - THE NATION ARTICLE

Timor poll security A shared responsibility

If the United Nations is unable to guarantee security in East Timor,
the upcoming referendum will be unfree and unfair.

by Somsri Berger

THE NATION, July 9th, 1999

The East Timor referendum next month will be the first act of self-determination in recent Southeast Asian history. More importantly, it will show whether the various groups involved in this historic process can conduct such a "popular consultation" peacefully, especially the three parties – the United Nations, Indonesia and Portugal - which signed the May 5 agreement in New York to let East Timorese choose their own political, social and economic status.

The referendum in East Timor, which has had one of the worst human rights records for more than two decades, will pose an especially difficult case for the United Nations to handle.

Even though East Timor is a small island with not even one million inhabitants, there are many issues which need to be negotiated, especially the problem of security. To date, security remains the major stumbling block in the referendum.

Despite the efforts of the UN personnel who are stationed in the island to create an atmosphere conducive to the holding of the referendum, there are counter-forces that seek to undermine them.

The UN has set up a referendum administration body called the UN Assistance Mission to East Timor (UNAMET) to work for the

preparations of the vote and to solve the problem of security.

However, there remain many questions among international observers who are preparing to go to East Timor: for example, how effective are the security measures arranged by the Unamet, and how much are the Indonesian government and the military able and willing to control the militia forces that have been responsible for the recent attacks on the UN offices and convoys, and other violent acts attributed to them.

At present, nobody can guarantee the security of the people on the island. It will, however, be unfair to put this responsibility on the UN. All the parties involved in the dispute have the responsibility to ensure that the referendum goes ahead as scheduled, and that this is carried out in a peaceful atmosphere, and in a free and fair manner.

However, if the UN could not prevent the violence from breaking out, it should not let the referendum process take place as scheduled because the continuous violence is creating an atmosphere not conducive for a free and fair referendum.

Clearly, this will have serious consequences on the majority of the East Timorese people who have long been struggling for their right to self-determination. Violence may again be the rule of the game as the Indonesian military continues to control their lives and determine their future. Indeed, a cancellation of the referendum will be a great setback for the international community in its efforts to bring peace to this troubled territory.

Both the pro-independence and pro-integration forces know well that this coming referendum will be crucial in determining their future. For the later, it will be the last chance in protecting the legitimacy of their claim to this territory.

The referendum will tell the global community whether the eastern half of the island will be a new country on the map, or that it will

APPENDIX SECTION

remain part of Indonesia. It also will tell East Timorese whether they will be able to cross the border to West Timor freely as it is now or that a border will divide the eastern side as province of Indonesia and their Part as a new country.

No doubt, if the result of the referendum is in favor of independence, it will also send troubling signals to the Indonesian government about the right to self-determination by other separatist forces who are struggling for independence, such as in Aceh and Irian Jaya.

Asean is sending some technical and personnel support, such as civilian police to be part of the UN security team. Nevertheless, Asean governments might not be able to do more than that because of its policy of non-interference in the internal affairs of its members.

Compared to the June 7 Indonesian elections, where there were several teams of local and international observers from all over the world to observe the election, East Timor may not have as many observers. The reasons are because:

- The referendum process is being organized by thousand of United Nations personnel, whom, it is hoped, will be able to guarantee the neutrality and transparency of the process.
- Some countries do not want to send observers in what is seen as an uncertain political situation in which human rights violations and abuses persist.
- The risk of a lack of logistic preparation and poor accommodation as well as the lack of transportation in both Dili and the districts.
- It is deemed difficult to evacuate foreigners if a crisis did take place.

However, we should bear in mind that the monitoring of the East Timor referendum is unlike any other general elections. The August

referendum is a crucial decision for which the East Timorese will probably never have the opportunity again. It represents the possibility for a peaceful change.

In the view of the pro-integration supporters, there is no point having a referendum that might bring an undesirable change in their lives forever, and they don't see how the presence of the UN and international observers, who aim to have a free and fair referendum, will benefit them. They figure that without the UN and international observers, and without the New York agreement, East Timor will continue to remain an integral part of Indonesia. They will do their best to frustrate the holding of the referendum.

We as Asians should not let East Timorese people's right to determine their own fate and future be violated. The peace in East Timor is peace for the region.

We have the responsibility to ensure that their voices be heard and their decision respected.

Somsri Berger is the election monitoring coordinator of the Asian Network for Free Elections (ANFREL). She has monitored elections in Cambodia and Indonesia, and coordinated the mission that monitored the popular consultation in East Timor.

APPENDIX G - ANFREL REPORT

Report on the 1999 Indonesian Elections

ANFREL
(Asian Network for Free Elections)

East Timor Team Report

Introduction

On June 1-10, 1999, ANFREL sent a mission to observe the general elections in Indonesia. Prior to this, a team was sent to observe the pre-election campaign period. ANFREL fielded 82 observers from 18 different countries, mostly from Asia during the election. Its observers were present in 190 polling stations in seven different sites in west, central and eastern Java; five different sites in Sumatra; five islands in Nusa Tenggara; north and south Sulawesi; and one site each in the Moluccas and the Kalimantan Teams were also deployed in Aceh and East Timor. It was one of the largest of fourteen accredited international observer groups that monitored the historic event.

