

## Chapter 7.5: Violations of the Laws of War

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## Chapter 7.5: Violations of the Laws of War

### 7.5.1 Introduction

1. The mandate of the Commission required it to report on human rights violations, including violations of international humanitarian law. These laws are also sometimes referred to as the laws of war, or the laws of armed conflict.<sup>1</sup>

2. Many of the violations of international humanitarian law which occurred during the mandate period, 1974-1999, were also violations of international human rights standards and have therefore been dealt with in other chapters of this Report. The primary purpose of this chapter is to report on violations of the laws of war which are not covered in other chapters. This includes the failure of combatants to protect civilians, prisoners of war, the wounded and other classes of protected persons, the failure to distinguish between military and civilian targets during military operations, forced recruitment, intentional destruction of civilian property, the use of illegal weapons such as chemical weapons, and other violations of the rules regarding the conduct of military operations.

3. This chapter relies extensively on primary source information gathered by the Commission in its process of taking statements and conducting Community Profile workshops in villages, and through in-depth interviews. Because violations of the laws of war, such as the killing or torture of civilians, are also violations of other international human rights standards, there is some degree of overlap between this chapter and other parts of the Report.

4. The evidence considered by the Commission in this and other chapters provides a picture of widespread and systematic violations of the laws of war by the Indonesian security forces during the invasion of Timor-Leste and the subsequent years of occupation, including a programme of intimidation, violence and destruction related to the Popular Consultation in 1999.

5. Responsibility for violations cannot be equated between the Indonesian military (ABRI/TNI) and Fretilin/Falintil, though the actions of both armed forces resulted in a wide array of violations, causing immense suffering to East Timorese civilian population. ABRI/TNI and their surrogate forces were clearly the primary perpetrator in this regard. Fretilin/Falintil caused suffering and deaths among civilians. Although they were in many cases extremely serious, the violations of Fretilin/Falintil constituted only a minor proportion of the total violations.

6. The general humanitarian obligations which apply to situations of internal armed conflict were violated by members of both Fretilin and UDT during the period of political conflict in 1975. These violations, such as killing, detention and torture of civilians and prisoners have been dealt with comprehensively in the respective chapters on these subjects, and in Part 8: Responsibility and Accountability. The events of the civil war have not therefore been referred to in detail in this chapter, although a brief overview follows (see in particular Part 3: The History of the Conflict; Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.8: The Rights of the Child).

7. On 11 August 1975 UDT launched an armed movement referred to by many as the 11 of August Movement. The background and details of this armed action are considered in detail in Part 3: The History of the Conflict. Mário Lemos Pires, Portuguese Governor of Timor at the time, told the Commission that UDT seized power using guns taken from the Portuguese police.<sup>2</sup> The Fretilin leadership retreated to their headquarters in the hills of Aileu, south of Dili. UDT captured members of Fretilin in districts across the country and held them prisoner (see Chapter 7.4:

Detention, Torture and Ill-Treatment). Attempts by the Portuguese administration at negotiating a settlement failed, and on 20 August Fretilin launched its counter-action, or armed insurrection, referred to by many in the community as the “counter coup”. Violence broke out in districts across the country for several weeks, and by late September Fretilin was in control of virtually the whole territory. Members of UDT, Apodeti, and the smaller parties Trabalhista and KOTA and their families fled west to the border. Fretilin held hundreds of UDT members prisoner from this conflict, and in October also took members of Apodeti prisoner. Chapter 7.4: Detention, Torture and Ill-Treatment considers these circumstances in detail.

8. East Timorese who had fled to the border area came under the influence of the Indonesian military and intelligence agents, and many joined the Partisan troops who had been trained by the Indonesian military since late 1974. Cross-border attacks commenced in late August, with the Indonesian military using these Partisan troops with regular Indonesian army troops.

9. On 15 October the Indonesian military launched full-scale attacks with sea and air support, and occupied towns such as Batugade and Balibo (Bobonaro) in Timor-Leste. The attack on Balibo included the killing of 5 international journalists (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

10. With Indonesian troops occupying East Timorese towns as far east as Atabae (Bobonaro), the Portuguese authorities remaining on the island of Ataúro without responding to Fretilin pleas to return, and international talks between Portugal and Indonesia ignoring the reality of Indonesian troops occupying East Timorese towns, Fretilin became increasingly desperate for international intervention and support to protect the territory from foreign aggression. It unilaterally declared independence on 28 November 1975.

11. With the support of the National Parliament, the Indonesian military launched a full-scale invasion of Timor-Leste on 7 December 1975. The Fretilin leadership retreated to the interior. Large numbers of the civilian population either fled the attacking Indonesian military or were obliged by Fretilin to flee to the interior with them (see Chapter 7.3: Forced Displacement and Famine). These civilians suffered terribly in the interior during the war that ensued.

12. During the invasion Indonesian armed forces committed violations of the laws of war in the execution of civilians in Dili on 7 and 8 December 1975 (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

13. During the large-scale military operations which followed across the territory, the Indonesian military failed to discriminate between civilians and combatants, using their massive military strength to kill large numbers of unarmed men, women and children. As well as being caught indiscriminately in the crossfire, civilian populations were specifically targeted in operations aimed at achieving their surrender from Fretilin/Falintil controlled areas (see Chapter 7.3: Forced Displacement and Famine). In very few instances were civilians given prior warning before the launch of military operations.

14. Members of ABRI/TNI routinely executed, tortured and raped civilians and prisoners who were captured or surrendered during the early years of attacks and resistance. The Indonesian military resorted to all available means to overcome resistance to the invasion and occupation. In the years 1976, 1977 and 1978 these violations were widespread and systematic. This included the systematic destruction and looting of civilian property, including buildings, homes and personal items, destruction of food sources, and use of weapons which are prohibited by the international laws governing armed conflict. The means employed included chemical weapons which poisoned water supplies, killed crops and other vegetation, and napalm bombs and other incendiary devices, whose effect was to indiscriminately burn everything and everyone within their range, including men, women and child civilians.

15. The Resistance led by Fretilin/Falintil in the early years after the invasion developed an ideological position of aiming to build a social revolution based on a transformation of the civilian population, which lived with the political and armed leadership in the interior (see Part 5: Resistance: Structure and Strategy). As Indonesian military offensives intensified and increasingly encroached on Fretilin/Falintil-controlled areas, divisions developed in the Fretilin leadership. This resulted in a violent purge within the party in 1977. Fretilin/Falintil was responsible for violations such as the detention and torture of civilians and other prisoners such as Falintil members, and for summary executions of prisoners (see Part 3: The History of the Conflict; Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment). These were committed in an organised, systematic way.

16. After Indonesian military offensives destroyed the Fretilin/Falintil bases in the mountains (*bases de apoio*) in late 1978, causing massive suffering to the thousands of civilians living in these areas, the surviving political and military leadership of the Resistance undertook a major change in its strategy. This fundamentally changed the relationship between the armed Resistance and the civilian population, large numbers of whom were initially held in transit camps and detention centres and who were later able to resettle into towns and villages. In the 1980s a large clandestine structure and network was established to support the guerrilla armed resistance (see Part 5: Resistance: Structure and Strategy). During this period Fretilin/Falintil violated the laws of war by attacking civilian populations, burning houses and stealing foodstuffs from civilians believed to be working in collaboration with the Indonesian armed forces.<sup>3</sup>

17. Members of ABRI/TNI systematically undertook forced recruited of civilians to take part in their military operations against the armed Resistance. The largest single operation involved the forced recruitment of over 60,000 civilians during the months of Operation Kikis in 1981 (see section on ABRI/TNI forced recruitment into military activity, below). In addition it was routine military practice to force civilians into service to carry weapons and ammunition and to cook, clean and care for the personal needs of military masters. Forced recruits, many of them children, were treated poorly and often subjected to cruel, inhuman and degrading treatment.

18. In the years of occupation and resistance that followed, ABRI/TNI regularly conducted collective punishment of civilian populations, including killing, rape and torture of family members and civilians belonging to the same communities as individuals suspected of supporting Fretilin/Falintil. This widespread practice against civilians was especially harsh after Falintil conducted military operations against ABRI/TNI targets (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment).

19. Violations of the laws of war committed by members of Fretilin/Falintil include the execution of prisoners and killing of civilians, particularly those suspected of collaboration with the Indonesian military. Members of Fretilin/Falintil tortured and killed members of their own forces who disagreed with the policies of the Fretilin Central Committee. They also burned houses of suspected collaborators, and looted their property (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine; Chapter 7.4: Detention, Torture and Ill-Treatment).

20. East Timorese women and girls who were held prisoners, or who were forced to work for members of ABRI/TNI, were routinely raped and forced into conditions of sexual slavery, including being “passed” from one officer to another at the end of periods of duty in the territory (see Chapter 7.7: Sexual Violence).

21. As urban youth became increasingly involved in the Resistance in the late 1980s and early 1990s, and public demonstrations became a new feature of Resistance action, ABRI/TNI committed violations against civilians. The Santa Cruz Massacre was the most well-known example of the Indonesian military opening fire on unarmed civilians engaged in peaceful demonstration, causing large numbers of deaths and serious injuries (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

22. Throughout the 1990s ABRI/TNI was responsible for the continuing practice of detention and torture of civilians, usually those suspected of involvement with the clandestine network of the Resistance. These practices were especially targeted at young people who became increasingly involved in the Resistance during this period. This included the killing and disappearance of those detained (see Chapter 7.4: Detention, Torture and Ill-Treatment; Part 10: *Acolhimento* and Victim Support).

23. In late 1998 and early 1999, ABRI/TNI formed groups of armed militia across the territory. ABRI/TNI implemented a programme of systematic forced recruitment of thousands of young East Timorese men into these groups, in addition to those who had voluntarily joined (see Part 3: History of the Conflict; Part 9: Community Reconciliation). The Indonesian security forces and their proxy militias were responsible for a wide range of violations of the laws of war, including killing, rape, torture and the intentional massive destruction of civilian property across the territory after the ballot (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.7: Sexual Violence).

### 7.5.2 Relevant standards.

24. The standards employed by the Commission in relation to the international laws of armed conflict are referred to in detail in the Annexe to Part 2: The Mandate of the Commission. Most of the legal principles relevant to the conflict in Timor-Leste are derived from the Geneva Conventions, to which Indonesia and Portugal were parties, and from customary international law. The most fundamental of these rules are reflected in four basic principles:<sup>4</sup>

1. Such force should only be used as is necessary for achieving a legitimate military objective (the principle of military necessity)
2. All actions taken must be in accordance with principles of humanity<sup>\*</sup>
3. Attacks must only be carried out against military targets, and in such a way as to minimise harm to civilians and civilian objects. Attacks must never be intentionally directed at civilians or civilian objects (the principle of distinction)
4. Where an attack may cause some incidental civilian casualties, the attack is only permitted if the harm to civilians and civilian objects is not excessive in relation to the military advantage to be gained (the principle of proportionality).

25. These standards applied to the Indonesian military forces. They also applied to Falintil, which could be recognised in international humanitarian law as a resistance movement as it complied generally with the requirements for such recognition: it had in place a command structure; its members generally distinguished themselves from civilians, they carried arms openly; and it conducted operations in accordance with the laws and customs of war.<sup>†</sup>

26. Even in instances when the Commission has had full access to all factual evidence, it has not always been possible to distinguish between situations where civilians were directly and intentionally targeted, and other circumstances where civilians were killed or injured in fighting that did not deliberately target them. In many military operations examined by the Commission throughout this Report, the Commission has found that attacks were indiscriminate in their impact on civilians, or disproportionate to the military necessity, and therefore constituted violations of the laws of war. In particular, the evidence outlined in this chapter and referenced to more detailed analysis in the relevant chapters of this Report, demonstrates that ABRI/TNI

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<sup>\*</sup> The principle of humanity is most famously reflected in the Martens Clause contained in the Preamble to the Hague Convention (IV) Regarding the Laws and Customs of War on Land of 1907.

<sup>†</sup> Article 1, Hague Regulations 1907; The rules of humanitarian law are binding on non-state parties to a conflict: Liesbeth Zegveld, *The Accountability of Armed Opposition Groups in International Law*, Cambridge, Cambridge University Press, 2002, at pp. 9-38. See also Part 2: The Mandate of the Commission, Annex A.

systematically ignored and deliberately violated its obligations to protect East Timorese civilians under the Geneva Conventions to which the Republic of Indonesia was party.

### 7.5.3 Violations of the laws of war by Indonesian military forces

#### **Attacks on civilians and civilian properties**

27. International laws of armed conflict provide clearly that attacks must not be targeted at civilians, civilian objects or undefended towns or buildings.<sup>5</sup> It is also prohibited to carry out acts with the primary purpose of spreading terror among the civilian population.<sup>6</sup>

28. Attacks must not be carried out in ways or using weapons that make it impossible to distinguish between civilian and military targets.<sup>7</sup>

29. Incidental civilian casualties and damage to civilian objects that are caused by an attack on a military objective are permitted only so long as they are not disproportionate in relation to the military necessity of the attack.<sup>8</sup> Attacks should be carried out in such a way as to minimise civilian casualties and damage to civilian objects.<sup>9</sup> Wherever possible, advance warning should be given to civilians of attacks that may harm the civilian population.<sup>10</sup>

30. This sub-section will focus on violations of the laws of war by ABRI/TNI in the early years of the conflict.

31. From August 1975, ABRI/TNI carried out cross-border attacks in Timor-Leste, which included the killings of civilians and the destruction of civilian property (see Chapter 7.2: Unlawful Killings and Enforced Disappearances). On 15-16 October, the Indonesian armed forces intensified operations, including large-scale air and sea bombardments inside Timor-Leste. These attacks caused civilian casualties and destruction of civilian property.

32. Full-scale invasion began on 7 December 1975, with combined land, air and sea attacks first on Dili and then Baucau. These attacks expanded to the districts of Bobonaro, Ermera, Manufahi, and Covalima. They caused many civilian deaths, mass displacement and widespread destruction of public and private property. During these initial attacks unarmed civilians were directly targeted by ABRI/TNI forces in summary executions, and there was generally a failure to distinguish between civilian and military targets.

33. The use of heavy machine guns, bazookas, grenades, mortars, and artillery in both urban and rural settings inevitably resulted in heavy civilian casualties. It is often unclear as to whether these attacks were targeted or indiscriminate. The Commission received significant evidence from statements collected across the territory that indicate strongly that the invading Indonesian military employed a policy which involved the systematic destruction and looting of houses, livestock and crops, as well as the deliberate killing of civilians.<sup>11</sup> José da Silva Amaral told the Commission of the deliberate destruction of food sources by ABRI/TNI during their attack on Oso-Gori, Uaibobo (Ossu, Viqueque) in 1976:

*When ABRI attacked Ossu in the dry season in 1976, my wife Ceverina, my son Arlindo and I were in Basilau, Oso-Gori, in the village of Uaibobo. We fled to Mount Builo, Ossorua. ABRI entered Ossu and continued their advance. They built a post near my land in Loilubu, Ossurua. During a patrol, they burned my house in Basilau. ABRI abandoned the post after about a month. When I found out that ABRI had left, a brother in law, Patricio, and I returned to see my coconut trees. They were all destroyed. ABRI cut down all the banana trees to build a post. They also cut down all 300 coconut trees. Only one tree was left intact.<sup>12</sup>*

34. In addition to being targets and suffering from indiscriminate attacks, civilians were also severely punished by ABRI/TNI if they were suspected of assisting Fretilin/Falintil forces. This punishment varied according to circumstances and the individuals involved. Lobato Amaral, a young Falintil soldier, told the Commission that his older brother, Leonardo Freitas, and 11 civilians were captured and killed by ABRI/TNI in Bobonaro because they were suspected of providing food for him and other Falintil soldiers in 1979.<sup>13</sup>

35. Any suspicion of contact with people who had fled into the forest, whether or not they were part of Fretilin/Falintil forces, could result in retribution by ABRI/TNI. In 1977, for example, Frederico Gonçalves from Atabae (Bobonaro) reported that his livestock was confiscated by members of the Halilintar militia who suspected him of maintaining links with his brother in the forest.<sup>14</sup>

36. During the early period of the invasion there was fierce fighting in many areas, as Fretilin/Falintil forces frustrated the advance of Indonesian forces. The Commission received a number of reports of brutal retribution from Indonesian troops against civilians after they had captured a particular location. In the village of Laimea Kraik (Atsabe, Ermera), for example, ABRI/TNI deliberately burned houses with their owners inside them.<sup>15</sup> Non-violent resistance from civilians was also often met with lethal force, contributing to widespread fear and panic as tens of thousands fled into the hills and forests in search of protection and sanctuary. The Commission received a large number of reports to this effect from across the country, indicating the vulnerability of East Timorese civilians to the advancing Indonesian military through to the end of 1978.<sup>16</sup>

37. Although many sought protection and refuge in the areas controlled by Fretilin/Falintil forces, this respite proved to be only temporary as the Indonesian forces attempted to consolidate the occupation. Agustino Soares told the Commission:

*I was 17 when we evacuated to the forest in Katrai Leten, at the foot of Mount Ramelau. I hid there with 10 family members. Thousands of villagers gathered in Katrai Leten, including those coming from Letefoho, Ermera, Ainaro, Aileu and Cailaco.*

*Katrai Leten was the second largest Fretilin base in Ermera after Fatubessi, so it was safe there. Fretilin troops guarded us from the enemy, while we stayed behind and grew food crops to feed us...In Katrai Leten, deaths due to starvation or illness were rare.*

*But two years later, in 1978, the Indonesian military attacked our base in Katrai Leten, forcing us to move from Katrai Leten to other locations. ABRI troops came from Atsabe, Ainaro, Same and Bobonaro, and completely encircled us, isolating us at our base in Katrai Leten, before they [ABRI] attacked simultaneously.*

*ABRI fired their mortars, bazookas and cannons. From above, the planes dropped bombs on us. The bombs did not burn us, but the shrapnel killed many people because they couldn't find a good place to hide. ABRI attacks destroyed our resistance base in Katrai Leten on 18 May 1978.<sup>17</sup>*

38. Across Timor-Leste entire communities were forced to stay on the move. The Commission heard testimony of a similar pattern of experiences, culminating in death, capture or surrender from communities and individuals across the country. The experiences of the community of the village of Maupitine (Lospalos, Lautém) illustrates this pattern. When ABRI/TNI forces landed on Com Beach in February 1976 and began shooting at civilians local residents fled into the hills. For two years, they stayed together, moving from place to place. During 1977-1978, 155 Muapitine villagers died of starvation, while a further seven died during an ABRI/TNI attack in 1978. As in so many other areas, by late 1978 the remaining villagers of Maupitine began to surrender to ABRI/TNI.<sup>18</sup>

39. The Commission obtained testimony outlining incidents in which ABRI/TNI commanders deliberately failed to protect civilians from abuse, or to discriminate between civilians and armed Fretilin/Falintil troops. A former East Timorese ABRI/TNI soldier who was based in Same during 1977 told the Commission that before launching operations around Mount Kablaki members of Kodim and the local civil defence forces (Hansip) in Manufahi were instructed by the Kodim commander to kill anyone they encountered during the operation, regardless of whether they were civilians or Fretilin/Falintil soldiers:

*During an operation in Kablaki in 1977, soldiers and Hansip came from two directions, Ainaro and Same, and formed a full circle to prevent Falintil and civilians hiding on the mountain. The attack on Kablaki was simultaneous and the Kodim commander told us that whoever we encounter, whether civilians or Falintil, there should be no mercy, [we should] shoot on the spot or, if necessary, arrest them.*

*When we arrived at the top of Mount Kablaki, we saw a group of five or six people and we shot them. We did not know whether they were civilians or Falintil. [Some] fled, and we could only find abandoned items, such as bags of food supplies that they had left behind. Then we continued the operation back to Same via Rotuto.<sup>19</sup>*

40. The same former soldier described another incident during operations around Same aimed at finding Falintil and civilians who were still hiding in the forest, in which an old lady found by soldiers in a hut in a deserted village was executed by a Hansip member.<sup>20</sup>

41. Indonesian military advances and attacks against communities in territories it did not control continued throughout 1978. Predictably, civilians continued to bear the brunt of these attacks. Maria José da Costa described the experience of her community around the area of Dolok in the southern district of Manufahi to the Commission:



*In 1978 the enemy surrounded us in Dolok and many people died due to starvation. All the food supplies...were burnt. They surrounded us by attacking from the sea with warships, from the air with warplanes and on land by burning the dry grass and sending in the army. At that time it was August, which is the dry season. The army made big fast-burning fires by spraying gasoline over the tall grass. Many died because they could not escape the fire surrounding us.<sup>21</sup>*

42. The Indonesian military had incorrectly predicted that its overwhelming firepower could secure its occupation of Timor-Leste relatively swiftly. When this did not occur and Indonesian forces were bogged down, with Fretilin/Falintil forces living with large civilian population in parts of the territory in the interior, the Indonesian military launched a massive offensive against these resistance bases. In 1978 these attacks became known as the campaign of encirclement and annihilation, and caused vast casualties among the civilian population in these bases. The fact that so many civilians lived with Fretilin/Falintil forces in these bases may have contributed to difficulties in distinguishing between civilians and combatants. However, the evidence presented to the Commission provides a clear picture of an ABRI/TNI military campaign in which there was little consideration of the principle of the protection of civilians or the need to discriminate between civilians and combatants. The attacks across the territory appeared to be based on the assumption that anyone, insurgent or civilian, who resided outside of the area under the control of the Indonesian military was a legitimate target (see Part 3: The History of the Conflict; Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine).