East Timor Team Members

Chalida Tajaroensuk (Forum Asia, Thailand),
Ehito Kimura (Focus on the Global South, Thailand),
Mitsuru Yamada (Wakayama University, Japan),
El Obaid Ahmed El Obaid (Canadian Human Rights Foundation,
Canada)

Background on East Timor

| | | |
|---|------------------------------------|---------|
| ■ | Total population (1997) | 891,100 |
| ■ | Eligible to vote (1999) | 468,000 |
| ■ | Registered to vote (1999) | 420,046 |
| • | Men | 210,778 |
| • | Women | 209,318 |
| ■ | 89.75 % of eligible voters | |
| ■ | 47.14 % of total (1997) population | |

East Timor is a disputed area in Indonesia. Formerly a colony of Portugal, East Timor was invaded and occupied by Indonesia in 1975 soon after the fall of the Portuguese Empire and the Salazar regime. There has been a strong East Timorese resistance movement both inside and outside East Timor for nearly twenty-five years.

The country is predominantly Timorese in ethnic origin but there has been an influx of Indonesians into East Timor ever since Indonesia forcefully annexed the area. The people in the country are predominantly Catholic and the Church remains an important spiritual, political and social presence in the country.

Of late, East Timor has been a major international news item. In a historic agreement signed in New York earlier this year, the Portuguese and Indonesian government agreed that East Timor should have a consultation on the question of whether to accept or reject special autonomy status for East Timor. This consultation is scheduled for August 8, 1999 and will be administered by the United Nations. If autonomy is rejected, it is generally understood that East Timor will begin a process of becoming an independent nation. For these reasons, East Timor is a unique case in the Indonesian general election context.

APPENDIX SECTION

Summary of Monitoring Results

Team East Timor undertook the following activities.

1. Interviewed individuals and organizations prior to election day
2. Visited and evaluated polling booths on election day

General Remarks

1. Indifference towards to the Indonesian general election
2. The presence of intimidation and threat
3. Numerous procedural errors at polling stations

A. Indifference towards the Indonesian general elections-

ANFREL observers for East Timor quickly developed an understanding of a general level of apathy about the general elections in Dili, the capital of East Timor. Virtually every East Timorese ANFREL observers interviewed felt that the upcoming referendum scheduled for August 8, 1999 was by far and away the more important determining factor for the future of East Timor. For this reason, many groups noted that they were doing minimal to absolutely no work on the general election. One director of an East Timorese foundation noted that "the elections are a manipulated drama orchestrated by the Indonesians. We cannot be democratic with the presence of Indonesians."

Additional evidence that supports evidence of general apathy was the unusually high rate of 'invalid' votes casts as counted in the final ballot count after the close of the polls. One station recorded that 87 out of 387 total ballots (22.5%) cast in the DPR box were invalid. In another polling station, about 15% of all ballots were 'invalid'. 'Invalid' consisted of ballots that were punched multiple times for multiple parties, ballots left blank, ballots cast for non participating par-

ties., among others. While there are clearly several reasons why there may be invalid ballots such as lack of proper voter education, 20% still seemed a very high number and one that suggested a 'protest' vote.

Some observers felt the atmosphere at booths was one of 'just voting to get it over with' without interest in the parties and issues at hand. Counting of ballots was often conducted quickly and without care on the part of the chairman. Party observers and other witnesses were often not paying attention to the count. There also seemed to be very little evidence of widespread campaigning. There were only occasional banners in the streets and ANFREL saw virtually no leaflets, no campaign trucks, and no campaigners.

To the extent that people did care about the election, it was in order to reject the status quo of Indonesian military troops in East Timor. In party terms this was clearly represented by rejecting Golkar. Instead, there was widespread feeling that it was important to support Indonesia in its process of democratization. As noted, no one ANFREL interviewed felt the outcome of this particular election would heavily influence the future of East Timor. This then might partly explain the curious popularity of PDI-Struggle the party of Megawati Sukarnoputri, the most vocal party candidate against East Timorese independence.

B. The presence of intimidation and threat

The military and police had a strong presence in the lead up to elections and on election day in East Timor. While ANFREL did not physically see the use of force in the lead up to the election, persons ANFREL interviewed made strong claims that the military in particular was resorting to all kinds of force and pressure. ANFREL observers were told that there were reports of bribes being paid to villagers,

APPENDIX SECTION

illegal searches conducted in residences for unregistered persons, and physical intimidation if people did not vote. ANFREL was also told that people were allegedly threatened with the loss of jobs as well. As incentives, people were allegedly given wage increases and food aid in exchange for registering and voting for a particular party, added one Timorese. ANFREL did not have the time, resources, nor capacity to confirm any of these reports on a first hand basis. But this was why East Timor had such a high voter registration rate (89% according to some figures), such proponents argued. While no groups contested these claims, some suggested that this was not a problem unique to East Timor and its problems, but a prevalent problem everywhere in Indonesia.

The strong presence of military and police present on polling day can be supported in several instances. At one polling station in Santa Cruz, in addition to the four guards posted in the station, five policemen and two uniformed military officials were sitting immediately outside the polling station

ANFREL was told that military and militia forces have threatened residents that they will face harsh consequences if they do not display these flags. At the actual polling station itself, there were armed guards standing outside the stations. The atmosphere in these areas was noticeably more tense and more regimented. ANFREL members themselves were approached by a plain clothed person who claimed to be a member of the military. This person asked ANFREL observers their name, age, and place of national origin and wrote them down on a piece of paper. One ANFREL member began to interview a voter outside the polling station but was stopped by the local police official and told to ask any questions regarding the election to the KPPS chairperson.

There were however, no reports of violence or flagrant intimidation on election day at the polling stations ANFREL visited.

C. Numerous procedural errors at polling stations

There were several procedural errors and shortcomings on election day. Some common problems included:

1. Number of ballots was not counted and verified after taking them out of sealed envelopes before voting began.
2. Number of ballots cast was not counted after emptying ballot box and before overall counting of party votes.
3. Voters handed ballots to KPS officials who in turn inserted the ballots into the box, instead of inserting ballots in the boxes themselves.
4. Improperly folded ballots
5. Late opening of polling stations
6. Early closing of polling stations
7. Observers and officials voted before the appointed 2

APPENDIX SECTION

p.m. time

8. Improper opening of polling booths (for example, opening ballot boxes before opening of polling stations)

Additional, but less common errors in procedure will be noted in the case study section of this report.

Overall, it seemed that the errors in polling stations resulted from lack of proper education on polling regulations for local KPPS officials and general apathy towards the election process on the part of local KPPS officials.

Concluding remarks

Among the seven polling stations visited by ANFREL observers (four in Dili and 3 in Liquisa), there was a great degree of variety in the atmosphere among them. For example, at one polling station surrounded by three walls of a partially built structure, partly enclosed by a defunct dump truck, pure chaos reigned. Lines were

group did not send observers outside of Dili.

If intimidation and threat was used against everyday Timorese, it was most likely in the registration process of the election and not necessarily in vote buying. The numbers indicate that the percentage of registered voters is unusually high for an area like East Timor. Initial figures showing PDI-P's lead in the polls suggest that East Timorese were not scared to vote against the traditional military supported party of Golkar. In addition, in the context of issues in East Timor today, the number of people that vote in the Indonesian national election in East Timor holds at least as much or more significance than who they voted for. In fact, some students are reported to have boycotted the national elections to protest Indonesia's illegal occupation of the area. ANFREL observers met briefly with Nobel Laureate Bishop Carlos Ximenes Belo who also did not vote.

In sum ANFREL's East Timor team concludes that there was pervasive apathy within Dili with regard to the Indonesian national elections. This was largely due to East Timor's upcoming consultation on August 8th that will determine whether the people reject or accept autonomy for the area. Despite this, or perhaps because of this, there was also a strong police and military presence in both the lead up to the election and on the day of polling as well. And last, on polling day, there were several procedural problems but none so serious as to question the integrity of the final vote count.

Respectfully submitted,
Ehito Kimura
ANFREL East Timor Team Secretary
June 9, 1999

APPENDIX SECTION

APPENDIX H - UN DOCUMENT

Question of East Timor

**Agreement between the Republic of Indonesia and the
Portuguese Republic on the Question of East Timor**

The Governments of Indonesia and Portugal,

Recalling General Assembly resolutions 1514 (XV), 1541 (XV),
2625 (XXV) and the relevant resolutions and decisions adopted by
the Security Council and the General Assembly on the question of
East Timor;

solution to the question of East Timor with full recognition of Indonesian sovereignty over East Timor;

Noting the position of the Government of Portugal that an autonomy regime should be transitional, not requiring recognition of Indonesian sovereignty over East Timor or the removal of East Timor from the list of Non-Self-Governing Territories of the General Assembly, pending a final decision on the status of East Timor by the East Timorese people through an act of self-determination under United Nations auspices;

Taking into account that although the Governments of Indonesia and Portugal each have their positions of principle on the prepared proposal for special autonomy, both agree that it is essential to move the peace process forward, and that therefore, the Governments of Indonesia and Portugal agree that the Secretary-General should consult the East Timorese people on the constitutional framework for autonomy attached hereto as an annex;

Bearing in mind that the Governments of Indonesia and Portugal requested the Secretary-General to devise the method and procedures for the popular consultation through a direct, secret and universal ballot;

Agree as follows:

Article 1

Request the Secretary-General to put the attached proposed constitutional framework providing for a special autonomy for East Timor within the unitary Republic of Indonesia to the East Timorese people, both inside and outside East Timor, for their consideration and acceptance or rejection through a popular consultation on the basis of a direct, secret and universal ballot.

Article 2

Request the Secretary-General to establish, immediately after the

APPENDIX SECTION

signing of this Agreement, an appropriate United Nations mission in East Timor to enable him to effectively carry out the popular consultation.

Article 3

The Government of Indonesia will be responsible for maintaining peace and security in East Timor in order to ensure that the popular consultation is carried out in a fair and peaceful way in an atmosphere free of intimidation, violence or interference from any side.

Article 4

Request the Secretary-General to report the result of the popular consultation to the Security Council and the General Assembly, as well as to inform the Governments of Indonesia and Portugal and the East Timorese people.

Article 5

If the Secretary-General determines, on the basis of the result of the popular consultation and in accordance with this Agreement, that the proposed constitutional framework for special autonomy

status East Timor held prior to 17 July 1976, and the Governments of Indonesia and Portugal and the Secretary-General shall agree on arrangements for a peaceful and orderly transfer of authority in East Timor to the United Nations. The Secretary-General shall, subject to the appropriate legislative mandate, initiate the procedure enabling East Timor to begin a process of transition towards independence.

Article 7

During the interim period between the conclusion of the popular consultation and the start of the implementation of either option, the parties request the Secretary-General to maintain an adequate United Nations presence in East Timor.

DONE in New York on this 5th day of May, 1999.

For the Government of Indonesia:

/s/ Ali Alatas Minister for Foreign Affairs of Indonesia

For the Government of Portugal:

/s/ Jaime Gama Minister for Foreign Affairs of Portugal

Witnessed:

/s/ Kofi A. Annan Secretary-General United Nation

A Constitutional Framework for a Special Autonomy for East Timor

Appendix

A constitutional framework for a special autonomy for East Timor

PART ONE

RESPECTIVE AREAS OF COMPETENCE

APPENDIX SECTION

Chapter I

The Indonesian (Central) Government

Section A: Foreign Relations

Article 1

The Indonesian Government, hereinafter, referred to as the Central Government, shall have responsibility for and competence over the foreign affairs of the Special Autonomous Region of East Timor (SARET).

It shall consult the Government of the SARET for the purpose of taking into account the views of the Government of the SARET on issues of particular relevance to the SARET.