43. The Commission heard similar testimony from many parts of the country, as individuals and entire communities tried desperately to stay ahead of the advancing Indonesian military. Many spent between three and four years on the run, moving from location to location, living in dire circumstances that resulted in the steady loss of individual lives and even entire families.<sup>22</sup> The communities of the villages of Aiassa and Malilait, in the sub-district of Bobonaro (Bobonaro) told the Commission:

*In January 1976, the Indonesian military entered the sub-district of Bobonaro. Continuous ground and aerial attacks forced civilians to flee to Lour. Villagers did not take much food. We stayed in Holba, Anapal, for about one year growing food crops and rice. While waiting for the harvest, we ate edible roots. At harvest time, ABRI and the Partisans forced people to move from Holba to Fatuleto and abandoned their gardens and fields unharvested. People stayed in Fatuleto for one year, but they had to keep moving, first to Molop, and then to Dikehili, where many died from wounds sustained during aerial attacks, or from illnesses and starvation.*

*In 1978, once again people had to flee to Halik after...aerial attacks from 7.00am to 9.00am claimed seven lives, and [there were] other deaths due to starvation, illnesses and poisoning after eating vegetables.*

*When there was nowhere else to go, villagers gradually surrendered to Battalion 507 in 1979.<sup>23</sup>*

44. The Commission received 247 statements from the district of Baucau alone reporting 278 cases of attacks on civilians and civilian targets throughout the period of Operation Seroja in the 1970s. Similar reports were received from Aileu, in which 97 civilian deaths and the destruction of civilian targets during ABRI/TNI operations were recorded.

45. Civilians also died as a result of starvation, after their livestock and food supplies were destroyed or stolen, or having fled with little or no supplies to sustain them. During the same period, increasing pressure on life in the *zonas libertadas* due to ABRI/TNI operations caused great hardship and loss of life among the civilian population living in these areas. Movement was initially restricted within these zones, and later civilians were forced to be constantly on the move to escape ABRI/TNI attacks, unable to grow and harvest crops (see Chapter 7.3: Forced Displacement and Famine).

46. For Fretilin/Falintil, the precariousness of their situation was of paramount concern. Restricting civilian movements was a direct consequence of the need to secure and maintain a measure of physical geographical control. Such impositions were not only applied by Fretilin/Falintil political and military cadres. Harsh, even brutal measures were sometimes self-imposed by ordinary civilians who were intent on survival. Remaining undetected in the forest, for example, often presented life or death choices. Adriano João was a Fretilin political assistant (*adjunto*) in the Cailaco Zone, and described to the Commission the desperate measures taken by ordinary people to survive during this period:

*[In Purugua] I saw a father choke his four-year-old son to death because he kept crying. Then, there was a consensus amongst villagers that whoever revealed their position to ABRI should be eliminated, including children. We almost had to throw away our own 18-month-old baby because he kept crying.<sup>24</sup>*

47. Once the Indonesian military had located a concentration of fighters or civilians in a particular area, the usual practice was to bombardment the location with heavy armaments. These attacks were often indiscriminate and lethal. In 1978, for example, aerial and naval bombardments caused 100 deaths among the village population of Aidantuik (Suai, Covalima) who had sought refuge in Beco (Suai, Covalima).<sup>25</sup>

48. The Fretilin/Falintil base at Mount Matebian, (Baucau and Viqueque Districts) in the east, became one of the final centres of resistance in 1978, as ABRI/TNI attacks overran the Fretilin/Falintil *base de apoio*. Following the invasion, in early 1976, Fretilin/Falintil forces evacuated many civilians from the eastern districts of Baucau, Viqueque and Lautém to the mountain. Many East Timorese civilians fled to the mountain from Indonesian military attacks in the early years after the invasion. By 1978, it had become one of the last major places of refuge. As military advances overran other bases, Fretilin/Falintil forces and civilians fell back to the Matebian base. In response, between August and October that year the Indonesian military launched devastating ground, air and naval attacks against those on the mountain. Armindo da Silva, who sought refuge on the mountain at the time, told the Commission:

*When my family and I were in Matahoi in Uatu-Lari [Viqueque], I heard that ABRI was about to attack Osso Lero at the foot of Mount Matebian, in Baguia. Many civilians from Ossu died during ABRI's indiscriminate aerial bombings and mortar attacks from Quelicai [Baucau]...My cousin Januario da Silva, aged 20, my mother, Paeloi...and the Liurai of Uaibobo were hit by the bombs and died.<sup>26</sup>*

49. The mountain refuge was encircled by ABRI/TNI and a systematic campaign to force the surrender of all on the mountain began. Many of the communities that the Commission engaged with reported on the death and destruction that accompanied the ABRI/TNI assault.<sup>27</sup> The Commission received reports of several thousand people being killed or injured before permission was finally given by Fretilin/Falintil commanders on 22 November 1978 to surrender (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine).

### **The bombs came from the sky, or the coast and the ground**

The community of the village of Defawasi, in the sub-district of Baguia in the mountain area of Matebian in Baucau, told the Commission of their experiences as the Indonesian military conducted its final assault on the mountain in late 1978:

*1978 was the year the Indonesian army, navy, airborne units (Paskhas) and Police Mobile Units (Brimob) attacked, by encircling Mount Matebian. They made a ring formation around the mountain.. Villagers from Defawasi, Viqueque, Baucau and Lospalos were inside the circle. This "fence" tightened every day while more and more civilians were trapped on Mount Matebian.*

*The Indonesian military used this opportunity to attack people, using ground fires. They attacked with cannons, bazookas, mortars and rockets, as well as aerial bombings and naval bombardments. These incessant attacks destroyed water springs, and left no chance to prepare food. They created a chaotic situation.*

*Many people died from the bombings or due to starvation or when they got lost on the mountain. Villagers also died of bullet wounds from automatic weapons and the bombardments. An estimated 100 people of all ages, male and female, from our village of Defawasi died on Mount Matebian. Starting from 2 October, until 28 November 1978, the people of Defawasi returned to Baguia Town from the mountain.<sup>28</sup>*

50. The escalation of ABRI/TNI assaults during 1978 led to a further deterioration of conditions for civilians in the interior, which in turn forced more civilians to surrender to ABRI/TNI. Others remained constantly on the run from attacks until they were eventually captured or forced to surrender.<sup>29</sup> The final mass civilian surrender took place after the fall of the Mount Matebian base in November 1978, after Fretilin/Falintil gave permission to surrender (see Part 3: The History of the Conflict; Chapter 7.3: Forced Displacement and Famine).

51. The situation upon capture or surrender was grim. The Indonesian military separated those they identified as Fretilin/Falintil, many of whom were executed or disappeared (see Part 3: The History of the Conflict; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.2: Unlawful Killings and Enforced Disappearances). Other civilians were held first in transit camps, then in detention centres and later were resettled in to areas under ABRI/TNI control. Food and medicines were inadequate for these massive numbers of civilians effectively held in detention, and thousands died of starvation and disease in perhaps the most tragic years of Timor-Leste's history. These tragic events and the human rights violations associated with them are examined in Chapter 7.3: Forced Displacement and Famine. Communities across the country recounted their experiences during this period to the Commission. For example, communities in Liquidoe (Aileu), Remexio (Aileu) and Metinaro (Dili) recalled the large number of civilian deaths after surrender to Indonesian forces due to starvation and disease in camps.<sup>30</sup>

52. Although assaults on civilians and civilian targets subsided markedly following the culmination of Operation Seroja in 1979, civilians continued to be targeted and adversely affected as a result of on-going counter-insurgency tactics by ABRI/TNI throughout the Indonesian occupation of Timor-Leste.

53. During Operation Kikis in 1981, for example, the Commission received a number of reports about ABRI/TNI execution of both surrendering civilians and civilians who had been forced to join the operation. The community of the village of Orlalan Batara (Laclubar, Manatuto) described their experience of being forced to join the operation:

*After receiving orders from Manatuto and Dili to prepare civilians to join Operation Kikis, the Laclubar Koramil commander ordered the Village Heads from six villages to select strong civilians to join the operation, excepting only children and the elderly. All schools were closed. Civilians were only allowed to carry knives, spears, arrows and bamboo drums. Each person had to have a black ribbon tied to their head as a marker, and each person had to carry their own food rations. Each village had a leader. Civilians were forced to walk from 6.00am to find Falintil and civilians still living in the forest. When they found them, they had to kill them, so that the war could finish quickly.*

*In Fatuhada [Laclubar, Manatuto], there was an armed clash between Battalion 744 and Falintil, which claimed the lives of 15 Falintil members and 50 civilians who surrendered to Battalion 744. There was a pregnant woman stabbed in the stomach, killing the baby instantly. Then the dead bodies were cut up and buried.*

*During the operation, soldiers from Battalion 744 who suspected villagers in Laclubar of working with Fretilin, ordered the villagers to burn all food crops to prevent Fretilin making use of them and to force their quick surrender. The order came with a threat of execution for refusal to comply. During the 40 days of the advance one villager from Laclubar died of an untreated illness and another villager was shot by an ABRI soldier in Aitana. The soldier claimed that he had mistaken the person for someone else. Then villagers returned to their villages in Laclubar.<sup>31</sup>*

54. Albino da Costa, a former Falintil soldier, told the Commission:

*I witnessed with my own eyes how the Indonesian military, Battalion 744, killed civilians. They captured those unarmed people, tied them up then stabbed them to death. There was a pregnant woman captured and killed just like that. I saw it from a close distance, just 100 metres from where it happened.<sup>32</sup>*

55. When the advance reached the area of Lacluta (Viqueque) in September 1981, a massacre occurred that according to several accounts killed hundreds of people. While Indonesia claimed a military victory in this area during this time, citing the capture of 450 members of Fretilin and 150 weapons, Monsignor Costa Lopes, Catholic Apostolic Administrator of Timor-Leste at the time, claimed that 500 people had been killed (see Part 3: History of the Conflict; Chapter 7.2: Unlawful Killings and Enforced Disappearances). Indonesian authorities admitted 70.<sup>33</sup> Others place the toll in the hundreds.<sup>34</sup> While a definitive account of the incident does not exist, including

the detail of whether those killed were combatants or civilians, most sources describe this was a brutal massacre of civilians (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

56. The 1983 uprising by East Timorese members of Hansip and Ratih against the Indonesian military in Kraras (Viqueque, Viqueque) is one of the most notorious cases of ABRI/TNI retaliation against the civilian population (see Chapter 7.2: Unlawful Killings and Enforced Disappearances). The uprising was coordinated closely with Falintil. After killing 12 members of the Zipur 4 Engineering Battalion, the members of Hansip and Ratih defected to Falintil with their weapons. The civilian population were left vulnerable. Many fled to the surrounding forest and mountains fearing retribution. The Indonesian military carried out a terrible act of collective punishment against this civilian population who had not been involved in the attack against their forces.

57. A series of massacres of the civilian population of the area followed. On 7 September, ABRI/TNI soldiers entered the village of Kraras and killed 4 or 5 civilians, including one old woman. They then burned most of the houses in the village. The bodies of several of those killed were left in the burning houses.<sup>35</sup> In the following weeks Indonesian soldiers conducted patrols throughout the neighbouring mountains in order to force those who had fled to return to the villages of Kraras and Buikarin, and to the town of Viqueque. The Commission received reports that a number of individuals were executed during these operations, including a 15-year old boy on or about 12 September, and three other individuals on 15 September.<sup>36</sup> During this time a large number of people were also detained and tortured, many at Olobai, where one company from the 745<sup>th</sup> Infantry Battalion was based.

58. The Commission was told by survivors that on the morning of 16 September Indonesian soldiers and Hansip took a large group of civilians, including women and children, to the village of Caraubalu. The villagers were taken to a location called Welamo where they were told to stand in a hole created by a landslide, and they were then executed by the soldiers and members of Hansip.<sup>37</sup> The Commission has compiled a list of the names of 54 victims executed at Caraubalu.\*

59. On 17 September Indonesian soldiers approached a large group of civilians from Kraras who had fled to the nearby village of Buikarin. The village was surrounded and those from Kraras were detained. The men were separated from the women and were told that they would be marched to Kraras under the supervision of the military to bring food. According to evidence received by the Commission between 6 and 8 Indonesian soldiers and two East Timorese Hansip escorted dozens of men to the Wetuku River in an area known as Tahubein. They were then shot. Only four people are reported to have survived the massacre. There are conflicting reports about the number of victims killed at Tahuben, with figures ranging from a low of 26 to a high of 181.<sup>†</sup> The Commission received the names of 141 victims, all of whom were male.<sup>‡</sup>

### **Economic and property violations –collateral damage or deliberate strategy?**

60. In terms of the laws of war, civilian property is protected from attacks<sup>§</sup>. Incidental damage to civilian objects is permitted only to the extent that it is not excessive in relation to an anticipated concrete military advantage.<sup>38</sup>

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\* This list is included in full in Chapter 7.2: Unlawful Killings and Enforced Disappearances.

† CAVR Interviews with: Antonio Soares, (undated) who cited 79 killed; Miguel Viana, Viqueque, 17 July 2003, who cited 181 killed; Silvino das Dores Soares, Viqueque, 10 March 2004, who cited 143; Manuel de Jesus Pinto, Buikaren, Viqueque, 20 March 2004, who said that he counted 82 bodies.

‡ The list of victims from this massacre is also included in full in Chapter 7.2: Unlawful Killings and Enforced Disappearances.

§ Article 52, Additional Protocol I to the Geneva Conventions, which is recognized as reflecting customary law: see J. Henckaerts and L. Doswald-Beck, *ICRC's Customary International Humanitarian Law, Vol I: Rules*, (2005) pp25-26.

61. Information gathered by the Commission indicates that the destruction and theft of property was itself a central military objective, and not a collateral effect of the attacks. The Commission received statements about 1,256 cases of the burning and destruction of homes, destruction of livestock and crops, stealing and the looting of property. Although much of this destruction came about because of indiscriminate attacks, there is also considerable evidence that civilians who were suspected to be pro-independence were deliberately targeted by ABRI/TNI in violations of such economic rights, at different periods of the conflict ranging from the earliest days of the invasion through to the destruction after the ballot in September 1999.

62. Analysis of statements made to the Commission indicates that violations of civilian property and economic rights were invariably accompanied by other direct violations to civilians such as arrests, detention, torture or killing.

63. Violations of economic and property rights were an integral component of Indonesia's military policy during this period. They were employed for a number of reasons, including punishment, the destruction of resource bases and the institution of a system whereby collaborators would be rewarded materially by forcefully diverting the property of political opponents to them.

64. The nature and extent of the destruction and theft and looting of civilian property during the invasion and its aftermath bear a striking similarity to the events of September 1999, when a "scorched earth" policy led to the TNI and its agent militias burning and destroying approximately 60,000 houses and the majority of government infrastructure in Timor-Leste in just a few weeks.<sup>39</sup>

1975-1977

65. The Commission collected evidence of deliberate theft and property destruction by Indonesian forces from the start of the invasion. A former member of UDT who joined the East Timorese Partisan forces who assisted ABRI/TNI in the full-scale of the invasion, Rui Emeliano Teixeira Lopes, described the looting by Indonesian soldiers:

*On the morning of 7 December 1975, Kopassus [known as RPKAD at the time], Ranger, Kujang, Kostrad and Marines landed in Dili. We stayed on the ship. We saw fire spreading and we heard gunfire, but we didn't land because they didn't need us. When we headed for Baucau, we just saw that ABRI took people's cars and suitcases and loaded them onto the ship. We didn't like what we saw at all. Were we in a war or in a robbery? This kind of theft did not only happen in Dili [and Baucau], but also in Balibo and at the Maliana Hospital.<sup>40</sup>*

66. Partisans were accused of widespread destruction and looting in Baucau.<sup>41</sup> Comparable accounts were also recorded in the districts of Liquiça,<sup>42</sup> Ermera,<sup>43</sup> Viqueque,<sup>44</sup> Lautém<sup>45</sup> and Bobonaro from this period.<sup>46</sup>

67. Following the initial invasion Indonesian forces sought to consolidate and expand their territorial control. The Commission received reports of theft and the destruction of property from across Timor-Leste during the ABRI/TNI advance, from its Community Profile workshops, including from communities in the districts of Bobonaro (in Atabae and Lolotoe), in Aileu, in Baucau (in Baguia, Quelicai, Venilale, Vemassee) and in Viqueque (in Lacluta, Ossu, Quelecai, Uatu-Carbau, Uaimori). Upon taking charge of a new location, ABRI/TNI forces regularly confiscated or destroyed property, effectively dispossessing and rendering homeless the owners and occupants. Homesteads and other properties were burnt, unharvested crops were destroyed and large herds of livestock were slain. In some locations, the *uma lulik* (sacred house of a clan)

and its contents were destroyed.<sup>47</sup> Such gratuitous destruction was indicative of a deliberate intention to undermine East Timorese culture and identity.

68. In many areas civilians had already fled to the surrounding hills and forests before the Indonesian forces arrived. With their properties undefended, ABRI/TNI had effective carte blanche to destroy or steal whatever property they wished.

69. These practices continued relentlessly over the first years of the occupation. The Indonesian military openly admitted this behaviour as part of its standard military practice:

*Operation Pamungkas V, on 6 to 7 March 1978, with the objective of freeing the people in SAS MAUBU [who were] held captive by GPK [ed: Falintil], [was conducted] with the force of 2 Ki [companies] together with Hansip and Danpur-12. The results achieved were 3 people surrendered, 8 houses burned down and 2.5 hectares of cornfield destroyed.<sup>48</sup>*

70. ABRI/TNI was assisted in its offensive actions by a number of surrogate forces, including Partisans, and later civil defence structures such as Hansip and militia groups such as Halilintar in the district of Bobonaro. The Commission received numerous reports of the involvement of these proxy or surrogate forces in property theft, either in concert with ABRI/TNI or acting unilaterally.

71. The Commission received numerous reports about the theft of livestock and harvested crops. In addition, valued possessions, including items of cultural importance and financial value such as *tais* (woven cloth), beads and silver coins were also stolen. Domingos da Costa da Silva of Fatuberliu (Manufahi), told the Commission of the theft of a large amount of valuable traditional items:

*In 1976 we ran to the forest and hid in a place called Orboa in the aldeia of Orlara, until 1978. At one time, a group of Hansip came with their leader, L1. They captured my brother, João da Costa, and beat and pulled him like an animal. They also took all of our property including 15 mortens, 76 belaks, 7 caibauks, 15 fucadors, 30 osan manu liras, 25 necklaces, 10 sasakis, 2 loku liman, 10 buti liman, 4 golden combs and 2 murak bulu ayam. These things were taken by the perpetrators and we were left with nothing but bruises.<sup>49</sup>*

72. The extent of the reports to the Commission of continuing widespread looting and stealing by Indonesian troops indicates that it must have been known and supported by the senior military hierarchy. Certainly the use of foodstuffs from stolen property eased the need for essential support for the Indonesian troops. Available livestock also provided an opportunity for additional income generation for members of ABRI/TNI. The Indonesian military used East Timorese civilian property as an essential element in the support of their military operations. João Pinto Dias told the Commission:

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<sup>47</sup> *Morten*: necklace made of orange, stone beads; *belak*: a circular silver breastplate hung from the neck with strong cotton; *caibauks*: horns made from gold or silver tied to the head with strong cotton; *fucadors*: a heavy silver or gold wrist chain; *osan manu liras*: large antique Portuguese silver coins; *sasakis*: *loku liman*: an upper arm brace made of gold or silver; *buti liman*: a thin silver brangle; *murak bulu ayam*: feathered head-dress

*In 1976, I had 12 horses. Combat Commander L2 [East Timorese] and his men took my horses. Some of them were shot dead, some were eaten and some were sold. I had more than 40 buffaloes, but Commander L2, and L3 [East Timorese] with his men shot some of them and the rest were taken to be sold in Batugade to people from Atambua.<sup>50</sup>*

73. Property theft and destruction also often followed the execution of civilians. Antonio Soares told the Commission of the murder of his uncle, the burning of his house and the theft of his property by members of Hansip in Esa-isi, Ossu (Ossu, Viqueque):

*The Hansips led by L18 with two of his members, L4 and L5, patrolled Esa-isi. They saw Uncle Cristovão and killed him [shot him to death]. Then they burned down our house and took our livestock of 40 buffaloes, 31 horses and 58 goats, as well as 5 barns of rice.<sup>51</sup>*

74. Jacinto Olo Mau said that in 1975 ABRI/TNI from Battalion 501 attacked Lahomea (Maliana, Bobonaro) and killed his parents, Bere Soro and Bui Bere. After his parents were killed, and with the house empty, soldiers from Battalion 501 took the opportunity to loot their possessions. Jacinto Olo Mau told the Commission:

*After both my parents were killed and the house was empty, the perpetrators used the opportunity to break in and take everything that belonged to the victims, after which they set the house on fire with the victims' bodies still inside.<sup>52</sup>*

75. The theft of livestock and destruction of crops had direct consequences, as people in many parts of the country suffered from acute food shortages, resulting in widespread hunger and starvation. Reports of hunger and starvation as a result of ABRI/TNI destruction were received from a number of locations including Cailaco and Lolotoe (Bobonaro) and Zumalai (Covalima). Alfredo Moniz Soares told the Commission:

*In 1977, when ABRI attacked there was no opportunity to look for food. Many members of my family died of starvation and lack of medicines. Additionally, the perpetrators [ABRI] also burned our homes and seized our livestock.<sup>53</sup>*

1978-1979

76. When massive numbers of civilians came down from the mountains and surrendered to the Indonesian military in 1977-78, they were not generally allowed to return immediately to their home areas. Held first in transit camps, many continued to be held in ABRI/TNI-controlled detention centres or resettlement villages for years (see Chapter 7.3: Forced Displacement and Famine). When they did return to their places of origin many found their villages and homes had been looted and burned. While the Fretilin/Falintil bases had been destroyed and the form of armed resistance had been fundamentally altered, the war was not over and it continued to have a critical impact on all aspects of civilians' lives. The civilian population no longer lived with the armed Resistance in the interior, but during this period were held in conditions of intense control by the Indonesian military whose objective was to ensure that the civilian population was not able to contact and support the Resistance fighters. Surveillance, intelligence-gathering and severe control of civilian movement were day to day realities for most civilians in these ABRI/TNI-controlled camps. ABRI/TNI continued to destroy crops and steal property as a form of



punishment, intimidation and economic opportunism. Many people held in the camps were subjected to beatings and other physical violations by the Indonesian armed forces.<sup>54</sup>

77. A known past association with Fretilin invariably resulted in being targeted by the Indonesian military. East Timorese aligned with the occupying forces were also able to take advantage of the situation. José Antonio told the Commission that former members of UDT took his land during 1979, in Beikala, (Hatu Udo, Ainaro) because of his background as a member of Fretilin.<sup>55</sup> Another deponent told the Commission that he was arrested by the ABRI/TNI in March 1979, tortured in connection with Fretilin activities and then forced to surrender his coffee plantation.<sup>56</sup> Others continued to be targeted because of suspected links to Resistance fighters who remained in the forest.

78. Reports of theft and the confiscation of property by the Indonesian armed forces from those surrendering were received from the districts of Bobonaro,<sup>57</sup> Baucau (in the sub-districts of Laga,<sup>58</sup> Vemasse,<sup>59</sup> Quelicai<sup>60</sup> and Bagaia<sup>61</sup>), Manufahi,<sup>62</sup> Manatuto,<sup>63</sup> Covalima,<sup>64</sup> Ermera,<sup>65</sup> Viqueque<sup>66</sup> and Oecusse.<sup>67</sup> In some cases this was accompanied by beatings and torture.<sup>68</sup>

79. In Lautém, renewed efforts by ABRI/TNI in 1979 to locate Fretilin/Falintil forces resulted in further civilian deaths.<sup>69</sup> Maria Alves surrendered to the Indonesian military in 1979 in the Old Town of Fatuberliu (Fatuberliu, Manufahi). She told the Commission of the destruction of her property:

*I was ordered by ABRI and the Hansips L6 and L19 to build a house and make a paddy field. After building the house and making the field, I was told to move again to Sukaer Laletek by the Sub-district administrator, L7 [East Timorese], and ABRI. Then the crops I planted such as papaya and cassava were destroyed. The house I built was also destroyed.<sup>70</sup>*

*The 1980s*

80. By the end of 1979, there were only a few locations in a few districts that remained under Fretilin/Falintil control. In the early 1980s, while some civilians remained in resettlement camps under the direct control of the Indonesian military much of the civilian population had returned to their homes. During this period ABRI/TNI had developed a territorial capacity, which ensured that there were military posts based in villages across the entire territory. Civilians lived under close scrutiny by ABRI/TNI and the East Timorese auxiliaries such as Hansip and Babinsa (see Part 4: The Regime of Occupation).

81. The numbers of reported economic violations received by the Commission were considerably less for this period than the preceding four years. Between 1980 and 1989, ABRI/TNI operations were focused on destroying the remaining Fretilin/Falintil forces, and often concentrated in specific areas of the country to carry out this campaign.

82. In mid-1981 the Indonesian military launched Operation Kikis\*, as noted in the section on Indonesian military attacks on civilians and civilian objects, above. The Commission received reports that during these operations, ABRI/TNI and members of Hansip continued to burn houses, steal livestock and property, and destroy crops and other food supplies.<sup>71</sup> The

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\* In Timor-Leste it was known as *Operasi Kikis*. This was a short name for a military tactic known as *Operasi Saber Kikis Baratayudha* (named after a mythical war in the world of Javanese shadow puppets), also known as Operation "Fence of Legs". It was a technique of using tens of thousands of civilians as a human shield that literally moved in front of ABRI/TNI forces in a massive coordinated effort to flush out Fretilin/Falintil forces. This technique was first used during the Darul Islam insurgency in the 1950s. [See for example Ken Conboy, KOPASSUS, Inside Indonesia's Special Forces, Equinox Publishing (Asia), Jakarta, 2003, pp. 297-8. See also Part 3: The History of the Conflict; Chapter 7.3: Forced Displacement and Famine].

Commission, for example, received 43 reports of civilian homes being burned in the village of Mauchiga (Hatu Builico, Ainaro) between 20 and 24 August 1982 by ABRI/TNI and members of Hansip.

83. As Indonesia consolidated its control over the territory, it began to focus its actions and attention on specific locations, communities and individuals thought to be linked to the Resistance. Efforts by the Indonesian military to close down clandestine activities supporting the Resistance resulted in widespread intimidation and repression. Across the country arrests, beatings and torture continued to be accompanied by theft and the destruction of property.<sup>72</sup>

84. As ABRI/TNI attempted to exert control over civilian populations who had returned to their home areas, they relied heavily on their East Timorese auxiliaries such as Hansip and Babinsa. Conditions were very repressive for civilian communities and at times there were tensions between members of ABRI/TNI and their East Timorese auxiliaries. There were several internal rebellions by these auxiliary forces in the early 1980s, which resulted in harsh retribution against the civilian population by ABRI/TNI. In August 1983, following a mass desertion of civil defence members of Hansip and Ratih from ABRI/TNI in Tutuala (Lautém), the Indonesian military retaliated by killing scores of livestock owned by the families of the renegade auxiliaries.<sup>73</sup>

85. The collective punishment carried out by ABRI/TNI against the civilian population of Kraras (Viqueque, Viqueque) in September 1983, reported in the section on Indonesian military attacks on civilians and civilian objects, above, also included acts of destruction of property. Houses were burned and livestock killed by members of the Indonesian military in retribution for the revolt by East Timorese Hansip and Ratih. The social economic impact of these actions and the large-scale massacre of the men of the village continues to disadvantage this community to the current day.

86. Across the country throughout the 1980s Indonesian military operational objectives were aimed at breaking the clandestine network between Falintil and its civilian supporters. ABRI/TNI with the help of militia members forced civilians to participate in Operation Curlog,<sup>\*</sup> aimed at destroying food stocks in order to starve Falintil forces.<sup>74</sup> Civilians were targeted, their houses burnt and possessions taken.<sup>75</sup> In addition, ABRI/TNI also confiscated people's food supplies (see Chapter 7.3: Forced Displacement and Famine)<sup>76</sup>

#### *The 1990s*

87. During the 1990s, although ABRI/TNI maintained a significant presence across Timor-Leste it was generally no longer involved in ongoing large-scale military operations. The strategy of the Resistance had shifted from direct armed conflict with ABRI/TNI to one focused on international diplomacy and urban resistance based largely on the growing youth movement. ABRI/TNI operations primarily targeted civilians suspected of involvement in clandestine activities supporting the Resistance. These operations were often supported by Hansip and other East Timorese para-military organisations developed during this period (see Part 3: The History of the Conflict; Part 4: The Regime of Occupation). The Indonesian riot police, Brimob, also played a very active role clamping down on dissent in this period.

88. This ABRI/TNI strategy invariably involved violent attacks on civilians. As for the periods in the 1970s and 1980s, the Commission received numerous reports of the destruction of houses and other property, as well as theft and extortion based on the threat of violence. The Commission also received a number of reports implicating members of the Indonesian police service in violent abuses, the destruction of property and extortion during this period.

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<sup>\*</sup> Curlog (Hancur Logistik) literally meant the Destruction of Logistics. It aimed to destroy all kinds of crops that could be used by Falintil. It deprived both Falintil and civilians of food, as crops were destroyed (see Part 3: The History of the Conflict; Chapter 7.3: Forced Displacement and Famine).

89. As in earlier periods, theft and property destruction during this period is best understood as a deliberate form of punishment. Houses were burnt if the owners were suspected of supporting or sympathising with Falintil forces.<sup>77</sup> For example, a person from Ainaro told the Commission that ABRI/TNI soldiers burned down his house in November 1991 shortly before the Santa Cruz Massacre, on suspicions that he possessed an RDTL flag.<sup>78</sup>

90. Another deponent from Liquiça told the Commission that he was arrested for being in possession of a Fretilin flag, and was only released after his wife gave Rp. 300,000 and seven silver coins to an ABRI/TNI commander.<sup>79</sup> The Commission received a number of statements from different parts of the country, revealing how extortion by the military and the police had become common practice during this period. Often, individuals were detained and only released if they were able to pay the officers in charge. Families were often obliged to pay for the release of loved ones, and payments of between Rp.100.000 and Rp1,800 000 were reportedly paid.<sup>80</sup>

91. Such practices were largely opportunistic, and much depended on the specific military officers involved. Actions targeted the clandestine activist network. In Baucau ABRI/TNI soldiers confiscated people's properties and valuables and extorted money from civilians they accused of collaborating with Fretilin/Falintil.<sup>81</sup>

92. In Dili, following the Santa Cruz Massacre in November 1991, ABRI/TNI searched houses across Dili to find the demonstrators who escaped from scene of the shooting. The Commission received statements attesting that those found harbouring demonstrators, or who were found in possession of pro-independence literature or materials, had their houses destroyed.<sup>82</sup>

93. Similar reports of violence, arson and extortion by during the 1990s were collected in Ermera. Various military units, including the Linud 700 (Airbourne Infantry), were identified as perpetrators.<sup>83</sup>

94. Falintil attacks against ABRI/TNI during this period were generally limited to strategic moments, in which it aimed to gain maximum psychological impact as a reminder of their continuing presence and capability, or international impact to highlight that the conflict continued (see Part 5: Resistance: Structure and Strategy). When attacks did occur, the Indonesian military practice of proxy or collective punishment against the civilian population was routinely applied. On 9 November 1998, Falintil attacked the Koramil in Alas (Manufahi). ABRI/TNI launched a massive operation in an attempt to capture the Falintil attackers. During these operations civilians were murdered, detained, sexually assaulted and their property destroyed (see Chapter: 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.7: Sexual Violence).<sup>84</sup> The Commission also received testimony from José Tilman who was a civilian who was present during the ABRI/TNI destruction of property during these attacks:

*On 12 November 1998 L12, and L13 [both East Timorese] and other Koramil soldiers burned people's houses in Lurin. They started in Kulutetuk and finished in Hasbot. In Natarwaen, the destruction also included traditional objects and private possessions. The attackers also ransacked sacred objects, such as statues of saints. I was with the soldiers in Natarwaen. First, they burned Rémigio's house, then other houses...Before that, they had ordered the villagers to abandon the village and detained them in an elementary school building (SD Inpres Alas Town), about 10 metres from the Koramil 02 Office.<sup>85</sup>*

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<sup>7</sup> José Tilman was in Soe (West Timor, Indonesia) when he made this statement to the Commission.

## *Destruction in 1999*

95. With the fall of President Soeharto in May 1998, political space in Timor-Leste appeared to open through the second half of the year. Unprecedented rallies and calls for a referendum on the political status of the territory went ahead unhindered by the Indonesian military or authorities. However, this “Dili Spring” was shortlived. Reports of TNI troop reductions were proved false, and by late 1998 TNI was reportedly establishing a network of militias across the territory. This programme was developed rapidly in the early months of 1999 as Indonesia, Portugal and the UN negotiated the modalities for an act of self-determination in Timor-Leste (see Part 3: History of the Conflict; Part 4: The Regime of Occupation).

96. With the signing of the 5 May Agreements and the announcement of the Popular Consultation, the CNRT (Conselho Nacional da Resistencia da Timor-Leste, National Council of Timorese Resistance) and students organisations began to organise openly across the territory in preparation for the vote on Timor-Leste’s future.

97. The recruitment, forced and otherwise, of civilians into the TNI-backed militias increased rapidly in the early months of 1999. With TNI and the Indonesian police, they began a campaign of terror aimed at intimidating the East Timorese people to support integration with Indonesia. Major acts of violence and the patterns of violence and intimidation are considered in detail in a number of chapters of this Report, including Part 3: The History of the Conflict, Part 4: The Regime of Occupation; Chapter 7.2: Unlawful Killings and Enforced Disappearances, Chapter 7.3: Forced Displacement and Famine, Chapter 7.4: Detention, Torture and Ill-Treatment, and Chapter 7.7: Sexual Violence. Economic and property violations were also a common element of this programme of terror and intimidation. These occurred before the announcement of the 5 May Agreements and the Popular Consultation, in the lead-up to the ballot, and in the campaign of violence after the announcement of the result rejecting integration with Indonesia.

98. A quantitative analysis of statements taken by the Commission reflect certain patterns of human rights violations, intimidation and violence perpetrated by TNI and the militia between January and October 1999. In particular, it indicates that large-scale attacks generally occurred in the periods when there was limited or no international presence in the territory: for example, in the period January-April before the 5 May Agreements were signed and UN and other internationals deployed to the territory; and in the period after the announcement of the results of the ballot when most internationals, including media, had either left or were evacuated from the territory, or were trapped in the UNAMET compound in Dili, leaving district communities entirely isolated from international monitoring. This quantitative analysis also indicates that property destruction by TNI and the militias occurred in all districts of the territory, although the scale of destruction differed between districts and sub-districts (see Part 6: Profile of Human Rights Violations).

99. By the time President Habibie made his announcement on 27 January 1999 that the people of East Timor would be allowed to choose their political future, the short-lived “Dili Spring” was already over. Following the TNI attacks on civilians in Alas (Manufahi) in November 1998 and the increase in recruitment of militia, TNI and militia violence increased inside the territory while negotiations continued to finalise the modalities for an act of self-determination.

100. At the end of March negotiations broke off while Indonesian representatives returned from New York to Jakarta to seek final approval of the Agreements. The month of April saw an escalation of violence by the Indonesian military and the militias under its control, targeted against civilians. The massacre of civilians in the Liquiça Church on 6 April was one of the most notorious attacks on civilians, coordinated by TNI, the police and militia (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

101. With the UN yet to arrive in the territory this violence was openly organised, to the extent that on 17 April a mass rally in front of the government building on Dili’s waterfront was held with

the senior leadership of the militias and the TNI. The Commission has examined film footage of this rally, identifying the presence of TNI members as well as militia leaders such as Eurico Guterres and João Tavares. Immediately after the attack, militia paraded around the city in trucks and on motorbikes intimidating the civilian population. They attacked and massacred refugees sheltering in the house of Manuel Carrascalão in the centre of the city.