Section B : Defence

Article 2

The Central Government shall have responsibility for and competence over the external defence of the SARET, as part of the

Article 5

The SARET shall be a part of the Indonesian monetary and customs unit subject to those national monetary and fiscal policies, and laws and regulations of Indonesia which are consistent with this Agreement.

Article 6

The Central Government will continue its assistance to the development of the SARET.

Article 7

The Central Government shall have exclusive competence over national taxation and the Government of the SARET shall have exclusive competence over local taxation, in conformity with the existing laws and regulations.

Article 8

Natural resources in the SARET, except those considered to be strategic or vital under national laws, shall be under the control of the Government of the SARET. In the exploitation of all natural resources, the Central Government and the Government of the SARET may establish cooperative or joint undertakings.

Article 9

For the purposes of its overall development, the Government of the SAREP may receive foreign assistance which is to be channelled through the Central Government.

Article 10

The Government of the SARET can enter into domestic loans to finance part of its budget with the consent of the Regional Council of People's Representatives of the SARET.

Section D : Continuity of Indonesian Laws

Article 11

Indonesian laws in force upon the date of the entry into force of

APPENDIX SECTION

this Agreement that fall within the competence of the Central Government, as defined in this Chapter, shall remain in force for the SARET.

Chapter II

The Government of the Special Autonomous Region of East Timor

Article 12

All matters, other than those listed within Chapter I of Part One, and as provided in other relevant provisions of this Agreement, shall be within the responsibility and competence of the Government of the SARET.

Article 13

The powers of the Government of the SARET shall be exercised in accordance with the provisions of this Agreement, and also in accordance with the Constitution of the Republic of Indonesia.

The Government of the SARET shall have jurisdiction over crimes committed in the SARET with the exception of those related to treason and terrorism, narcotics and other international crimes, over which Indonesian laws and jurisdiction shall prevail.

PART TWO

EAST TIMORESE IDENTITY AND IMMIGRATION

Chapter I

Definition

Article 16

Any person,

- a. who was a lawful resident of East Timor prior to or in December 1975,
- b. whose father, mother, grandfather, or grandmother was a lawful resident of East Timor prior to or in December 1975, or
- c. who has permanently resided in East Timor for a period of at least five years at the time of the entry into force of this Agreement,

shall be considered to have East Timorese identity, irrespective of nationality, and have the right to permanent domicile in East Timor.

Chapter II

Acquisition of Identity and Immigration

Article 17

APPENDIX SECTION

The Government of the SARET shall have the exclusive right to establish the rules and procedures under which persons who do not have East Timorese identity may acquire such identity.

Article 18

The Central Government shall have the power to apply immigration controls on entry into and departure from the SARET of persons who are neither citizens of Indonesia nor have East Timorese identity, pursuant to its authority under Article 1 of this Agreement.

Article 19

The SARET shall have the authority to issue documents to individuals in order to identify those who have East Timorese identity.

Chapter III

Symbols of Identity

Chapter I

Legislative Powers and Institutions of the SARET

Article 22

The legislative power of the SARET shall extend to all matters not within the jurisdiction of the Central Government, as defined in Chapter I of Part One. This power shall include, the establishment of political, economic, and social policies in the SARET; cultural and educational matters; designation of a second language or languages in addition to the official language, Bahasa Indonesia; the establishment of courts of first instance pursuant to Article 40; rules of family law and succession; and public order, including the creation of an East Timor police force that shall be responsible for enforcement of all laws and regulations in the SARET, in accordance with the laws and regulations of the Republic of Indonesia.

Article 23

The SARET may adopt legislations regulating or restricting the ownership of property by persons who do not have East Timorese identity without contravening legitimately acquired rights.

Article 24

The SARET shall have the authority to establish a Land Claims Commission, whose members shall be selected in accordance with the manner prescribed for the selection of judges in Article 42, which shall make recommendations in order to decide on all disputed claims to title over real property through the court.

Article 25

The Regional Council of People's Representatives of the SARET

1. The legislative power of the SARET shall be vested in and exercised by the Regional Council of People's Representatives of the SARET, elected by persons of East Timorese identity as defined in Part Two, on the basis of universal adult suffrage. The implementation of elections

APPENDIX SECTION

for the Regional Council of People's Representatives of the SARET shall be further determined by the SARET and need not coincide with national elections.

2. Members of the Regional Council of People's Representatives of the SARET shall be persons who fulfill the eligibility requirements for membership. No racial, ethnic, religious, nationality, or other requirement unrelated to the exercise of the functions of a member of the Council shall be imposed.
3. Members of the Regional Council of People's Representatives of the SARET shall be immune from legal action in respect of their oral or written statements or actions relating to the business of the Council, or made or taken in their capacity as members of the Council.

Chapter II

Executive Powers and Institutions of the Government of the SARET

The Governor of the SARET shall be elected by a majority of the members of the Regional Council of People's Representatives of the SARET and responsible to it. The list of candidates for the post of Governor of the SARET shall first be consulted with and approved by the President of the Republic of Indonesia.

Article 29

The Governor-elect shall be formally confirmed to the post by the President of the Republic of Indonesia and shall be formally invested before the Regional Council of People's Representatives of the SARET.

Article 30

The Governor shall designate officials who shall be in charge of the executive services and other bodies of the SARET.

Article 31

The Government of the SARET shall have responsibility for the maintenance of public order in East Timor and for the administration and enforcement of all laws and regulations within the SARET.

Article 32

There shall be a Police Force of the SARET which shall be organized in accordance with regional laws.

Article 33

The Police Force of the SARET shall be subject to the authority and control of the Government of the SARET.

Article 34

Members of the Police Force of the SARET shall be recruited, without discrimination on racial, ethnic, or religious grounds.