102. During these attacks on 17 April TNI and militia also destroyed a house belonging to Filomena da Cruz, a Zone secretary of the clandestine movement.<sup>86</sup> The offices of the only newspaper in the territory, *Suara Timor Timur* (Voice of East Timor), were also destroyed in what was apparently an act of retribution and intimidation due the normally pro-integration newspaper's relatively open reporting of calls for a referendum on the future of the territory (see Part 3: History of the Conflict).

103. In Liquiça, the military and Besi Merah Putih (BMP) militia members were implicated in a series of house-burnings, lootings and thefts from early 1999.<sup>87</sup>

104. Similar accounts of direct military involvement in attacks and intimidation of the civilian population during this period were reported to the Commission in different parts of the country. Reports of such violence in this period were received from the districts of Bobonaro,<sup>88</sup> Baucau,<sup>89</sup> Viqueque,<sup>90</sup> Manufahi,<sup>91</sup> Covalima,<sup>92</sup> and Ermera.<sup>93</sup> A former commander of the Darah Merah Putih militia, which operated one of the sub-districts of Ermera during this period, told the Commission:

*In April 1999, the commander of Kodim 1637 in Ermera, L20, gave me seven machine guns, one truck, two Kijang cars and one Taft car. I had 200 militia members, who were recruited to kill pro-independence supporters in Hatulia. I attacked Hatulia with the 200 militia...We burned houses in the aldeia of Kukara and the village of Manusae Kraik. People fled their homes to save themselves.<sup>94</sup>*

105. Many people fled their homes across the territory in fear of such attacks, leaving their houses and property vulnerable to destruction and looting (see Chapter 7.3: Forced Displacement and Famine).

106. The enclave district of Oecusse was particularly vulnerable, completely surrounded by Indonesian territory and cut-off from the rest of the Timor-Leste. Although the Sakunar militia in this district was one of the last to be established by the TNI, in April 1999, it was to prove one of the most violent. A large number of the adult male population was forcibly recruited into the militia, using various forms of violence including arrests, detention, intimidation, torture, and destruction of properties to scare civilians. As in other Districts, the militia immediately set about burning property and looting.<sup>95</sup> Those targeted included the general populace, as well as specific pro-independence supporters, CNRT activists and leaders. In addition, reluctant militia members were also targeted by TNI and pro-autonomy supporters. The Commission also received reports of pro-independence supporters who were also forced to burn the homes of their leaders.<sup>96</sup>

107. Following the announcement of the 5 May Agreements pro-autonomy supporters reacted hostilely, publicly threatening terror, murder, detention, rape and destruction of houses and property. Within days TNI and militia conducted joint attacks against civilians suspected of supporting the pro-independence movement in districts across the country.<sup>97</sup> In an attack in Atara and Lasaun (Atsabe, Ermera) on 16 May 1999, SGI (Joint Intelligence Force) and the Team Pancasila militia burned houses, destroyed crops, and looted the property of civilians in both villages.<sup>98</sup> There were also several large-scale attacks. On 8 May, three days after the UN announcement, a group of TNI soldiers led over 400 militia members in an attack on the village of Tumin (Oesilo, Oecusse) where they burned houses, slaughtered animals, killed a number of civilians, and forced more than 75 people to go to village of Imbate (West Timor, Indonesia).<sup>99</sup>

108. With UNAMET deployed from June, together with large numbers of international media and observers, the scale of violence by TNI and militias generally subsided across the territory. However, there were still particular places or periods when the violence increased. This was especially so during the final lead-up to the ballot. For example, in August the TNI and militia groups intensified the violence in Oecusse, targeting CNRT leaders and supporters. On the morning of 28 August 1999, a joint force of Sakunar and Besi Merah Putih militias from Liquiça, together with TNI and members of the Indonesian police, attacked the CNRT Office in Oecusse, razing it to the ground and killing two CNRT supporters who were trapped inside the building.<sup>100</sup> On the same day a joint attack by Sakunar, Aitarak and Besi Merah Putih militias, acting together with TNI and the Indonesian police, included the looting and burning houses in Cruz, Bobometo, Oesilo in Oecusse.<sup>101</sup> Three days later, TNI, the militias and the police burned 120 houses in the aldeia of Debaha in the village of Bobometo (Oesilo, Oecusse).<sup>102</sup>

109. When the East Timorese people voted overwhelmingly to reject the option of special autonomy and to opt instead for independence the Indonesian military, with the militias, executed a scorched-earth campaign that forced more than 300,000 people to flee to the interior of the territory, and a further 250,000 to West Timor.<sup>103</sup> While some people may have chosen to leave for West Timor voluntarily, in general it was a military-coordinated campaign of fear and terror to transport the population outside the territory. Inside the territory, the Indonesian military supported and coordinated a massive operation of destruction of private and public property across the territory. The bulk of Timor-Leste's infrastructure was also razed the ground, over 60,000 houses were estimated to have been destroyed with people's possessions, and livestock slaughtered across the territory.<sup>104</sup> During Community Reconciliation hearings facilitated by the Commission between 2002 and 2004 across the territory, a common refrain from victims of this property destruction was their continuing plight of extreme poverty caused by these violations (see Part 9: Community Reconciliation).

110. The Commission received statements and reports during its Community Profile workshops of violence after the ballot by the Indonesian military and militias from every district. Many highlighted the fact that the Indonesian military and the militias conducted operations together, for example in Ermera,<sup>105</sup> Manatuto,<sup>106</sup> Manufahi,<sup>107</sup> Baucau,<sup>108</sup> Viqueque,<sup>109</sup> Covalima<sup>110</sup> and Oecusse.<sup>111</sup>

111. The Commission received the largest number of statements about violations during the post-ballot period from the district of Oecusse.\* Hundreds of villagers from the sub-district of Oesilo had been forced to join the Sakunar militia and then subsequently forced by the Indonesian military to burn houses in the village of Bobometo (Oesilo, Oecusse) and other locations. Statements made to Commission explain that these were often well coordinated and large operations.<sup>112</sup> As elsewhere, attacks often involved militia members with both police and military assistance.<sup>113</sup>

112. The Commission received over 200 statements from the district of Bobonaro in relation to property-related crimes during 1999. Many of these included detail on joint militia-military operations and attacks.<sup>114</sup>

113. While the pattern of the burning of houses, the slaughtering of livestock and the destruction of food crops was similar to earlier periods of the conflict, the scale of devastation in such a condensed period of time was unprecedented. As in the 1970s and 1980s there is no evidence of any meaningful attempts to avert or halt these abuses by the Indonesian police who had responsibility for maintaining law and order, and security, under the 5 May Agreements. Neither is there evidence of the Indonesian military seeking to prevent this destruction once it was given responsibility for law and order under the decree for martial law issued by President Habibie in early September. On the contrary, there is overwhelming evidence that the Indonesian military were primary perpetrators in these violations. Evidence of collusion between the military and the

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\* 110 statements referred to 117 cases in which ABRI/TNI and militia groups were mentioned as perpetrators of violence.

various militia groups across the territory is clear and damning. Contemporaneous reports were reinforced by hundreds of statements submitted to the Commission of people who witnessed the direct involvement of military and police members in this violence (see Part 4: The Regime of Occupation; Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.7: Sexual Violence; Part 8: Responsibility and Accountability).

114. Allegations of military collusion and direct involvement in the violence were further corroborated by statements given to the Commission by former militia members, as well as statements provided and testimonies made by former militia members made at Community Reconciliation hearings across the country.<sup>115</sup> In addition, Community Profile reports compiled by the Commission from workshops it conducted in villages across the country also record the involvement of the Indonesian military in this massive operation of property destruction across the territory.<sup>116</sup>

115. The Commission also received a submission detailing the looting of the national museum in Dili of hundreds of East Timorese cultural and historical artefacts. The submission outlined that members of TNI prepared trucks, loaded the artefacts and drove them to West Timor, Indonesia, where they remain today.

### **Mistreatment of enemy combatants**

116. International law provides clear protections for captured combatants. Usually when a combatant falls into enemy hands he is entitled to Prisoner of War (POW) status. This includes those who fall within any of the following groups:

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<sup>115</sup> The Commission received a submission based on an interview with Virgilio Simith, who in 1999 was a senior member of CNRT responsible for cultural affairs. Virgilio Simith recounted that nearly 3,000 cultural artefacts and objects were taken by Indonesian authorities from the Museum in Comoro, Dili in September 1999 and have not been returned. [Interview with Virgilio Simith, 7 July 2005 by David Hicks, Maxine Hicks and Phyllis Ferguson, Submission to the CAVR. CAVR Archive. See also Part 3: The History of the Conflict].

- members of armed forces
- people who spontaneously take up arms to resist an invading army, and who have not had time to form themselves into organised units, but who carry their weapons openly (sometimes referred to as a levée en masse), and
- resistance fighters or members of militias who have complied with certain rules requiring them to distinguish themselves from civilians.<sup>117</sup>

### **Status of Falintil**

Falintil were not the armed forces of a state party to the conflict, and as they were not merely civilians who spontaneously took up arms against an invading forces they cannot be said to constitute a levée en masse. Falintil could therefore only be entitled to POW status if they complied with the requirements set down in the Third Geneva Convention for resistance movements, militias and other similar groups.<sup>118</sup> These requirements are as follows:

- The group in question must be commanded by a person responsible for his subordinates (that is, the group must have an effective command structure).
- Members of the group must wear a fixed distinctive sign recognisable at a distance. The purpose of this requirement is to enable the enemy to distinguish members of the group (who are legitimate military targets) from civilians (who are not legitimate targets). For this reason it seems likely that under customary law it has been subsumed by the more liberal requirement that members of the group must distinguish themselves from civilians in some way.\*
- Members of the group must carry their arms openly, and
- The group must generally conduct its operations in accordance with the laws and customs of war.

The Commission is satisfied that members of Falintil sufficiently complied with the above requirements for them to be considered privileged combatants for the purposes of this Report.

Falintil had relatively strict and enforced command structures and discipline, carried arms openly and generally conducted their operations in accordance with the laws and customs of war. At the commencement of the conflict members of Falintil wore the uniforms of the Portuguese armed forces. By 1978 many of these uniforms had become worn and were at various times replaced with other military fatigues. However the combination of the available uniforms and insignia and other very distinctive features, such as Falintil members adopting an exclusive and uniform policy of wearing extremely long hair, made them easily distinguishable from a distance.<sup>119</sup>

117. If it is unclear whether a person is entitled to POW status, he must be treated as a POW until his status is determined by a competent tribunal.<sup>120</sup>

118. Prisoners of war must be treated humanely.<sup>121</sup> They must not be tortured, killed or subjected to intimidation or insults.<sup>122</sup> They must be provided with food and water and any necessary medical treatment.<sup>123</sup> They must be held away from areas in danger of attack during military activities.<sup>124</sup>

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\* Article 43(3) First Additional Protocol to the Geneva Conventions 1977. It seems likely that this broader requirement either reflected pre-existing custom in 1977 or became customary soon thereafter. [See Christopher Greenwood, "Customary Law Status of the 1977 Geneva Protocols", in Astrid J.M. Delissen and Gerard J. Tanja (eds), *Humanitarian Law of Armed Conflict: Challenges Ahead*, Dordrecht, Martinus Nijhoff, 1991, at p. 107].



119. Combatants who are not POWs are still entitled to certain standards of treatment. In all cases they must be treated humanely.<sup>\*</sup> They are also protected by human rights law, which forbids extra-judicial killing, torture and arbitrary detention, and guarantees rights to a fair trial. Additionally, the Fourth Geneva Convention provides that persons in occupied territories who are suspected of acts hostile to the occupying power must be treated with humanity and are entitled to a fair trial.<sup>125</sup>

120. The Commission obtained a copy of an official Indonesian document that set out interrogation procedures for surrendering or captured civilians and Falintil soldiers. The document recognises that in order to extract good quality information, it is necessary to ensure the safety of prisoner(s) under interrogation. Techniques included convincing prisoner(s) that ABRI/TNI was aware of the dangers their prisoners faced from Fretilin/Falintil in retribution for divulging sensitive information. The document also highlighted acts to avoid during interrogation, such as forcing interrogator's will on prisoners, the use of force and threats or drawing rash conclusions.<sup>126</sup>

121. In reality, prisoners, and in particular Falintil soldiers, were invariably subjected to torture during interrogation. Some were deliberately killed and others died as a result of injuries sustained during interrogation. Chapter 7.4 of this Report, on Detention, Torture and Ill-Treatment, provides detail of these procedures and establishes that the modus operandi of interrogation were essentially illegal.

122. The period of Operation Seroja by the Indonesian military, in the years immediately following the invasion in 1975, saw the greatest number of Fretilin/falintil soldiers being captured or surrendered. The Indonesian military implemented specific operations to try to convince senior Fretilin/Falintil leaders to surrender, such as Operation Skylight, sometimes referred to as the Skylight movement (see Part 3: The History of the Conflict). In addition, President Soeharto introduced an amnesty for surrendering Fretilin/Falintil members in 1977. Both initiatives failed to ensure the protection of surrendering or captured Fretilin/Falintil members, many of whom were tortured and executed or disappeared (see Part 3: The History of the Conflict; Chapter 7.2: Unlawful Killings and Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment). It has not been possible to determine how many Fretilin/Falintil members suffered this kind of treatment during the early years of Operation Seroja in the 1970s.

123. Statements to the Commission provide some insight into the treatment of captured Fretilin/Falintil soldiers, including torture and ill-treatment.<sup>127</sup> Many disappeared in custody, were never seen again and are presumed dead.<sup>128</sup> As large numbers of civilians came down from the mountains after massive military operations aimed at destroying the Fretilin/Falintil bases throughout 1978, the Indonesian military tried to identify those it considered members of Fretilin/Falintil. They also interrogated civilians to try to find out information about the remaining Resistance forces in the mountains. For example, the community of the village of Lifau (Laleia, Manatuto) explained to the Commission how ABRI/TNI interrogated a group captured from their village. Three men were exposed as Fretilin/Falintil leaders, and the Commission was told that they were executed by the Indonesian military.<sup>129</sup> Terms such as "re-education" or "bathe in the sea" or "go swimming" became euphemisms for extra-judicial executions by the Indonesian military.<sup>130</sup>

124. In 1980, after the uprising by the Resistance in its attack on the television station in Marabia on the outskirts of Dili, the Indonesian military retaliated with brutal treatment of those suspected of involvement with the Resistance. Hundreds were detained and tortured, and a large number were executed or disappeared (see Chapter 7.2: Unlawful Killings and Enforced

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<sup>\*</sup> More specifically, by application of the Martens Clause (set out in the Hague Convention IV of 1907 and a number of other conventions), the "principles of humanity" apply. [See Report of the International Law Commission on the Work of its Forty-sixth Session, 2 May -22 July 1994, GAOR A/49/10, at p. 317; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports at para 78 and the Dissenting Opinion of Judge Shahabuddeen].

Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment). Accounts of similar violations against Fretilin/Falintil were recalled during the implementation of Operation Kikis in 1981.<sup>131</sup>

125. The Commission received a number of reports of ill-treatment and as well as the killing of captured Falintil soldiers in the 1980s.<sup>132</sup> In 1984, for example, a battle broke out between Falintil and ABRI/TNI in the forest around Manatuto, in which three Falintil soldiers were captured by ABRI/TNI and taken to Dili. One soldier was placed into a drum full of water for two hours, forced to sleep in wet clothes and beaten with a piece of wood in the head, legs and hands every night for a week.<sup>133</sup> The mistreatment of combatants and civilians continued during the 1990s,<sup>134</sup> confirming allegations that ABRI/TNI's treatment of captured combatants violated international legal principles.

126. The Commission recognises that because of the limited time and resources allocated to its work, and its limited access to Indonesian military records, many cases of ill-treatment and killing of captured or surrendering Falintil soldiers were not reported during its information gathering activities. Further research concerning the experience of Falintil/Fretilin forces during this period is recommended to enrich the material collected by the Commission.

### **Unlawful means of warfare**

127. Humanitarian law limits the range of weapons and techniques ("means of warfare") that may be used to cause harm to opposing forces.<sup>135</sup> Two general principles apply:

1. It is forbidden to use means of warfare which cause superfluous injury or unnecessary suffering.<sup>136</sup>
2. It is forbidden to use means of warfare which do not allow the attacker to distinguish between military targets and civilians ("indiscriminate means").<sup>137</sup> This prohibition would include tactics such as the poisoning of water or food supplies,<sup>138</sup> and attempts to starve populations.<sup>139</sup>

128. The Indonesian invasion of Timor-Leste in 1975 was a large-scale military operation, involving thousands of troops using both heavy and light combat equipment. An official military document that the Commission obtained listed weapons and ordinance used during operations in Timor-Leste.<sup>140</sup> Much of this ordinance has a primary purpose of large-scale destruction, yet ABRI/TNI frequently used these bombs in their operations to destroy non-military targets including civilian houses, food crops, rice fields and even civilians, reflecting a disproportionate use of force.

129. The Commission also secured information about the types of ammunition employed by the Indonesian military during its operations in Timor-Leste.<sup>141</sup> Although the law permits the use of the ammunition types listed for military operations targeting the enemy's armed forces and certain military targets, or civilian targets that have been employed for military purposes, these ammunitions cannot be used against civilians during military operations, or in a manner in which it is impossible to discriminate between combatants and civilians. The Commission also received a report claiming that ABRI/TNI planted landmines in or around civilian buildings. The community of the village of Maneluma (Laulara, Aileu) told the Commission that in 1978 many villagers surrendered to the Indonesian military. At this time, one member of the community, Aurelia Daumali, was reported to have stepped on a landmine while searching for food around the church, and died.<sup>142</sup>

130. The Commission received statements relating to 285 aerial bombings by the Indonesian military between 1975 and 1979, 125 of which provided detail on how the bombings caused civilian deaths, the destruction of houses, as well as other buildings and crops. The bombings occurred in all districts with the exception of Oecusse. Most reports received related to bombings that occurred in 1978, as the Fretilin *zonas libertadas* (liberated zones) came under intense

attack which caused many civilian deaths and ultimately resulted in destruction of the zones and many thousands of civilians surrendering to ABRI/TNI forces (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine).