Article 35

The primary functions of the Police Force of the SARET shall be:

- a. to preserve internal peace and good order in

APPENDIX SECTION

East Timor; and

b. to maintain and, as necessary, enforce the law in an impartial and objective manner.

Chapter III

Judicial Powers and Institutions of the SARET

Article 36

The judicial power of the SARET shall be vested in and exercised by an independent judiciary.

Article 37

The judiciary of the SARET shall have jurisdiction over all civil, criminal, administrative, and other matters that fall within the competence of the SARET.

Article 38

It shall be the duty of the judiciary to call for the cessation of such activities

2. The Courts of First Instance shall consist of such judges as may be required for the proper administration of justice.

Article 41

The Court of Appeal

1. There shall be a Court of Appeal, consisting of a President and as many other judges as may be required, which shall have appellate jurisdiction from judgments of the Courts of First Instance.
2. The Court of Appeal also shall have original and appellate jurisdiction over all cases that concern the interpretation of Indonesian laws applicable to the SARET or the interpretation of Parts One, Five and Six of this Agreement.
3. The President of the Court of Appeal shall be appointed by the Chief Justice of the Supreme Court of the Republic of Indonesia, upon the recommendation of an independent Judicial Commission, which will be established in accordance with procedures adopted by the Regional Council of People's Representatives of the SARET.

Article 42

Judges of the Courts of First Instance and the Court of Appeal shall be selected by the Judicial Commission.

Article 43

The Judicial Commission also shall be responsible for disciplinary and other issues related to judicial performance, as specified by the Regional Council of People's Representatives of the SARET.

Article 44

Court of Final Appeal

1. The court of final appeal of the SARET shall be the Supreme Court of Indonesia.
2. An appeal shall lie from decisions of the Court of Appeal to the

APPENDIX SECTION

Supreme Court of Indonesia which is the right of the disputing parties:

- a. in all cases concerning laws and regulations of Indonesia applicable in East Timor;

- b. in all cases concerning the interpretation of this Agreement, provided that the Supreme Court shall establish a special chamber to hear such cases composed of an odd number of judges drawn from the Supreme Court of Indonesia and ad hoc judges drawn from the East Timor Court of Appeal of the SARET.

3. An appeal shall lie from decisions of the Court of Appeal to the Supreme Court of Indonesia with the leave of the Court of Appeal:

- a. in all cases concerning the interpretation of the regional laws and regulations of East Timor;

promote, protect and respect human rights and fundamental freedoms without discrimination of any kind, as set forth, inter alia, in the Universal Declaration of Human Rights, the 1993 Vienna Declaration on Human Rights and the Decree of The People's Consultative Assembly No. XVII/MPR/1998 Concerning Human Rights. These rights and fundamental freedoms include:

- a. freedom of thought, conscience, and religion;
- b. the right to life, liberty, and security of person;
- c. freedom from torture, violence, arbitrary arrest, detention, or exile;
- d. the right to a full and fair hearing by an independent and impartial tribunal in the determination of any civil rights or obligations or any criminal charge;
- e. freedom of expression in all its forms, association, and peaceful assembly; .
- f. the right to form political parties specific to East Timor without restrictions of any kind and subject to the provision of Article 57;
- g. the right to participate in government without discrimination, through free periodic elections and non-discriminatory access to public service, subject to the provisions of Article 25;
- h. the right to participate in Indonesian national political life, including the right to vote in general elections and to be elected as a member of the Indonesian national Parliament or be appointed as a member of the People's Consultative Assembly;
- i. the right to participate in Indonesian public and

APPENDIX SECTION

administrative services without discrimination on any grounds;

j. freedom of movement throughout the territory of the Republic of Indonesia;

k. the of everyone to enjoy and participate in his or her culture;

l. the right to own property and not to be arbitrarily deprived of it;

m. the right to protection for family life, privacy, home and correspondence;

n. the right to education, including, as a minimum, the right to a free primary education for all;

o. the right to an adequate standard of living, subject to available resources and capabilities;

and policies within the competence of the Central Government that may have a direct effect in the SARET.

Article 48

In the implementation of those laws, regulations or policies of the Central Government that are applicable in the SARET, as set forth in Chapter I of Part One, the Government of the SARET shall coordinate, with the relevant offices of the Central Government.

Article 49

The Central Government shall appoint a senior official, who shall reside in Dili, to exercise the competences of the Central Government in the SARET, and to coordinate and supervise such Central Government officials in the SARET as may be necessary to assist the Government of the SARET in the implementation of laws, regulations and policies within the competence of the Central Government, as set forth in Chapter I of Part One, and to perform the functions provided for in Article 50 below.

Article 50

The Central Government and the Government of the SARET may create bodies or other arrangements to facilitate consultation, cooperation and coordination on such matters as police matters, tourism, transportation, telecommunications, education, health and the environment.

Article 51

In the performance of its duties, the Police Force of the SARET shall consult and cooperate with the Central Government authorities with respect to the enforcement of Indonesian national laws in the SARET.

Article 52

The Police Force of the SARET shall take the necessary action, at the request of the Indonesian National Police to apprehend persons in the SARET accused of having committed crimes outside the SARET.

APPENDIX SECTION

Article 53

The Indonesian National Police shall take the necessary action, in cooperation with the Police Force of the SARET, to apprehend persons outside the SARET accused of having committed crimes in the SARET.

Article 54

In exceptional cases the Indonesian National Police will assist the Police Force of the SARET in the performance of its functions.