131. Several Commission Community Profile reports confirm that the aerial bombardment killed a significant number of civilians fleeing from the invasion. The Commission received a number of reports confirming the use of chemical or biological weapons by the Indonesian forces against both civilian and military targets.<sup>\*</sup> Village communities in a number of locations told the Commission of large death tolls due to such poisoning after Indonesian aerial bombardments. A Community Profile workshop in the sub-district of Atsabe (Ermera) reported that bombing in their areas during 1976 and 1977 caused limb paralysis and subsequent death, and said that as many as 2,500 are believed to have died from the related poisoning.<sup>143</sup> A similar experience occurred in Lacro (Atsabe, Ermera) and Paramin (Atsabe, Ermera) in January 1977. Approximately 1,500 members of the community who had moved to Cailaco in Lesumau (Atsabe, Ermera) to avoid starvation died after consuming vegetables and corn and drinking water. Survivors told the Commission that they believed that this was caused by poison that was dropped by Indonesian bombers.<sup>144</sup> In a subsequent incident in 1978 in Laubono at the village of Lesumau (Atsabe, Ermera) large numbers of villagers from Lasaun (Atsabe, Ermera), along with Falintil soldiers gathered in Lesumau, died of food and water poisoning during a one-month period after ABRI/TNI bombings.<sup>145</sup> Villagers in Guololo (Letefoho, Ermera) also told the Commission that during June 1978 many civilians in Cailaco (Bobonaro) died of food and water poisoning.<sup>146</sup>

132. Augusto Soares, then aged 17, told the Commission of civilian deaths due to poisoning in Lesumau (Atsabe, Ermera) between 1977 and 1978:

*The bombs caused contamination of all food supplies. Villagers would pick leaves and vegetables, cook and eat them, then die. They would drink water and die. They would dig up cassava roots 15 centimetres deep to eat, then die. Around 400 people died. Most who died came from the village of Katrai Kraik [Letefoho, Ermera], including all the villagers from one part of the village except for one elderly woman and her daughter. Now they still live in the village of Katrai Kraik.*<sup>147</sup>

133. Augusto Soares told the Commission that thousands of who had fled ABRI/TNI advances from Letefoho (Ermera), Ermera, Ainaro, Aileu and Cailaco (Bobonaro) sheltered at Fretilin/Falintil base in Katrai Leten, at the foot of Mount Ramelau (Letefoho, Ermera). Falintil troops gathered these civilians behind the firing line, allowing them to later to grow crops to avoid starvation. In 1978, the Indonesian military attacked Katrai Leten from Atsabe (Ermera), Same (Manufahi) and Bobonaro. They encircled civilian villages and fired mortars, bazookas and cannons from the four directions, while planes dropped bombs that caused many deaths, resulting in the destruction of the Katrai Leten base and the capture of many civilians.<sup>148</sup>

134. The Commission also received reports of helicopters dropping poison, causing over 200 civilian deaths in the villages of Bora and Manelima (Laclubar, Manatuto).<sup>149</sup> The Commission has been unable to verify the types of bombs used to poison food crops and water, due to its lack of access to Indonesian military records. After the completion of Operation Seroja, the Indonesian military continued to use poison which caused the destruction of plants and vegetation. Community members of the village of Kakae Uman (Natabora/Barique, Manatuto) reported that the Indonesian military poisoned food crops during Operation Kikis in 1981. The community also told the Commission that for one month in 1983, the Indonesian military forced villagers to join an

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<sup>\*</sup> Several statements [see for example, HRVD Statement 04078] contained detail about the bombs that indicate that these were more than simply standard ordinance. [See also CAVR Interview with Francisco Barbosa, Manumera Village (Turiscail, Manufahi), 8 September 2003].

operation in the forest and to poison all food crops, which some claimed was done in order to poison and kill Falintil soldiers who may have relied on them for food.<sup>150</sup>

135. Indonesian forces relied heavily on high-powered bombs that had limited accuracy, resulting in significant civilian casualties even if they were aimed at military targets. The Commission was told, for example, that in 1978 up to 800 people from the village of Guruça (Quelecai, Baucau) who had fled to Mount Matebian were killed as a result of aerial bombardment.<sup>151</sup> A number of other reports from communities clearly illustrate the devastation wrought by the sustained bombing campaign during this period.<sup>152</sup>

136. According to Lucas da Costa Xavier, a former ABRI/TNI soldier based in Same (Manufahi) who participated in a number of military operations, for two weeks in 1978 the Indonesian military fired rockets in all directions every night, including into suspected Fretilin hiding areas in Tutuluro, Kablaki, Roin and Hola Rua (Same, Manufahi). Lucas da Costa Xavier told the Commission that a civilian told him about a related operation, explaining that:

*The trees and grass would burn when the bombs hit them, and the water would become undrinkable because it was contaminated with poison. Many civilians died from drinking the water contaminated with shrapnel from bombs dropped from the planes, and many died of burns...It was the dry season so the grass burned easily.<sup>153</sup>*

137. Given the description provided to the Commission about many bombings, and the strategic objectives of the military's counter-insurgency campaign, the Commission concludes that incendiary bombs were used during the campaigns. The US-supplied OV-10 Bronco planes employed<sup>154</sup> were equipped with light weapons, rockets and "Opalm", a Soviet equivalent of Napalm bought by Indonesia during its campaign in West Irian during 1962.<sup>155</sup> The Commission received copies of Indonesian military propaganda film about the campaigns of the late 1970s, including extensive footage of preparations for bombing raids at Baucau Airport, and footage of raids themselves. In this footage, Indonesian military personnel are filmed clearly loading bombs labelled "OPALM" into the OV-10 Bronco planes at the Baucau Airport. The planes are then shown taking off.<sup>156</sup> In addition an Indonesian military secret document supplied to the Commission provides details of weapons employed, including Opalm bombs, bombs with widespread, non-targeted impact, and use of OV-10 Bronco and Sky Hawk airplanes. The tables below are extracted from this secret Indonesian military document.

**Table 1 - Capabilities of Tactical Planes\***

Types of Weapon	A-4 SKY HAWK	OV-10F BRONCO
Machine guns	Two 30 MM cannons (250 bullets)	4 cannons 12,7 (1600 bullets)
Rockets	6 Pods (42 Rx FFAR-2,75)	4 Pods (28Rx FFAR-2,75)
Bombs	8 bombs	5 bombs
Ammunition	Bullets 30 MM	Bullets 12,7 MM
	Rockets FFAR 2,75 inch	Rockets FFAR 2,75 in
	Bombs MK-81-130 Kg	Bombs MK-81-130-Kg
	Bombs MK-82-250 Kg	Bombs MK-82-250 Kg
	Bombs FAB-250 Kg	Bombs FAB 25 Kg
	Bombs OFAB-100 Kg	Bombs OFAB 100 Kg
	Bombs TAL-1-250 Kg	Bombs TAL 1-250 Kg
	Bombs ZHB-100 Kg	Bombs ZHB-100 Kg
	Bombs MK-1-130 Kg	

\* Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.

**Table 2 - Types of Ammunition and Their Safe Range**

Ammunition	Capabilities	Minimum Safe Range
Bullets 12,7 MM	Anti-personnel, within a 10 M radius	500 M
Bullets 30 MM		500 M
Rockets FFAR 2,75 in	Anti-personnel and capable of penetrating steel, within a 35 M radius	700 M
Bombs KM-1-130 Kg		1.700 M
Bombs MK-82-250 Kg		2.000 M
Bombs MK-5B-250 Kg	Anti-Tanks and Anti-personnel, within a 130 M radius	2.000 M
Bombs TAL-1- 250 Kg		2.000 M
Bombs FAB-250 Kg	General Purpose, within a 400 M radius	2.000 M
Bombs OFAB-100 Kg		1.700 M
Bombs ZHB-100 Kg	General Purpose, within a 540 M radius	1.700 M
OPALM		1.500 M
	Burn targets, with heat reaching +/- 1725 degrees Celcius for 15 minutes, within a 600 M radius	
	Anti-personnel, within a 260 M radius	
	Anti-personnel and soft targets (houses), radius 495 M	
	Anti-personnel and hard targets (warehouses), within a 370 M radius	
	Anti-personnel and burned within a 340 M radius	
	Burn targets with heat reaching +/- 1.725 degress Celcius, within a 400 M radius	

*Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.*

138. Table One indicates the importance of foreign-supplied airplanes to attacks, and the significant capability of these airplanes. Table Two verifies the supply of “OPALM” for use in Timor-Leste, as well as bombs listed as used on “soft targets (houses)”, as well as anti-personnel bombs with a significant radius and “burn targets” unlikely to be safely guaranteed to only impact upon military targets if used in mountainous regions close to civilian populations. The document is dated 1988, but the testimonies to the Commission verify the use of OV-10 Broncos in the late 1970s operating bombing raids on areas heavily populated by civilians with terrible effect upon civilians (see Part 3: The History of the Conflict; and Chapter 7.3: Forced Displacement and Famine).

139. Although a treaty prohibiting the use of incendiary weapons such as napalm was not created until 1980,<sup>157</sup> and has never been signed or ratified by Indonesia, most uses of such weapons violate the general principles prohibiting indiscriminate means of warfare and weapons that cause superfluous injury or unnecessary suffering.

140. Adriano João, who was the Fretilin *Delegado* in Cailaco (Bobonaro) until 1979, told the Commission that in 1977 napalm bombs and rockets were fired from Indonesian military Sky Hawk planes, causing severe skin irritation and death to many civilians.<sup>158</sup> Villagers from Obulo and Butamanu (Atsabe, Ermera) also reported that that the Indonesian military dropped napalm bombs on Atasuro in Lesumau, causing 12 civilian deaths in 1979.<sup>159</sup>

### **Forced recruitment into military activity**

141. Humanitarian law prohibits parties to a conflict from forcing enemy nationals to take part in military operations that are directed at their own country.<sup>160</sup> An occupying power must not compel civilians to serve in its armed or auxiliary forces,<sup>161</sup> and must not use pressure or propaganda to encourage enlistment.<sup>162</sup>

142. Following the late 1975 invasion and subsequent military advances to control the territory, the Indonesian military initiated processes to recruit East Timorese civilians to assist them in operations. From late 1974 the Indonesian military had been training members of the pro-integration political party Apodeti, calling them Partisan forces. Members of the UDT political party who fled to West Timor (Indonesia) after defeat in the internal armed conflict joined the Partisans and assisted the Indonesian military in the cross-border operations and ultimately full-scale invasion. Having invaded Dili and Baucau, and already occupying territory in the western districts of Timor-Leste, the Indonesian military began a process of conscripting civilians, especially men and boys, to be used for transporting supplies and other military logistical needs. This ongoing recruitment campaign was known as Tenaga Bantuan Operasi (Operation Assistance Force/TBO). TBOs often accompanied troops to the front line of battle, carrying ammunition and other supplies. At times they also acted as scouts or guides for the Indonesian military, and were even infiltrated into Fretilin *zonas libertadas* (liberated zones) as spies for ABRI/TNI (see Chapter 7.8: The Rights of the Child, specifically the box on the role of TBOs in military operations).

143. Some specific military operations involved the forced recruitment of civilians. Operation Kikis, as discussed above, for example, required forced participation of civilians on a mass scale (see also Part 3: The History of the Conflict); the Tombak or Spear troops, as discussed below; forced searches for civilians' family members in the forests and hills; night watch duties in specific communities; as well as forced participation in local civil defence and militia structures.

144. Statements given to Commission indicate that the Indonesian military's recruitment of civilians, forced and otherwise, was primarily of adult men, though also included large numbers of children (see Chapter 7.8: The Rights of the Child). Statements also recount that this recruitment began before the invasion, grew shortly after the invasion, and steadily grew during the Operation Seroja period from 1975 to 1979. Between late 1979 and 1981, before Operation Kikis was introduced, recruitment dwindled. This increased on a large scale with the massive forced recruitment campaign that accompanied Operation Kikis in 1981. After this operation, the number of recruited civilians continued to fall, before rising again in late 1998 and early 1999.

145. The Commission took statements about 405 individual cases of forced civilian recruitment into Indonesian military operations during the 1975-1979 period. A further 292 cases were recorded during the 1980-1990 period, and this decreased further to 143 cases for the period from 1990 to 1999. The number of recruitment cases increased again at the end of 1998 and early 1999 when the Indonesian military began its campaign of forming pro-autonomy militia groups across the territory. The relatively small number of reported cases of TBO recruitment in the period of Operation Seroja and Operation Kikis, when large numbers of civilians were forcibly recruited to support military operations across the territory, is consistent with public opinion that does not generally regard forced recruitment as a serious violation compared to other violations which were widespread during these years including detention and torture, sexual violence, killings and disappearances and other serious violations.

146. The Commission recognises that not all East Timorese people who participated as TBOs or in other capacities to support the Indonesian military were forced to do so. There were clearly people who became TBOs or other support personnel to ABRI/TNI for a variety of economic, security, personal and political reasons (see Part 4: The Regime of Occupation; Chapter 7.8: The Rights of the Child, section on child TBOs).

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*Patterns of recruitment*

147. In each period of the conflict, conscription and forced recruitment of East Timorese civilians were employed for particular strategic military and political objectives. Over and above the practical benefits of engaging and utilising local "manpower", these practices also served to

divide, fragment and ultimately weaken East Timorese communities and society at large, as well as providing a basis for Indonesian propaganda that there was significant support for their presence in Timor-Leste.

148. Although recruitment focused on men, there the Commission received clear evidence that both women and children were also compelled to participate in a number of locations during various military operations. Forced recruitment was employed as a tactic of consolidating the invasion, and was even used during the pre-invasion phase when Indonesian forces were covertly infiltrating the western parts of the territory. Odete dos Santos told the Commission of forced recruitment as TBOs even before the full-scale invasion

*In 1975 L20, (then District Administrator of Bobonaro) from the UDT party, forced my family and me to move to Atambua [West Timor]. There [Atambua], TNI forced two people, Lesu Bere and Alfredo Lopes, to become TBOs.*

*They later went on an operation in Atabae [Bobonaro] with TNI. Lesu Bere was shot dead by TNI in Atsabe [Ermera]. His body was taken and buried near the border with Atambua. TNI also killed and buried Alfredo Lopes in Maliana [Bobonaro]. His grave is still there today.<sup>163</sup>*

149. For the period of Operation Seroja in the years immediately after the invasion, the Commission received statements about forced recruitment by the Indonesian military from every district in the territory with the exception of Oecusse, which had no military operations at this time.

150. Most TBO recruitment took place in the initial years of Operation Seroja between 1975 and 1979, the years when the Indonesian military undertook large-scale military operations across the territory in its efforts to defeat the Fretilin/Falintil armed resistance. TBOs were recruited extensively from captured and surrendering civilian groups during this period.

151. Testimonies received by Commission suggest that the Indonesian military deliberately targeted Fretilin supporters or Falintil members to be made into TBOs. Maumali Sarmiento, a 31-year old member of Fretilin was captured by ABRI on the day the invasion was launched and remained a TBO for the next three years. He told the Commission:

*On 7 December 1975, when the Indonesian military invasion of Dili took place, I was a member of Fretilin. With two of my friends, Mau Mali and Domingos da Silva, I was forced to become a TBO by members of Marinir 1, Zipur 10 and Armed 1 troops. We went along with the troops in operations as far as Metinaro [Dili]. During the three years we were TBOs, our tasks included collecting firewood, cooking, getting water and doing laundry.<sup>164</sup>*

152. Similar testimony was received from José Nunes de Andrade, a Fretilin sympathiser who had fled to Same in 1975, where he was captured by ABRI when they overran the area. He was used as a porter carrying supplies by foot over the mountains, and remained a TBO until 1979.<sup>165</sup> Flaviano dos Santos was an armed Falintil member when captured in Atabae (Bobonaro) in 1975. He told the Commission that after he was captured he was forced to carry food and ammunition for two military battalions for 9 months. In 1976, when he was permitted to return to his home area, local East Timorese militia and ABRI personnel had seized his home and other property.<sup>166</sup>

153. In January 1976, when ABRI captured Atabae (Bobonaro), many civilians surrendered to or were captured by them. Agostinho dos Santos Barreto told the Commission that about 400 civilians were forced to become TBOs in military operations around Bobonaro, then in Maubara (Liquiça), before returning to Atabae where some were permitted to return to their families and others were forced to remain TBOs.<sup>167</sup>

154. A similar account was reported to the Commission by the community of Guruça (Quelicaí, Baucau). In May 1978, 500 members of the community surrendered to the Indonesian military after coming down from Mount Matebian. Despite many of the men being sickly and weak, they were forced to work for ABRI/TNI and Hansip, with around 60 recruited as TBOs for Indonesian military operations, while the women were forced to take part in night watches.<sup>168</sup>

155. Several reports received by the Commission show how Fretilin/Falintil members who had surrendered or had been captured during this period were sometimes forced to return to the forest to search for Falintil. In 1978, for example, Horacio Sousa, who had served with Falintil troops operating in Nunululi –(Laclubar, Manatuto), was captured with four others. After spending a week in detention at Fatumakerek (Laclubar), they were given Hansip uniforms and weapons and forced to participate in a series of military operations with the Airborne Infantry 100 around Laclubar (Manatuto), Alas (Manufahi) and Maubisse (Ainaro).<sup>169</sup>

156. The Commission received testimony and heard from communities in the east that East Timorese TBOs were engaged in the ABRI/TNI final assault on Mount Matebian.<sup>170</sup>

157. The mass recruitment campaign that provided the civilians used in Operation Kikis was unprecedented, involving the local civilian administrative structures that had been established to complement the militarised administration that effectively controlled the territory. Participation was compulsory, and the Commission received a number of reports of torture against civilians who refused to take part.<sup>171</sup>

158. Similar operations were launched by the Indonesian military during 1982 and 1983, in an effort to find surviving Fretilin/Falintil fighters. However during this period civilian recruitment was relatively limited and military campaigns largely restricted to search operations in localised areas. During these operations villagers were ordered to destroy, poison and burn food crops they found in order to prevent Fretilin/Falintil from using them.<sup>172</sup>

#### *Work as a TBO – risks and dangers*

159. Working conditions for TBOs were dire, and they frequently found themselves in life-threatening situations. Danger and threats came from a number of sources. A poor diet and disease weakened and killed many; TBOs often became victims in battles, captured or killed by Fretilin/Falintil forces; some were killed by the Indonesian military; others did not return from operations and remain missing to this day.

160. Florentina Santos from the village of Talimoro (Ermera Ermera) told the Commission that her elder brother who had been forced to become a TBO in Liquiça was captured and killed by Falintil in 1976.<sup>173</sup> Moises da Costa, who was 11 years old when his father surrendered to the Indonesian military in 1978, told the Commission that his father was forced to return to the forest to find his family, but was captured and killed by Falintil who accused him of being a spy for ABRI.<sup>174</sup> The Commission received a number of reports about missing persons who were last seen having been recruited as TBOs, but who never returned from operations.<sup>175</sup>

161. Commission Community Profile workshops also shed light on the impact of TBO recruitment. Villagers from Defawassi (Baguia, Baucau) for example, explained how they had surrendered to ABRI forces in October 1978 following the attack on Mount Matebian. The Indonesian military forced them into camps, where many died of disease and starvation, and



those who still had families in the forest were tortured. The men were forced to work as TBOs. About 40 youths from the village became TBOs, and most were killed in battle.<sup>176</sup>

162. Child TBOs were particularly vulnerable and many are believed to have died from exhaustion, combined with poor health due to lack of food and medicines, due to heavy loads they had to carry during military operations. According to Domingas Freitas, for example, her younger brother Rai Ano and his friend, Zeca, were recruited as TBOs in Viqueque in 1978. Domingas Freitas was told that Rai Ano from Zeca had died in the town of Uatu-Lari (Viqueque) due to their vulnerable physical condition and their being forced to carry heavy battle equipment.<sup>177</sup>

163. Many TBOs were subjected to cruel, inhuman and degrading treatment. Anacleto Pires from Katrai Kraik (Letefoho, Ermera) for example, told the Commission that in 1976 he was forcibly taken to ABRI by the locally appointed head of the aldeia, who forced him to work as a TBO for the next two years:

*My tasks were to make coffee, carry backpacks for TNI Battalion 512 in their operations in the forest. I was subjected to abuse such as being beaten and immersed in a pool of water every night.<sup>178</sup>*

164. With the completion of Operation Seroja in 1979, when the Indonesian military had overrun all the major Fretilin/Falintil bases in the interior, ABRI/TNI concentrated its operations in areas not yet secured. Statements made to the Commission in the districts of Manufahi, Viqueque, Manatuto and Baucau indicate continued forced recruitment during this period.

165. Several Commission Community Profile workshops in the district of Viqueque report that the forced recruitment of civilians as TBOs in 1979 took place following the widespread capture of the civilians who had been hiding in the mountains.<sup>179</sup> The Commission also received a number of individual statements in Viqueque from those who were forced to work for the Indonesian military and its Hansip forces during this period.<sup>180</sup> Domingos Miguel told the Commission:

*In 1979 we were gathered in the town of Ossu [Viqueque] by members of Hansip, who I didn't know. One day I was called to join an operation. During the operation, Hansip captured a Falintil member, Mateus. He was made a TBO right away and they resumed their journey to Uatu-Carbau. When we arrived to Uatu-Carbau, members of Hansip executed a member of Falintil. After we returned from the operation, I was called by the Danramil (Sub-district Military Commander) and taken to the Koramil in Ossu where I was detained for one day with 40 others.<sup>181</sup>*

166. Some of those who completed their "service" as TBOs were subsequently imprisoned. Mateus Damazo, for example, told the Commission that in 1979, after ABRI captured him in Alas (Manufahi), he was forced to carry food and ammunition and cook for troops during a series of operations. On completion of these operations he was not released, but was instead detained for one year in Betano Prison (Same, Manufahi).<sup>182</sup> João Baptista S. Martins, who was 11 years old when he was forced to be TBO in October 1979, escaped after members of ABRI told him that they wanted to take him to Indonesia after he completed his TBO service.<sup>183</sup>

167. Civilians were particularly vulnerable to physical abuse in the context of ongoing hostilities, and were regarded with a high degree of suspicion by the Indonesian military in terms of their loyalties. The Commission received reports of civilians who had surrendered to ABRI/TNI being tortured before being forcibly recruited as TBOs.<sup>184</sup> The Commission also received a number of accounts of people being tortured after becoming TBOs, as they were suspected of

maintaining links with Fretilin/Falintil. Antonio de Jesus told the Commission about the disappearance of his brother, a young TBO in 1982, who was suspected by the Indonesian military of links with Falintil:

*In 1982, Battalion 320 took Domingos de Jesus to become a TBO. He and the troops went to Lospalos, to Soru village...He was later suspected [by the military] so they took him back with Indonesian military helicopter straight to Paitamor post. When they arrived in Paitamor, they interrogated and tortured him so that he would confess about his connections with Falintil and Fretilin. After hearing his statement, [they] concluded that he was a member of the clandestine network, and quite dangerous. So they took him to a place in Iliomar called Hama-Um to be killed. We still have not been able to collect his remains to this day.<sup>185</sup>*

168. By the end of Operation Seroja it was common practice for ABRI/TNI soldiers to secure the assistance of civilians to help them with household tasks such as cooking and other individual needs. These TBOs usually lived with the soldiers in camps or barracks, and would sometimes accompany ABRI/TNI members on field operations. It was an existence characterised by a variety of abuses. The Commission was told of the vulnerability of young women in these circumstances:

*In 1980 I was recruited as a TBO. During those two months, I witnessed my own sister, CM, raped and made into a sex slave by ABRI soldiers. When the troops moved from Fahinehan, she was finally released. But I was taken with them to Same, Kablaki, Ainaro, Mamlau, Ermera and Dili...During my assignment as a TBO, when we were operating in the forest, I had the chance to help a Falintil member by giving him food. Linus, a friend of mine from Aileu, told this to TNI Infantry Battalion 643. So I was kicked with army boots and they threatened to shoot me. They then added more to the load I had to carry to Ermera, Railaco and Dili.<sup>186</sup>*

169. Although some people joined up as TBOs as it ensured some measure of socio-economic support, most did not have any options and were obliged to participate. Some agreed to join out of fear,<sup>187</sup> others because they had been captured,<sup>188</sup> and some because ABRI threatened to harm their families if they did not cooperate.<sup>189</sup>

#### *TBOs in Operation Kikis, 1981*

170. During the second half of 1981 the Indonesian military launched a massive operation aimed at sweeping across the territory to flush out surviving Resistance fighters. Operation Kikis mobilised huge numbers of civilians and forced them into this forced march (see Part 3: The History of the Conflict). ABRI/TNI's territorial troops and civilian officials from aldeia, village and district levels were tasked to recruit male civilians aged between 12 and 35 years old. In reality, however, ABRI/TNI recruited younger and older civilians in violation of the prescribed policy and they also recruited women.<sup>190</sup> According to several Commission Community Profile reports, men forced to join the operation included civil servants, teachers, students, nurses, traders, farmers and the unemployed. The recruitment led to temporary closure of schools, hospitals and community health centres during the operation.<sup>191</sup>

171. The number of civilians forcibly recruited into Operation Kikis remains contested. According to one Indonesian military document published in 1982, the operation involved 60,000 civilians, including members of ABRI/TNI-organised civil defence structures such as Wanra (People's Resistance) and Ratih (Trained Populace).<sup>192</sup> According to writer Ken Conboy the operation involved 33,000 civilians, who marched from two directions with 12 ABRI/TNI Battalions behind them: Laga Beach and Dili, moving towards the killing site near Aitana (Manatuto).<sup>193</sup> Another Indonesian military source suggests that many more civilians were engaged, claiming that eight battalions accompanied by 120,000 trained militias moved from east to west, complemented by a further seven battalions accompanied by 25,000 trained militias moved from west to east.<sup>194</sup>

172. The Commission received statements from 80 people in seven districts about civilian recruitment as TBOs during Operation Kikis. In addition, details of recruitment were also provided in a number of Commission Community Profile workshops from various parts of the country. Villagers from Lelalai (Quelicai, Baucau), for example, explained that in 1981 government officials from the district of Baucau issued instructions ordering all able-bodied men to take part in Operation Kikis for 3 months.<sup>195</sup> Similar reports were received from villagers in Maupitine (Lospalos, Lautém),<sup>196</sup> and from Rasa (Lospalos, Lautém), where hundreds of people were recruited as TBOs during this period. The community of Rasa told the Commission that this included three teenage children who died during the operation.<sup>197</sup>

173. The forced marching of the operation was very demanding, and many civilians forced into the operation by the Indonesian military died in circumstances never fully explained. Francisco António Menezes told the Commission about the death of his older brother:

*On 20 August 1981 Vicente was sick with malaria and he went to seek treatment in the town of Bagueia. When he arrived there were many TNI troops from Battalion 521 with members of Hansip. A member of TNI, L21, and a Hansip, L22 and his men, captured Vincente and other civilians and youths. Battalion 521 ordered the young men to become TBOs, carrying backpacks and weapons to the forest...On 12 October 1981 I heard from a member of Battalion 521, L21, that Vincente and other friends had died in Uatu-Lari [Viqueque]. L21 told me to visit Vincente's grave in Teulale. To this day, I still don't know what caused Vincente's death and where he was buried.<sup>198</sup>*

174. By 1982, TBOs were in the main no longer involved in military operations, but were rather detained as prisoners and personal helpers in ABRI/TNI barracks. Those suspected of Fretilin/Falintil connections remained primary targets.<sup>199</sup> From about this time the process of coerced recruitment was somewhat less arbitrary, and those ABRI/TNI soldiers who wanted to "recruit" a TBO were required to contact and arrange this through the local Babinsa.<sup>200</sup>

#### **Forced to look for family in the forest**

175. The Commission received 38 statements in relation to civilians who surrendered who were forced by the Indonesian military to return to the forest in order to find other family members. Orlando da Silva, from Rotuto (Same, Manufahi) told the Commission:

*In early 1976 ABRI Battalion 509 captured Aniceto Mendes and I while we were looking for food. They brought us to Rotuto and interrogated us at gunpoint about our family who were still in the forest. After being detained for a day, we were given rations of rice and salt then forced to find our family in the forest [and tell them] to surrender. We couldn't find any of our family. Infantry Battalion 509 also forced Rosalina, Angelina, Hermenegilda and Filomeno to go out and find their family who were still in the forest. But they didn't succeed either, so Infantry Battalion 509 detained Rosalina and Hermenegilda.<sup>201</sup>*

176. Most of these cases occurred during the period of Operation Seroja until 1979.

177. Civilians who were coerced to go back into the forest to locate family members were not armed. Some eventually returned with their family. Alfredo da Silva Carvalho, for example, told the Commission that after surrendering to the Indonesian military on 29 November 1978, his brother, João do Rosario de Fatima, and his three friends were forced to go back to the forest the following day to look for their families. They succeeded and subsequently returned to Dili with their family members.<sup>202</sup>

178. Villagers from Uaetami (Quelicai, Baucau) told the Commission that about 1,000 people from the village surrendered to the Indonesian military in June 1979, after the Marines had taken over the area. The men were instructed to return to the forest to catch Falintil guerrillas, but they did not succeed and returned to Quelicai empty-handed.<sup>203</sup> Similar accounts were reported to the Commission in other areas.<sup>204</sup>

179. Former Falintil soldiers who were captured were also often forced to go back to the forest and look for other Falintil members after interrogation and torture. Mateus da Cosa told the Commission:

*In 1979, I was entrusted to be a Fretilin...commander. But TNI troops from Battalion 700 caught me in Betun Oan-Alas [Manufahij] and took me to Fatuberliu. My friend, Mateus Torrejão, and I were ordered by TNI to go into the forest and look for our relatives who were still there. We went and looked but to no avail. On our way home, we met a company of Airborne Infantry 100 troops and we were taken to Dili on foot.<sup>205</sup>*

180. Césarío de Jesus told the Commission that Indonesian soldiers forced him and his friends to go back into the forest and look for family or Fretilin/Falintil members in March 1979. He said that the Indonesian military took Falintil prisoners away by airplane, never to be seen again.<sup>206</sup>

181. Not all civilians who were forced to look for their family or Falintil in the forest returned safely. Magdalena Pereira from Letefoho (Ermera) was 14 in 1977, when she and her grandmother Laubrani were captured by ABRI and brought to the Koramil in Letefoho. After being interrogated, they were forced to look for their family in the forest. Magdalena did not continue the journey beyond Lauana, but Laubrani was forced by ABRI soldiers and Hansip to continue and when she began walking she was shot in the back and died instantly.<sup>207</sup> In a number of instances, those sent back into the forest simply never returned.<sup>208</sup>

182. Throughout the early 1980s, the Indonesian military continued to force civilians to look for family members who had not yet surrendered.<sup>209</sup> ABRI/TNI soldiers also beat and tortured

civilians who did not succeed in finding family or Falintil in the forest. Arlindo Fernandes Xavier told the Commission:

*In 1983, TNI Battalion 623 came and called Adolfo Fernandes Xavier and forced him to go to the forest to look for the Falintil member Manuel dos Santos. Because he couldn't find him, they beat Adolfo with weapons until he was bruised all over. Adolfo was held for one day and one night in Post [Battalion] 623 in Lautém. Anibal Fernandes Xavier and Etelvina Fernandes Xavier were also caught and brought to Kodim Lospalos by soldiers from the Kodim...They were interrogated, electrocuted, kicked and beaten with the butt of gun until they were bruised. They were put into a cell for a month. After that, Etelvina was sent home but Anibal was taken away by the perpetrators and is still missing to this day.<sup>210</sup>*

183. In 1983, ceasefire talks were held between Falintil and the Indonesian armed forces. There were also a series of defections by member of ABRI/TNI's auxiliary forces such as Hansip in the districts of Lautém, Viqueque and Ainaro. In Lautém after receiving orders from Xanana Gusmao to bring weapons into the forest, a number of Hansip and Ratih captured weapons from the police and the Koramil and fled into the forest. In response, the security forces ordered the women whose husbands had fled to look for their husbands in the forest.<sup>\*</sup> The Indonesian military reacted in the same manner in 1984 after Falintil burned houses in the village of Mehara (Tutuala, Lautém), and again in 1987 in Pros/Herana in the village of Mehara, when ABRI forced the women to look for their husbands who were still in the forest, escorted by Hansip.<sup>211</sup>

184. In Kraras (Viqueque, Viqueque), following the *levantamento* (uprising) on 9 August 1983, civilians were attacked and killed by the Indonesian military in a series of massacres, ostensibly in retaliation for the killing of Indonesian soldiers by and the subsequent defection of Hansip and Ratih members to Falintil (see Chapter 7.2: Unlawful Killings and Enforced Disappearances). By early 1984, a number of civilians and Ratih members remained in the forest. The community told the Commission that in early 1984 members of the Special Forces, Kopassus, abducted 13 people from Kraras and took them to the forest and forced them to look for other civilians and Falintil members. Of the 13 civilians, only six returned home, the other seven remain missing.<sup>212</sup>

#### *Tombak (Spear) troops*

185. In the 1980s another form of forced recruitment of civilians into Indonesian military operations were the *Tombak*, or Spear, troops. They were named after the only weapon they were allowed to carry, limiting their military capacity in relation to their Indonesian military commanders.

186. Little is known about the origin and evolution of these troops, although the available data suggests that *Tombak* troops were only formed by the Indonesian military in districts it regarded as susceptible to Fretilin/Falintil attack after the 1981 Operation Kikis in 1981. Following the breakdown of ceasefire talks with the uprising in Viqueque in 1983, and the return of civilians who had been detained on Ataúro since 1980 because of their suspected links to Fretilin/Falintil, Indonesian concern about East Timorese civilian clandestine support for the Resistance was high. It formed *Tombak* troops to watch over civilian activity. Civilians were forcibly recruited into *Tombak* troops in a number of locations across the country, but they were mostly recruited in

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<sup>\*</sup> The *Levantamento Armado* (Armed Uprising) in Ponta Leste took place on 9 August 1983, led by the *liurai* Miguel dos Santos, known also as *Cuba Levantamento*. It involved Hansip members and clandestine youths who were called Lorico Paicau. The uprising was on the orders of the Commander of Falintil, Xanana Gusmao. [CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District 27 November 2002].

areas where Fretilin/Falintil were still known to be active.<sup>213</sup> Recruitment continued in the mid-1980s, often focusing on communities where the men had fled to the hills following the uprisings in 1982 and 1983.<sup>214</sup>

187. The Commission received statements from 19 civilians who were forced to join the *Tombak* troops. They were mostly from the districts of Lautém and Viqueque and recounted forced recruitment into these forces between 1982 and 1987.

188. Civilians recruited for *Tombak* troops were often Falintil members who had surrendered, though they also included civilians whose families were still in the forest. Some of the statements suggest that the recruitment process followed the capture, detention and torture of civilians and others captured in areas controlled by Fretilin/Falintil.<sup>215</sup>

189. Given this background in terms of recruitment, it is not surprising that ABRI/TNI retained suspicions about certain civilians recruited into the *Tombak* troops. The Commission received several statements from former *Tombak* troops who were detained and tortured for failing to perform their duties or for being suspected of giving information or cooperating with Fretilin/Falintil. Paulino Freitas told the Commission:

*In September 1983, myself and young men who were strong were recruited as Tombak troops. I knew some of them: Ernesto, Afonso, Branda, Faikaik and Joaquim Kainoko. We were recruited by L23, the Babinsa in the village of Uma Oan Kraik, and by L24 and L25, the commander of the Babinsa. After being recruited we were trained in Audian Matan in the town of Viqueque. They also told us to do night watch...One day Adelino and I were on a night watch when L23 and L26 beat us with the butt of a gun and kicked us, accusing us of having plans with Fretilin to attack the post we were guarding.<sup>216</sup>*

190. After the uprising in Kraras in 1983 many people fled to the forest fearing retribution by the Indonesian military against the civilian population. The Indonesian military conducted operations to force them to return to their villages, and a series of massacres of civilians by the Indonesian military took place (see Chapter 7.2: Unlawful Killings and Enforced Disappearances). Some civilians who returned were forced to join the *Tombak* troops as guards for the Indonesian military.<sup>217</sup>

191. Those recruited into the *Tombak* troops were also at risk of being killed by Falintil when they were sent into the forest to search for Fretilin/Falintil forces who often saw them as an extension of ABRI/TNI.<sup>218</sup> Jacinta Hornay told the Commission of *Tombak* troops being placed on the front line with Falintil and as a result being killed:

*In May 1984 Jacinto Pinto and Tomás Ramos were captured by two members of ABRI, and taken to the Koramil in Luro. Both were suspected of having contact with [a member of] Falintil named Mateus Morreira. At the Koramil they were held in a cell for three months.*

*After three months they were released but were still required to report every day at the Koramil. On 8 August 1984, on orders from the Luro Koramil, they and 24 other civilians from Luro were [forced to] go as Tombak troops into the forest to look for the member of Falintil, Mateus Morreira. In the forest, Jacinto was killed by Falintil in Lakira [Lospalos]. His body was recovered by Koramil troops and buried on 5 September 1984 in Luro.*<sup>219</sup>

192. Tombak troops were also used by ABRI/TNI to carry out acts of violence against civilians who were suspected of having connections with Fretilin/Falintil.<sup>220</sup>

*Forced night watch and patrol*

193. The Indonesian military also forced civilians to participate in night watch and patrolling duties in communities throughout the period of the occupation. The Commission received 74 statements which specifically recounted these types of experiences. Especially in rural communities where the Indonesian military feared attack by Falintil, civilians on night watch and patrol duties were effectively placed as a shield to protect members of the Indonesian armed forces.