PART SIX RELATIONSHIPS BETWEEN THE SPECIAL AUTONOMOUS REGION OF EAST TIMOR AND OTHER ENTITIES

Article 55

Without prejudice to the responsibility and competence of the Central Government, as set forth in Article 1,

PART SEVEN
THE UNITED NATIONS

Article 56

The United Nations Secretary-General shall have the responsibility and authority to monitor and verify compliance with this Agreement. This authority includes monitoring the election of members of the Regional Council of People's Representatives of the SARET and verifying that such elections are free and fair. For this purpose, the United Nations Secretary-General may establish in the SARET such offices as he deems necessary which would operate within a specific time-frame to be further agreed upon between the United Nations and the Indonesian Government.

PART EIGHT
GENERAL PROVISION

Article 57

The special autonomy for East Timor as provided in this Agreement is granted within the framework of the Constitution of the Republic of Indonesia.

PART NINE
BASIC LAW OF THE SARET

Article 58

The SARET shall be governed by a basic law, enacted by the first elected Regional Council of People's Representatives of the SARET and which shall be in accordance with the provisions of this Agreement.

PART TEN

APPENDIX SECTION

TRANSITIONAL PROVISIONS

Article 59

The following provisions shall be in effect during the time between the entry into force of this agreement and the election and assumption of office by the Regional Council of People's Representatives of the SARET and the Government of the SARET:

a. There shall be a broadly representative Transitional Council, composed of no more than 25 persons of East Timorese identity, whose members shall be appointed by the United Nations Secretary-General in consultation with relevant individuals and groups within the SARET and with the Government of Indonesia.

b. The Transitional Council can enact the regional laws and regulations for the election of the first Regional Council of People's Representatives of the SARET and for such subjects as may be agreed upon by the parties to this Agreement, in accord

Agreement regarding the Modalities for the Popular Consultation of the East Timorese through a Direct Ballot

The Governments of Indonesia and Portugal and the Secretary-General of the United Nations,

Agree as follows:

Immediately following the conclusion of the agreement between the two Governments requesting the Secretary-General to consult the East Timorese people on whether they would accept or reject the proposed constitutional framework for autonomy, the Secretary-General will, subject to the appropriate legislative mandate, begin preparations for the popular consultation by deploying in East Timor such personnel as will be adequate for the purpose of executing the various phases of the consultation process.

Preparations for the vote outside East Timor will also begin at locations of major East Timorese concentration outside East Timor.

A. Date for consultation

The ballot will take place on Sunday, 8 August 1999, both inside and outside East Timor.

B. Question to be put before the voters

The question that the Secretary-General will put to the voters is:

“Do you accept the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?”

ACCEPT

.....OR

“Do you reject the proposed special autonomy for East Timor, leading to East Timor’s separation from Indonesia?”

REJECT

APPENDIX SECTION

The United Nations logo will appear on the ballot papers. The ballot papers will include symbols to facilitate voting by illiterate persons.

C. Entitlement to vote

The following persons, aged 17 years or above, shall be eligible to vote in the popular consultation:

- (a) persons born in East Timor,
- (b) persons born outside East Timor but with at least one parent having been born in East Timor, and
- (c) persons whose spouses fall under either of the two categories above.

D. Schedule of the consultation process (in overlapping time periods)

The schedule for the operational stages of the consultation proc-

of the main Agreement and the autonomy document to be voted on in the following languages: Tetun, Bahasa Indonesia, Portuguese and English.

- The United Nations will disseminate and explain the content of the main Agreement and the autonomy document in an impartial and factual manner inside and outside East Timor.

- The United Nations will explain to voters the process and procedure of the vote, and the implications of an 'accept' or 'reject' vote.

- The radio stations and the newspapers in East Timor as well as other Indonesian and Portuguese media outlets will be utilized in the dissemination of this information. Other appropriate means of dissemination will be made use of as required.

b) Registration

- Registration inside and outside East Timor will take place for a continuous period of 20 days.

- Two hundred registration centres will be opened in East Timor for this purpose.

- Outside East Timor, special registration centres will be opened in Jakarta, Yogyakarta, Surabaya, Denpasar, Ujung Pandang, Sydney, Darwin, Perth, Melbourne, Lisbon, Maputo, Macau, New York with adjustments to be made as appropriate. The United Nations may utilize the services of the Australian Electoral Commission for the balloting in Australia and of the International Organization for Migration (IOM) in Portugal and elsewhere.

- The registration lists will be exhibited for five days at the end of the registration period at the respective registration centres, regional offices and at Dili headquarters. Challenges to the lists shall be submitted to the regional offices for a final decision by the Electoral Commission prior to polling day.

APPENDIX SECTION

c) Campaign

- Supporters and opponents of the autonomy proposal will campaign ahead of the vote in a peaceful and democratic manner during the period designated for this purpose.
- There will be a Code of Conduct for the campaign, to be proposed by the United Nations and discussed with the supporters and opponents of the autonomy proposal.
- The United Nations will devise the means to provide equal opportunity for the two sides to disseminate their views to the public.
- Officials of the Governments of Indonesia and Portugal will not participate in the campaign in support of either option.
- East Timorese government officials may campaign in their personal capacity. All such campaigning will be carried out strictly according to the Code of Conduct without use of public funds and govern-

- International observers will be able to observe the consultation process under terms to be developed by the United Nations to regulate their presence.

F. Funding

The Secretary-General will seek the approval of the Security Council for the operation in order to ensure assessed budgetary funding. Voluntary contributions will be channeled through a Trust Fund established for this purpose.

G. Security

The Indonesian authorities will ensure a secure environment for a free and fair popular consultation process and will be responsible for the security of United Nations personnel. A number of United Nations security guards will be deployed to ensure the security and safety of United Nations personnel and property. A number of international civilian police will be available in East Timor to advise the Indonesian Police during the operational phases of the popular consultation and, at the time of the consultation, to supervise the escort of ballot papers and boxes to and from polling sites.