194. Similar to the other situations of forced recruitment, it was often those who had recently surrendered or had been captured by Indonesian forces who were forced into these tasks. In a number of cases, civilians were tortured before being obliged by the military to conduct night watches.<sup>221</sup> Forced civilian night watches and civilian patrols were particularly common in communities who had recently come under Indonesian military control, as ABRI/TNI remained wary of their authority. Levels of trust between ABRI/TNI and these local security structures varied. However from statements received it seems that as with other forced civilian deployments into military roles, the Indonesian military remained suspicious of civilians' continuing links Falintil. In some instances, villagers who had been tasked with such patrol duties were subsequently exiled with their families to the prison island of Ataúro.<sup>222</sup>

195. Commission Community Profiles indicate that in communities that had surrendered to or had been captured by the Indonesian military, women were often forced to conduct night watch duties and the men were forced to work as TBOs or to look for Fretilin/Falintil and civilians in the forest. The Commission was told of the torture of women who refused to participate in night watch duties.<sup>223</sup> Ernesto Soares told the Commission of the violent coercion against civilians:

*In 1977 Battalion 711 troops built a post in the village of Leodato (Hatulia, Ermera) After it was erected, Infantry Battalion 711 forced me and my friends to guard at the post at night. If we refused to come we would be beaten and thrown into the swamp.*<sup>224</sup>

196. It was not uncommon for civilians who were forced to do night watch to be subjected to violence if their ABRI/TNI or Hansip handlers considered they had made a mistake. Bernardo Savio told the Commission that he had been forced to do night watch duties, and that if he was caught asleep during the watch he would be beaten and tortured.<sup>225</sup> Others described similar treatment to the Commission.<sup>226</sup> Daniel Suban of Caraubau, (Viqueque, Viqueque) told the Commission about his father, Rubigari, who was forced to do night watch

*On 14 July 1980, Rubigari, Rai Olo, Rubi Gamu and Loi Gamu were forced by TNI to guard the post at night. My father, Rubigari, fell asleep when it was his turn to do the night watch. He was caught by 3 members of TNI Battalion 202. They shouted at him, kicked and hit him with their weapons until his ribs were broken and he died right there.*<sup>227</sup>

197. Violent abuse from ABRI and Hansip members was arbitrary and remained a possibility at any time, even if there were no grounds for provocation. Alfredo Costa Freitas, for example, related an incident to the Commission in which Hansip members beat him and three others for no apparent reason while they were on night patrol. They were then thrown into a river, their guard post was set alight and they were instructed to rebuild it the following day.<sup>228</sup>

198. Analysis of Commission Community Profile workshop reports indicates that the Indonesian military also forced civilians to take part in various other activities at night, including attendance at dance parties and security patrols if there was a high level of Fretilin/Falintil activity in that area. The presence of East Timorese civilians at such events was supposed to lessen the risk of Falintil attack, and so civilians were effectively used as human shields. Civilians were often forced to prepare food for the soldiers.<sup>229</sup> These practices were common in the Indonesian military-controlled resettlement camps of the late 1970s and early 1980s.<sup>230</sup>

199. Civilians forced to work on night watch were at risk of being shot or killed by Falintil or members of the Indonesian military itself. The Commission received a number of statements which described incidents in which either Falintil or ABRI killed unarmed civilians who were on night watch duty.<sup>231</sup>

200. During Operation Kikis in 1981, with large numbers of able-bodied men forced into the operation, in some areas women were forced to conduct night watch duties.<sup>232</sup> Villagers in Bibileo (Viqueque, Viqueque) told the Commission that during this period, ABRI forced the elderly men and women to build posts around the village, and the women were forced to guard at night.<sup>233</sup>

201. During the 1990s, there were fewer reports of civilians being forcibly recruited for night watch duties. While this reflects a general shift in the context of the conflict and the Indonesian military security priorities and strategy, these practices continued to be employed in certain areas. Some reports received by the Commission for this period showed, however, that the civilians forced to conduct night watch duties were usually those who were arrested for clandestine activities. Some of these were also tortured by members of the Indonesian military or their paramilitary auxiliaries. Attacks by Falintil during the 1990s also resulted in casualties of civilians working on night watch. Mateus Soares told the Commission of a Falintil attack on a post in Carlilo, in the village of Aiteas (Manatuto, Manatuto):

*On 23 March 1990 José Soares Laka, Domingos Ramos, Sebastião Ximenes, Antonio Coli, Domingos Larak, Hermenegildo Soares, Mateus Go'o, and my father Antonio Celo Soares and I were doing the night watch in the neighbourhood security post.*

*Around 9.00pm Fretilin attacked the post. Antonio Coli and Celo Soares were killed instantly in the attack, while Mateus Go'o, José Soares Laka and Domingos Larak were injured from the wild shooting from Falintil.*<sup>234</sup>



202. As in the earlier years, those suspected of working in the clandestine network supporting Falintil forces were often tortured and then set to work on night watch or other tasks.<sup>235</sup> Civilians who disobeyed orders to do night watch were often tortured by the Indonesian military.<sup>236</sup>

203. These practices were revived on a large-scale during 1999, when TNI and its militias forced civilians to do night watch among other “duties” in the lead up to the Popular Consultation at the end of August.<sup>237</sup> In Community Reconciliation hearings in villages across the country, the Commission heard testimony from former militia members about their activities. Recruitment was often forced or coerced, with the threat of violence or destruction of property by the Indonesian military. Local government authorities were often employed by the military in the recruitment process, as most communities were required to provide members of militia groups. Lower level members of the militia groups, often those who were forcibly recruited, were often required to conduct activities such as night watch and patrols, and manning of guard posts, and were subordinate to the Indonesian military in a manner similar to earlier periods of the conflict (see Part 9: Community Reconciliation).

#### 7.5.4 Violations of the laws of war by Fretilin/Falintil

204. The Commission received a number of reports of human rights violations perpetrated by Fretilin/Falintil relating to violations of the laws of war. Violations against civilians in this context, however, constituted only a small fraction of those concerning violations by ABRI/TNI. The available evidence indicates that the violations by Fretilin/Falintil were neither systematic nor widespread. Nevertheless, Fretilin/Falintil forces did attack and kill civilians, burned their houses, and committed other serious violations against civilians.

205. The Commission did not find evidence of the use of indiscriminate or disproportionate firepower during Fretilin/Falintil's military operations, nor of large-scale, illegal recruitment of civilians by Fretilin/Falintil to support and supplement its military operations. Despite this, it is clear that Fretilin/Falintil enforcement of its political ideology and policies between 1976 and 1978 contributed significantly to the widespread suffering and deaths of civilians whom they prevented from surrendering to the Indonesian military and who became ABRI targets during attacks. Fretilin/Falintil also committed violations of the laws of war in relation to its treatment of prisoners and the killing of civilians.

206. When the Indonesian military invaded Dili on 7 December 1975, Fretilin retreated south to the hills of Aileu where it maintained its headquarters. The leadership decided to take large numbers of UDT and Apodeti prisoners it had held in the *Quartel Geral*, Taibessi and Balide Prison in Dili with them. Prisoners were forced to carry ammunition and supplies for the retreating Fretilin.<sup>238</sup> In late December 1975, members of Fretilin conducted a series of executions of these prisoners, in Aisirimou in Aileu, then as they retreated further south in Maubisse (Ainaro), and in January 1976 on the south coast in Same, Manufahi (see Part 3: The History of the Conflict; Chapter 7.2: Unlawful Killings and Enforced Disappearances). The Commission interviewed Humberto Martins da Cruz, a Fretilin prison guard in Aileu at the time, who said that almost every night a prisoner was called out to be killed. He also told the Commission that between 23 and 26 of these executions in Aisirimou directly involved Fretilin Central Committee members.<sup>239</sup> He told the Commission that prisoners were ordered to dig graves for execution victims, and that the Fretilin leadership made no attempt to prevent these executions.<sup>240</sup> At the CAVR National Public Hearing on The Internal Political Conflict, the current President and the current Secretary General of Fretilin, Francisco Guterres “Lú-Olo” and Mari Alkatiri respectively, asserted that these killings were not Fretilin policy or done on the orders of the Fretilin Central Committee. They did, however, acknowledge that Fretilin as an organisation must take collective responsibility for these killings and apologised on behalf of Fretilin to the families of victims.<sup>241</sup> The then President of Fretilin, Francisco Xavier do Amaral, was not in Aileu at the time of the killings; however, he explained his understanding of events to the Commission at its National Public Hearing on The Internal Political Conflict of 1974-76:

*I can explain it like this. There was no decision. When you write something down, then we can say that it is a decision. Sometimes we share our impressions, we talk with friends. And these ideas of ours, people called them—took them to be the same as or decisions. Because our thoughts are just our opinions...*

*We were in the middle of war, in this war, when we ran, the enemy chased us. We ran, we took the prisoners with us, our enemies who we had imprisoned...[B]efore we even had a chance to catch our breath, the enemy were already close. Now, what do we do? We must keep running forward. We don't have many choices. We didn't have transport, we didn't have food, sometimes there was no medicine, we didn't have any of these.*

*Some of our prisoners were already seriously sick, some were very weak. Therefore we had to take this into consideration. Do we look after them? Do we run away without them? Or do we kill them and then run? I see danger in both. If we leave them alive, they can fall into the enemys' hands. If we abandon them, for example a UDT member or an Apodeti member, he could fall into the enemy's hands. The Indonesian military could come and he could fall into their hands. The Indonesians could put pressure on him and they could find us. They could trick him or he might confess...in the town or somewhere else, he could confess. Therefore we came to the conclusion, if they were weak already and they couldn't walk with us, and if we wanted to carry them but we didn't have the strength, there was no guarantee that we could make it to a safe place, then was it better if he died or we died? Sometimes, they made a decision that we killed them, so that the enemy could not endanger us. Perhaps this opinion was commonly held, more or less, by leaders at all the levels."*<sup>242</sup>

207. In fact, while there is evidence that some prisoners were weak and sick, or suffered injuries from severe beatings administered while in Fretilin custody, there is no evidence to establish that the prisoners were executed because they were too difficult to move. The evidence indicates that they were executed by members of Fretilin out of fear that they would cooperate with Indonesia.

208. The Commission received testimony of a massacre of the civilian population in the village of Kooleu (Loré I, Lautém) in January 1976 (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).<sup>243</sup>

209. After the January 1976 executions in Same (Manufahi), the Fretilin leadership decided to stop the executions and exhorted the surviving prisoners to fight with them against the Indonesian military. Taur Matan Ruak, now Commander in Chief of the Armed Forces of the RDTL, recalled to the Commission the words of the Fretilin leader Nicolau Lobato, paraphrasing him:

*We believe in human transformation. The history of struggle in other countries has proven that a person considered a revolutionary today can be seen as a traitor tomorrow, and that a person considered a traitor today could be a revolutionary tomorrow...A man's common sense can improve the man. We have to believe in people's ability to transform themselves.*<sup>244</sup>

210. During the period following the invasion, many people fled their homes to seek refuge in the forests and hills. Many fled voluntarily in fear of the invasion and sought the protection of Fretilin/Falintil forces. However, the Commission also received many accounts of Fretilin cajoling the civilian population to leave the towns and join it in the interior, and the Fretilin ideology of social revolution in these early years of war and occupation was based on the idea of the civilian population living with the political and military cadre where they would be educated and a new social consciousness developed. In this context there was considerable pressure for civilians to flee and stay with Fretilin in the interior, even when the situation became extremely difficult (see Chapter 7.3: Forced Displacement and Famine).

211. Between 1976 and 1977, civilians established new communities under Fretilin's guidance in the bases in the interior behind the lines of battle with the Indonesian military. They grew communal gardens, conducted literacy programmes and developed basic health services. However, as the war encroached in 1977, it became increasingly difficult for Fretilin to sustain such a large civilian population in the interior.

212. Divisions arose within the Fretilin leadership about the best strategy to pursue the struggle, in particular about whether the large civilian population should surrender and return to the villages and towns. In 1976 in the Eastern Zone, Fretilin/Falintil captured and executed the Falintil leader Aquiles Freitas and a number of his supporters (see Chapter 7.2: Unlawful Killings and Enforced Disappearances).

213. A fundamental and violent split occurred with the arrest and detention of Fretilin President Francisco Xavier do Amaral and those thought to be aligned with him in September 1977. During this time Fretilin/Falintil committed violations against many civilians, including detention, torture and executions (see Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.4: Detention, Torture and Ill-Treatment).<sup>245</sup>

214. In the wake of this violent purge, suspicion reigned in Fretilin/Falintil controlled areas and civilian movement was tightly controlled. Fretilin/Falintil required civilians to secure authorised travel passes (known as *Guia de Marcha*). Those caught outside authorized areas were accused of treachery and punished. Penalties included detention in very poor conditions, torture and sometimes killing. Fretilin established a system of detention centres known as Renal in bases across the country. They often detained people in underground holes for up to two weeks, and for longer periods in the Renal (see Chapter 7.4: Detention, Torture and Ill-Treatment).

215. Other Fretilin/Falintil leaders who opposed Fretilin's war strategy of maintaining the civilian presence in the interior were also punished or killed.<sup>246</sup> They included Afonso Savio, Zone Secretary for Luro (Lautém) and José dos Santos, a regional commander, who were beaten, trampled on and burned to death.<sup>247</sup> According to some reports to the Commission, members of the Fretilin Central Committee ordered the execution of heads of aldeias who were suspected of ordering civilians to surrender to the Indonesian military.<sup>248</sup> Such actions sent a clear message to civilians who harboured thoughts of surrender that they would be labelled as traitors and severely dealt with.

216. The issue of whether civilians should surrender became extremely divisive, with the well-being of these civilians often sacrificed between competing political ideals. Lucas da Costa, a Fretilin cadre at the time, told the Commission:

*When a political leader spoke, a [Falintil] commander obeyed. But the commanders only saw the war from a military point of view. They said, "We cannot win if we bring the people along with us. If the people keep coming along we will be spending all our energy protecting them, rather than fighting the enemy. It is better to tell them to leave. We will stay in the forest." But this was incompatible with the [Fretilin] concept. If people were sent down [from the mountains], they would reclaim their social status, their social status would grow again. This was ideological suicide [for Fretilin], and the revolution would fail.<sup>249</sup>*

217. Many civilians were effectively trapped in the Fretilin *zonas libertadas* (liberated zones), which then became targets of ABRI/TNI attacks. As restrictions on civilian movements tightened, significant numbers of these civilians died due to lack of food and medicine.<sup>250</sup> As the massive Indonesian military operations overran Fretilin bases in 1978, many civilians fled with Fretilin/Falintil forces to the Fretilin/Falintil base on Mount Matebian. The situation there was little better, with a severe lack of shelter and medicine for sick adults and children. In this situation thousands died of starvation, illness and the relentless Indonesian bombings and attacks.<sup>251</sup>

218. By 1978, scattered and with no alternatives, many civilians began to surrender to Indonesian forces. On 22 November 1978, Fretilin's Central Committee issued a directive, effectively consenting to this reality.

219. Xanana Gusmão, who was at Mount Matebian at the time, told the Commission:

*On 22 November 1978 we separated on Matebian. Though we were under siege, we kept in contact with the Central Committee in the Central Region. We confirmed that we could not go on any longer, and they told civilians to surrender and to maintain one guerilla post in the Eastern Region, to take charge of Baucau, Viqueque and Lospalos...*

*Then they appointed me commander of the Eastern Region, and on 22 November we mobilised our force and escaped from Matebian. We told civilians to surrender to the nearby towns while Falintil moved towards the Central Region to continue fighting.<sup>252</sup>*

220. With the conclusion of Operation Seroja and the defeat of the Fretilin bases, the armed Resistance was nearly decimated. The strategy of the Resistance was completely overhauled in a national reorganisation conference in 1981 (see Part 3: History of the Conflict). This meant that large numbers of civilians would no longer be living with the armed resistance fighters in the mountains. People returned to villages and towns, though often after prolonged periods in transit camps, detention centres and ABRI/TNI-controlled resettlement villages (see Chapter 7.3: Forced Displacement and Famine). The Fretilin/Falintil relationship to the civilian population was fundamentally altered, as they aimed to foster a growing civilian clandestine network to support the Resistance. The new leader of the Resistance, Xanana Gusmão, gradually led the Resistance away from the hardened ideological stance that had seen the propagation of "ideological" or "revolutionary" violence against its own members (see Part 3: History of the Conflict). In his autobiography, Xanana Gusmão recalled the violence he had witnessed or heard about during that earlier period, and his thinking in moving the Resistance away from this approach.<sup>253</sup>

No! Although I was a member of the Central Committee, I was still unable to understand revolutionary violence. I did not like the concept and I did not practice it. Persuasion and compensation started to become an alternative political principle, which was fundamental for me.<sup>254</sup>

221. In the years that followed the reorganisation of the Resistance after the destruction of the bases which held large numbers of civilians, Fretilin/Falintil violations of the laws of war, in particular against civilians, decreased significantly. However, the Commission did receive reports of Falintil violence and intimidation against those it considered aligned with the Indonesian military or working against the Resistance. This included the most serious violations, such as execution of civilians.<sup>255</sup> Marta Ximenes testified that on 17 August 1979, three Falintil soldiers shot dead her husband, Luis Lopes, in their field in Paitaal-Bauro (Lospalos, Lautém) and stole their corn and cassava crops.<sup>256</sup>

222. In cases where East Timorese civilians were forced by the Indonesian military into such roles as conducting night watch and patrols, as discussed above, they sometimes became casualties of Falintil armed action. The status of such individuals may also have been unclear, and may have depended on the specific roles they were forced to fulfill by the Indonesian military. A member of the *Tombak* troops patrolling the forest may have presented a real military threat to members of Falintil.<sup>\*</sup> However, the circumstances of an individual forced to conduct night patrol in his or her home village would have been very different. Whether specifically targeted for whether such casualties were killed due to a disproportionate level of violence compared to the military objectives was not always clear.<sup>†</sup> The Commission did not receive any evidence to indicate that Falintil generally targeted civilians, and nor is there evidence that Falintil conducted military operations in such a way as to directly result in civilian casualties. However this kind of violence by Falintil troops, through the 1980s and to a lesser degree the 1990s, caused considerable suffering to communities.

### **Attacks on civilian objects**

223. Statements received by the Commission detail 80 cases of house-burning, destruction of buildings and property as well as looting by Fretilin/Falintil between 1975 and 1979. The bulk of these incidents occurred during 1976, and most were reported by villagers in the districts of Viqueque and Baucau. Several reports provided detail of Fretilin/Falintil violations in later years, including the destruction of civilian houses and other buildings and looting across 11 districts in Timor-Leste. No reports were received from the districts of Liquiça and Oecusse.

224. Villagers in Obulo and Batumanu (Atsabe, Ermera) told the Commission that in 1977 after the Indonesian military attacked and burned houses in Obulo, a number of villagers surrendered to ABRI. Following this Falintil attacked and burned houses belonging to those civilians who had surrendered. Falintil troops were also reported as attacking and burning houses in Obulo and Atsabe and forcing villagers to go with them to the forest in February 1977. Many civilians taken with them suffered starvation, illness and death.<sup>257</sup>

225. It is clear that Fretilin/Falintil forces were responsible for considerable damage and suffering among elements of the civilian population. It is unclear, however whether official policy directed such attacks on civilians and their property. The fact that these violations were committed across many districts, and over different periods of time, suggest that at the very least the leadership of Falintil must have been aware of the attacks and took no adequate action to prevent them.

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<sup>\*</sup> For example the death of a *Tombak* troop member, Jacinto Pinto, mentioned above, see HRVD Statement 04439.

<sup>†</sup> See for example the case mentioned above of the killing of Antonio Coli and Celo Soares at a neighbourhood security post in 1990 by attacking Falintil soldiers [see HRVD Statement 06483].

## 7.5.5 Findings

### **Findings concerning the Indonesian armed forces**

226. During the invasion of Timor-Leste members of ABRI/TNI committed systematic violations of the Geneva Conventions by failing to discriminate between civilian and military targets. In addition, on the initial days of the invasion civilians were targeted by the Indonesian military in massacres and executions.

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

228. During these military operations members of ABRI/TNI routinely tortured and killed civilians and prisoners of war who were captured. Prisoners who were executed included pregnant women and children (see Chapter 7.8: The Rights of the Child).