DONE in New York on this 5th day of May, 1999.

For the Government of Indonesia,
Ali Alatas, Minister for Foreign Affairs

For the United Nations,
Kofi A. Annan, Secretary-General

For the Government of Portugal,
Jaime Gama, Minister for Foreign Affairs

APPENDIX SECTION

The Governments of Indonesia and Portugal and the Secretary General of the United Nations,

Agree as follows:

1. A secure environment devoid of violence or other forms of intimidation is a prerequisite for the holding of a free and fair ballot in East Timor. Responsibility to ensure such an environment as well as for the general maintenance of law and order rests with the appropriate Indonesian security authorities. The absolute neutrality of the TNI (Indonesian Armed Forces) and the Indonesian Police is essential in this regard.
2. The Commission on Peace and Stability established in Dili on 21 April 1999 should become operational without delay. The Commission, in cooperation with the United Nations, will elaborate a code of conduct, by which all parties should abide, for the period prior to and following the consultation, ensure the laying down of arms and take the necessary steps to achieve disarmament.

EAST TIMOR - TRIUMPH OF THE HUMAN SPIRIT

For the United Nations

/s/ Kofi A. Annan Secretary-General United Nations

For the Government of Indonesia

/s/ Ali Alatas, Minister for Foreign Affairs Indonesia

APPENDIX SECTION

APPENDIX I - UN DOCUMENT

BREAKDOWNS IN THE NEW YORK AGREEMENT

Security Agreement

The 5 May 1999

tripartite agreement between the United Nations, Portugal & Indonesia

Point 1

“The absolute neutrality of the Indonesian Armed Forces and the Indonesian Police”, though “essential” (according to the Agreement), is unlikely to occur. The Armed Forces have not been neutral for 23 years, and are not neutral now. They are currently exercising violence and other forms of intimidation. It is absolutely impossible for them to change their pro-integration stance in this period before the Consultation. Nor is there any force, military or moral, which will force them to become “absolutely neutral”. The best that can be

This is a high expectation as it does not realistically address who will disarm. Naturally this is directed at the pro integration terror squads, and also at Falintil. But will the Indonesian Army and the Indonesian Police also lay down their arms? Obviously not, for they are entrusted by the United Nations with maintaining security in the time preceding and during the Consultation. Therefore, if the terror squads and Falintil do lay down their arms, the Indonesian Army (including Kopassus) and the Indonesian Police will be the only people remaining with arms. Falintil would be left in a dangerous position as they have been the prime target of the Indonesian military since 1975. This, therefore, is an unrealistic expectation and the unenforceable code of conduct will thus be ignored by all parties. All groups will remain armed right up to the Consultation, during the Consultation, and after the Consultation.

Point 3

"Prior to the start of registration, the Secretary-General shall ascertain, based on the objective evaluation of the United Nations mission, that the necessary security situation exists for the peaceful implementation of the consultation process". This is an important tool for those who fear Indonesian use of violence. If it can be demonstrated to the Secretary-General that terrorisation is occurring, and that "the necessary security situation ... for the peaceful implementation of the consultation process" does not exist, then the Secretary-General presumably is in a position (though it does not specifically say so) to delay, cancel or alter the conditions of, the Consultation.

Point 4

"The police will be solely responsible for the maintenance of law and order". Note that the Indonesian Armed Forces (Army, Navy, and Air Force) are not mentioned. In theory, this means that the Indonesian Army (including Kopassus) have no right to play a security role during the time of the United Nations presence. This fact is also stated in the Secretary-General's memorandum.

APPENDIX SECTION

“The Secretary-General ... will make available a number of civilian police officers to act as advisers to the Indonesian Police in the discharge of their duties and, at the time of the Consultation, to supervise the escort of ballot papers and boxes to and from the polling sites”. Presumably this means that the United Nations Police will explain to the Indonesian Police the area of their United Nations responsibility (i.e. the lines of demarcation between their respective areas of responsibilities). It is hard to imagine that the United Nations Police will be in a position to prevent mischief, such as waylaying people, buses, and trucks of villagers from travelling to polling booths. Their powers will most likely be limited only to activities directly associated with the Consultation.

Modalities Agreement

The 5 May 1999

tripartite agreement between the United Nations, Portugal & Indonesia

Omitting the unaccentable agreement made between the United

POPULAR CONSULTATION SCENARIOS

1. Postponement or Cancellation

“Prior to the start of registration, the Secretary-General shall ascertain, based on the objective evaluation of the United Nations mission, that the necessary security situation exists for the peaceful implementation of the consultation process”. If it can be demonstrated to the Secretary-General that terrorisation is occurring, and that “the necessary security situation ... for the peaceful implementation of the consultation process” does not exist, then the Secretary-General presumably is in a position to delay, cancel or alter the conditions of, the Consultation.

There remains a real possibility that the Popular Consultation will be postponed or delayed due to the current security conditions together with the potential for an escalation of violence. The TNI and militia groups have been using intimidation and terror-tactics to destabilize the Consultation process since its inception, and these groups may attempt to prevent the separation of East Timor from Indonesia by preventing the ballot process proceeding. They are clearly in a position to disrupt the Consultation process and there remains insufficient and ineffective security forces to prevent such an outcome.

The possible actions that may lead to a postponement or cancellation include:

- An escalation of terror campaigns by militia and TNI forces against pro-independence supporters and East Timorese civilians such that the security situation is deemed unsafe for polling;
- Attacks on UNAMET personnel leading to a suspension of operations or a complete UNAMET evacuation;

2. A Failed or Contested Ballot

There has already been much evidence of electoral violations in the

APPENDIX SECTION

voter registration process and the campaign process, including procedural aspects, but primarily involving the use of intimidation and violence. In the likelihood of the ballot proceeding, there is no assurance that the voting process will be successful. There remains the potential for violations and irregularities, such as terrorisation of communities and polling stations, bribery, disruption of polling stations, voter fraud, and ballot tempering.

In the advent of high level of ballot violations and irregularities, it is possible that the result of the ballot will be rejected by UNAMET under the conditional requirements for an acceptable ballot.

There is also the possibility of a contested ballot, as FALANTIL has already indicated that a pro-integration vote could only come about through an unfair process. A pro-independence vote, seen as the most likely outcome, may be challenged by the Indonesian government in light of irregularities. Both of these scenarios present major obstacles in the resolution of the question of East Timor's status. A revote may be one possibility but there is also a likelihood of a breakdown in the consultation process.

would be implemented in consultation with the United Nations. There remains major questions surrounding such an autonomy package because of the history of Indonesia's policy in East Timor and the East Timorese refusal to accept Indonesian rule.

The prime issues are regarding Indonesian policy towards:

- pro-independence leaders and activists
- Falintil
- East Timor's development
- human rights

It remains questionable as to whether there is the political will within the soon-to-be-installed, new Indonesian government to introduce a program of reform in East Timor that will include demilitarization of the province, democratic representation of the East Timorese aspirations and a process of reconciliation. A worst case scenario would see a continuation of past policies.

4. Pro-Independence Ballot

In the event of a ballot deemed acceptable in terms of requirements for freedom and fairness, it is widely regarded that a pro-independence result is the likely scenario. This result for formally recognising East Timor's separation from Indonesia, which would be formally enforced during the Indonesian Parliamentary Session in November.

There are grave fears, however, that the transition process will be far from peaceful. Civil war has been cited as a possible outcome, but the likelihood of civil war should not be confused with a state-sponsored campaign of violent retribution. Leaked reports citing a violent withdrawal of the Indonesian military forces, although disputed by the Indonesian government, represent real fears, built around decades of state terror in East Timor against pro-independence supporters. The stockpiling of weapons has been reported in several cases. The fears are that there may be attempts by the Indonesian

APPENDIX SECTION

Armed Forces and militias to prevent the handover of East Timor by various obstructive means, which will result in great loss of lives, or to withdraw, leaving a trail of destruction through attacks on pro-independence groups and supporters, villages and property, including the destruction of Indonesian-built government buildings and facilities in East Timor.

The Indonesian police and armed forces remain the only sanctioned security forces in East Timor, and the United Nations reliance on the neutrality of the Indonesian security forces leaves a dangerous potential for a complete breakdown in this situation. The United Nations have avoided the implementation of international peace-keeping forces but this, together with an increased UN police presence, may become a necessity in ensuring a transition free from massive bloodshed.

There is the possibility of attempts by the new Indonesian government to constitutionally prevent the handover of East Timor. For instance, the new Indonesian Parliament voted in on 7 June 1999, may declare, once they meet as part of the MPR session from 28

APPENDIX J - OBSERVER LIST

ANFREL International Observers

Australia

Prof. James Ife
International Federation of Social Workers (IFSW)
Secretary, Human Rights Commission

Mr. Stephen Beeby
Co-ordinator for Asian Monitoring Network (AMN) (Bangkok-based)

Mr. Richard Barber
Co-ordinator for Asian Network for
Democracy in Indonesia (ANDI), (Bangkok-based)

Ms. Lyndal Barry
Images Asia (Thailand-based)

Prof. Herb Feith
KIPER advisor

Ms. Pam Ditton
Lawyer, Member of Australian Section of the
International Commission of Jurists

Canada

Ms. Simona Powell
Teacher for Indonesian children in Solo

Mr. Ken Bhattacharjee
Program Officer for Coordinating Committee for Human Rights
Organizations in Thailand (CCHROT) (Bangkok-based)

Dr. El Obaid Ahmed El Obaid
Vice Chairman for Canadian Human Rights Foundation

APPENDIX SECTION

France

Ms. Bernadette Castel

Consultant for Committee for Free and Fair Election in Cambodia

Hong Kong

Mr. Paul Harris

Human Rights Advocate, Hong Kong Human Rights Monitor

Indonesia

Mr. Nana Suhartana

ANFREL Local Coordinator, and Long Term Observer

Ms. Mega Christina

Local coordinator for Asian Network for

Democracy in Indonesia (ANDI)

Japan

Prof. Nobuhiko Suto

Chairperson, InterBand

Ms. Kae Matsuura

Vice Secretary General, InterBand

Malaysia

Mr. Saw Guan Kung
Suara Rakyat Malaysia (SUARAM)

The Netherlands

Mr. Marco Mezzera
Research Associate for FOCUS, (Bangkok-based)

Philippines

Ms. Niza Concepcion
Philippine Alliance of Human Rights Advocates (PAHRA)
Deputy Secretary General for International Affairs

Sr. Cresencia Lucero
Chairperson, Task Force Detainees of the Philippines-National (TFDP)

Ms. Ellene Sana
Officer of Institute for Political and Electoral Reform, Inc. (IPER)

Ms. Evelyn Balais-Serrano
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Ms. Auxilium Toling-Olayer
ANFREL Coordinator, (Bangkok-based)

Anelyn Z. De Luna
Program officer
Alternative Asean Network on Burma, (Bangkok-based)

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Ms. Weerasuriya Appubamilage
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People's Alliance for Free and Fair Elections (PAFFREL)

Thailand

General Saiyud Kerdphol - Head of the Mission
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Mr. Somchai Homlaor
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APPENDIX SECTION

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Ms. Boonrat Apichattrisorn
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Ms. Phanit Manokarn
Nurse, Ministry of Health

Mr. Piphop Dhongchai
Campaign for Popular Democracy

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