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

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

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

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

233. Destruction and looting of civilian property was commonly accompanied by other violations, such as beatings, detention, torture, rape and killing of civilians. A common method was the looting of property, killing of the inhabitants of a house, and then burning the house with the victims inside. This method was utilised in order to punish and intimidate opponents of the occupation, and to destroy the evidence of the violations.

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

235. ABRI/TNI used weapons which are prohibited by the international laws governing armed conflict in their military operations in Timor-Leste. These included chemical weapons which poisoned water supplies, killed crops and other vegetation, and resulted in the deaths by poisoning of hundreds of civilians.

236. ABRI/TNI dropped napalm bombs and other incendiary devices indiscriminately on civilian targets. The illegitimate use of these bombs caused terrible suffering to civilians, including the death by burning of unarmed men, women and children.

237. ABRI/TNI forcibly recruited tens of thousands of East Timorese men, women and children to assist them in their military operations, particularly during the years 1975-79, and in periods of heightened military operations, across the territory. Those who refused to participate were subjected to beatings and torture. The illegal forced recruitment of civilians into military operations was carried out to provide cheap practical assistance and also to demean the morale of those who opposed the occupation.

238. East Timorese people who had been forcibly recruited to join ABRI/TNI units were routinely forced to carry large loads of food, ammunition and equipment under extreme conditions. They were often subjected to cruel, inhuman and degrading treatment.

239. Members of ABRI/TNI summarily executed East Timorese civilians who had been forced to accompany Indonesian military operations, ostensibly over issues concerning disobedience and discipline.

240. Young East Timorese women who were forced to work for members of ABRI/TNI were routinely raped and forced into conditions of sexual slavery by their military masters (see Chapter 7.7: Sexual Violence).

241. Many pro-independence supporters who were captured or surrendered were tortured and then forced to perform duties as night guards or other security-related functions. If they failed to undertake these duties they were further tortured or ill-treated. Some Falintil soldiers who were captured were forced to act as Indonesian troops against Falintil, armed only with spears, in order to ensure they could not effectively rebel against their ABRI/TNI commanders. This placed them in direct danger in combat situations and resulted in deaths.

242. In a number of cases East Timorese who had been forced to participate in ABRI/TNI operations were killed by Falintil during the operations.

243. Prior to the Popular Consultation in 1999 the ABRI/TNI formed pro-integration militia groups across the territory. ABRI/TNI implemented a programme of systematic forced recruitment of thousands of East Timorese men into these groups, in addition to those who had voluntarily joined in return for payment. The militia groups who were involved in this organised programme of violence and destruction had been intentionally formed, armed, funded and directed by the Indonesian military. The overwhelming evidence supporting this relationship is set out in detail in Part 4: The Regime of Occupation, and accountability for these actions is considered in Part 8: Responsibility and Accountability.

244. Members of the ABRI/TNI committed widespread and systematic violations of human rights, including the laws of war, in the lead up to and following the Popular Consultation in 1999. These violations are dealt with in detail in the relevant chapters on specific human rights violations, viz Chapter 7.2: Unlawful Killings and Enforced Disappearances; Chapter 7.3: Forced Displacement and Famine; Chapter 7.4: Detention, Torture and Ill-Treatment; Chapter 7.8: Sexual Violations; Chapter 7.9: Economic and Social Rights.

245. The programme of violence and destruction in 1999 was a systematic attack by heavily armed and organised military and militia groups on generally unarmed and defenceless civilians. It did not involve a conflict between two armed groups, as Falintil was, with very few exceptions, not involved in the conflict. It was a massive military exercise targeting a vulnerable civilian population for the purpose of forcing them to vote to remain with Indonesia, and, following the result, punishing them for not doing so. This military targeting of mass numbers of the civilian population constitutes violations of the laws of war by the Indonesian military.

246. The violations committed by members of the Indonesian security forces and their auxiliary militias during 1999 included:

- killing more than 1,400 civilians
- rape and sexual violation of hundreds of women
- assault and beating of thousands of civilians
- forced deportation of approximately 250,000 of thousands of civilians and the forced displacement of approximately 300,000 within the territory of Timor-Leste
- forced recruitment of thousands of East Timorese into militia groups
- burning of over 60,000 houses belonging to civilians
- looting of vast amounts of civilian property in the territory, including almost all motor vehicles and valuable manufactured goods which were removed across the border into Indonesia
- the theft or killing of large numbers of livestock
- intentional destruction of the majority of public infrastructure for no military purpose, including hospitals, most schools, water installations, electricity generators and other equipment necessary for the supporting the well-being of the civilian population.
- looting of important and irreplaceable cultural and historical artifacts from the public museum in Dili in September 1999, removing these objects to West Timor, Indonesia.

### **Findings concerning Fretilin/Falintil**

247. Portugal was the UN-recognised administering power of Timor-Leste during the period of conflict with and occupation Indonesia. Portugal had ratified the third Geneva Convention.

248. The laws of war applied to Fretilin/Falintil, which could be recognised in international humanitarian law as a resistance movement as it complied generally with the requirements for such recognition: it had in place a command structure; its members generally distinguished themselves from civilians, carried arms openly; and it conducted operations in accordance with the laws and customs of war. Fretilin/Falintil was therefore required to obey Geneva Conventions.

249. During the period of Indonesian occupation members of Fretilin/Falintil forces were involved in violations of the laws of war, including the targeting of civilians, killing, torture, burning of houses and the intentional destruction of private property. Although extremely serious, the scale of the violations committed by members of Fretilin/Falintil was a small fraction of those committed by ABRI/TNI.

250. Members of Fretilin/Falintil summarily executed prisoners who were members of the UDT and Apodeti political parties in their custody, soon after the invasion of the Indonesian forces in late 1975 and early 1976, and civilians in the village of Kooleu (Loré I, Lautém) in January 1976.



251. Members of Fretilin/Falintil summarily executed civilians who were suspected of being collaborators with the Indonesian security forces, members of their own organisation who were suspected of disloyalty, and civilians willing to surrender to the ABRI/TNI in contravention of the Fretilin policy that they should remain together with Fretilin/Falintil in the interior. Members of Fretilin/Falintil also detained, tortured and ill-treated large numbers of civilians and Fretilin/Falintil military and political cadres in the 1970s who they suspected of holding views against the policies of Fretilin/Falintil, especially in relation to whether civilians should leave the Fretilin/Falintil bases in the interior and return to their villages and towns.

252. Members of Fretilin/Falintil tortured and ill-treated civilians suspected of disloyalty or collaboration with the Indonesian military. Methods of torture employed included being detained in underground holes, beatings, being trampled on and severely burned.

253. Members of Fretilin/Falintil attacked and burned houses belonging to civilians who surrendered to ABRI/TNI, and those suspected of collaboration with the Indonesian military. This destruction caused hunger, illness and hardship among the civilian population, and the attacks themselves caused civilian deaths.

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<sup>1</sup> UNTAET Regulation 2001/10, Sections 3 and 1(c).

<sup>2</sup> Mário Lemos Pires, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974076, 15-18 December 2003.

<sup>3</sup> CAVR Interview with Xanana Gusmão, Dili, 7 July 2004

<sup>4</sup> See APV Rogers, *Law on the Battlefield* (2<sup>nd</sup> ed), Manchester, Manchester University Press, 2004, at pp. 3-23.

<sup>5</sup> Article 25 Hague Regulations; Article 27 Geneva Convention IV; Articles 51(2) and 57(1) and (2)(a) Geneva Protocol I; Article 52(1) Geneva Protocol I.

<sup>6</sup> Article 51(2) Geneva Protocol I.

<sup>7</sup> Article 51(4) and (5) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports at para 78.

<sup>8</sup> Articles 51(5)(b) and Article 57(2)(a)(iii) and (b) Geneva Protocol I.

<sup>9</sup> Article 57(3) Geneva Protocol I.

<sup>10</sup> Article 26 Hague Regulations; Article 57(2)(c) Geneva Protocol I.

<sup>11</sup> See for example, HRVD Statements 00691; 01301; 01466; 06699; 06976 08149 and 04200.

<sup>12</sup> HRVD Statement 00445.

<sup>13</sup> HRVD Statement 08200.

<sup>14</sup> HRVD Statement 02406.

<sup>15</sup> CAVR Community Profile, Laimea Kraik Village, Atsabe Sub-district, Ermera District, 20 August 2003

<sup>16</sup> See for example, CAVR Research Document on Forced Displacement and Starvation, CAVR Archive; CAVR Community Profiles Maubisse Sub-district, Ainaro District, May-August 2003.

<sup>17</sup> CAVR Interview with Agustino Soares, Hatulia, Ermera, 13 August 2003.

<sup>18</sup> CAVR Community Profile, Muapitine Village, Lospalos Sub-district, Lautém District, 18 February 2004.

<sup>19</sup> CAVR Interview with former ABRI/TNI soldier in Same (name withheld), 13 August 2004.

<sup>20</sup> Ibid.

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- <sup>21</sup> Maria José da Costa, testimony to the CAVR National Public Hearing on Forced Displacement and Famine, 28-29 July 2003.
- <sup>22</sup> See for example CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District, 14 April 2003; CAVR Community Profile, Maununo Village, Ainaro Sub-district, Ainaro District, 24 January 2003.
- <sup>23</sup> CAVR Community Profile, Aiasa, Bobonaro and Malilait Villages, Bobonaro Sub-district, Bobonaro District, 17 December 2003.
- <sup>24</sup> CAVR Interview with Adriano João, former Fretilin Political Assistant for Cailaco Zone (Bobonaro) between 1975 and 1979, Dili, 6 September 2004.
- <sup>25</sup> CAVR Community Profile, Aidantuik Village, Suai Sub-district, Covalima District, 1 December 2003.
- <sup>26</sup> HRVD Statement 00432.
- <sup>27</sup> See for example CAVR Community Profile, Tirilolo Village, Iliomar Sub-district, Lautém District, 8 July 2003; CAVR Community Profile, Lelalai Village, Quelicai Sub-district, Baucau District, 20 October 2003; CAVR Community Profile, Maluro Village, Quelicai Sub-district; Baucau District 27 October 2003 Uailili Village, Baucau Sub-district, Baucau District 28 October 2003; and Baduholo and Uai-Kana Villages, Venilale Sub-district, Baucau District, CAVR, 6 May 2003.
- <sup>28</sup> CAVR Community Profile, Defawasi Village, Baguia Sub-district, Baucau District, 23 September 2003.
- <sup>29</sup> For example, see CAVR Community Profile, Raihun Village, Tilomar Sub-district, Covalima District, 21 October 2003.
- <sup>30</sup> CAVR Community Profile Asbilitoho Village, Liquidoe Sub-district, Aileu District, 3 September 2003.
- <sup>31</sup> CAVR Community Profile, Orlalan Batara Village, Laclubar Sub-district, Manatuto District, 24 August 2003
- <sup>32</sup> CAVR Interview with Albino da Costa, Dili, June 2003.
- <sup>33</sup> *Asian Wall Street Journal*, “Is There Enough to Eat in East Timor?”, 21 June 1982.
- <sup>34</sup> Xanana Gusmao, Message to the 37<sup>th</sup> United Nations General Assembly, in Niner, p. 81.
- <sup>35</sup> CAVR Interviews with Silvino das Dores Soares, Viqueque, 10 March 2004; and Antonio Soares,(undated). See also José Gomes, testimony to the CAVR National Public Hearing on Massacres, 19-21 November 2003.
- <sup>36</sup> CAVR Interview with Silvino das Dores Soares, Viqueque, 10 March 2004.
- <sup>37</sup> CAVR Interview with Geronimo da Costa Amaral, Viqueque, 10 March 2004.
- <sup>38</sup> J. Henckaerts and L. Doswald-Beck, ICRC’s Customary International Humanitarian Law, Vol I: Rules, (2005), p46.
- <sup>39</sup> See World Bank, Final Report of the Joint Assessment Mission to East Timor, 8 December 1999. CAVR Archive. See also Part 3: The History of the Conflict.
- <sup>40</sup> CAVR Interview with Rui Emeliano Texeira Lopes, Suai (Covalima), March 2003.
- <sup>41</sup> CAVR Interview with Santana de Jesus Soares Ly, Former OPMT Baucau Coordinator in 1975, Baucau 10 October 2003
- <sup>42</sup> HRVD Statement 01741.
- <sup>43</sup> HRVD Statements 00941; 03558; 02167; 0913;01043; 09471 06443 and CAVR Community Profiles: Ponilala Village, Poetete and Mirtutu, Ermera Sub-district, Ermera District, 19-21 January 2004.
- <sup>44</sup> HRVD Statements 03855 and 04216.
- <sup>45</sup> HRVD Statements 02246; 02256 and 00704.

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- <sup>46</sup> HRVD Statement 07171.
- <sup>47</sup> HRVD Statement 03892.
- <sup>48</sup> Album Kenangan Perjuangan Siliwangi [Siliwangi's Album of mementos of the struggle] [no bibliographical information], p. 601.
- <sup>49</sup> HRVD Statement 04044.
- <sup>50</sup> HRVD Statement 01182.
- <sup>51</sup> HRVD Statement 03116.
- <sup>52</sup> HRVD Statement 02589.
- <sup>53</sup> HRVD Statement 02406.
- <sup>54</sup> HRVD Statement 05011.
- <sup>55</sup> HRVD Statement 01352.
- <sup>56</sup> HRVD Statement 0983.
- <sup>57</sup> HRVD Statements 01120; 06777; 05643 and 03663.
- <sup>58</sup> HRVD Statement 00512.
- <sup>59</sup> HRVD Statement 00512.
- <sup>60</sup> HRVD Statement 07774.
- <sup>61</sup> HRVD Statement 03852.
- <sup>62</sup> HRVD Statement 01348; 04928; 04045 and 05412.
- <sup>63</sup> HRVD Statement 04178.
- <sup>64</sup> HRVD Statements 02044, 06322 and 06288.
- <sup>65</sup> HRVD Statements 03503 and 01063.
- <sup>66</sup> HRVD Statements 02317; 03111; 04181; 06075; 06808 and 07363.
- <sup>67</sup> HRVD Statement 02813.
- <sup>68</sup> See for example, HRVD Statement 01348.
- <sup>69</sup> HRVD Statements 02254 and 01649.
- <sup>70</sup> HRVD Statement 04045.
- <sup>71</sup> HRVD Statements 04901; 05788; 07235; 07253; 07238; 07085; 03876; 00584 and 07791.
- <sup>72</sup> HRVD Statements 03695; 08037; 09120; 03602; 01022; 05079; 01022; 01702; 08042; 00918; 00298; 00966; 03504; 08042; 00918; 00298; 00966; 03504; 05450; 04599; 04712; 06487; 00625 and 07527.
- <sup>73</sup> CAVR Statement 0797
- <sup>74</sup> HRVD Statement 00427.
- <sup>75</sup> HRVD Statement 04334 and 08217.
- <sup>76</sup> HRVD Statement 03462.
- <sup>77</sup> HRVD Statements 05621, 02294.
- <sup>78</sup> HRVD Statement 03366.
- <sup>79</sup> HRVD Statement 01985.
- <sup>80</sup> HRVD Statement 01262, 08531, 04285, 08531, 05684.

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- <sup>81</sup> HRVD Statement 03845.
- <sup>82</sup> HRVD Statements 08077 and 08044.
- <sup>83</sup> HRVD Statement 02520; 06248; 08375; 08342; 06418; 06369; 06408; 02512 and 08290.
- <sup>84</sup> ETHRC, 28 February 1999, “Escalating Violation in East Timor: Is a Peaceful Solution Possible?” See also HRVD Statements 01531; 01581; 01583; 01603 and 01518.
- <sup>85</sup> HRVD Statement 09022.
- <sup>86</sup> HRVD Statement 00456; 02326; 00082; 05881; 00289 and 02990.
- <sup>87</sup> HRVD Statement 00082.
- <sup>88</sup> HRVD Statements 02573 and 04240. See also, CAVR Community Profile, Lebos-Gidapil Village, Lolotoe Sub-district, Bobonaro District, 9 September 2003.
- <sup>89</sup> HRVD Statement 00561.
- <sup>90</sup> HRVD Statements 00449; 00458 and 00427.
- <sup>91</sup> CAVR Community Profile, Liurai Village, Turisca Sub-district, Manufahi District, 17 September 2003.
- <sup>92</sup> HRVD Statement 02024; 02034; 08463; 06313; 06324 and 05138. See also CAVR Community Profile, Faholulik Village, Tilomar Sub-district, Covalima District, 21 October 2003.
- <sup>93</sup> HRVD Statements 03510; 08385 and CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District 14 April 2003
- <sup>94</sup> HRVD Statement 09031 from former militia leader, Belu, West Timor Indonesia on 25 April 2003.
- <sup>95</sup> See for example, HRVD Statement 00309.
- <sup>96</sup> See for example, HRVD Statement 02950.
- <sup>97</sup> See for example, HRVD Statements 03685; 01239; 06337; 01208 and 01239.
- <sup>98</sup> CAVR Community Profile, Atara and Salaun Villages, Atsabe Sub-district, Ermera District 14 April 2003
- <sup>99</sup> HRVD Statement 02835.
- <sup>100</sup> CAVR Community Profile, Costa Village, Pante Makasar Sub-district, Oecusse District, 16 February 2004.
- <sup>101</sup> HRVD Statement 02632.
- <sup>102</sup> HRVD Statement 02930.
- <sup>103</sup> CAVR Interview with Manuel Cárceres da Costa, UNHCR Repatriation/Protection Assistant, Dili, 25 November 2002.
- <sup>104</sup> See World Bank, Final Report of the Joint Assessment Mission to East Timor, 8 December 1999. CAVR Archive.
- <sup>105</sup> HRVD Statements 01101, 08303, 08312 and 08314. See also CAVR Community Profiles: Leimea Kraik and Samara Villages, Hatulia Sub-district, Ermera District, 20 August 2003; Ponilala, Poetete and Mirtutu Villages, Ermera Sub-district, Ermera District, 19-21 January 2004; Lihu and Railaco Kraik Villages, Railaco Sub-district, Ermera District, 20 February 2003, Laelo and Paramin Villages, Atsabe Sub-district, Ermera District, 26 June 2003; Eraulo Village, Letefoho Sub-district, Ermera District, 2 December 2002; and Hatugau Village, Letefoho Sub-district, Ermera District, 14 October 2002.
- <sup>106</sup> HRVD Statements 05271 and 08282.
- <sup>107</sup> HRVD Statement 04079.

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- <sup>108</sup> HRVD Statements 07747; 07811; 03908, and 07089. See also CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
- <sup>109</sup> HRVD Statements 04194 and 04129. See also CAVR Community Profiles: Ahic Village, Dilor, Lacluta Sub-district, Viqueque District, 22 November 2002; Luca Village, Viqueque Sub-district, Viqueque District, 10 June 2003; and Uaibobo Village, Ossu Sub-district, Viqueque District.
- <sup>110</sup> HRVD Statement 05173; 06351; 02046; 06263 and 08560.
- <sup>111</sup> HRVD Statements 02807; 02828 and 02630. See also CAVR Community Profile, Bobometo Village, Oesilo Sub-district, Oecusse District, 31 May 2003.
- <sup>112</sup> See for example, HRVD Statements 02930; 00853; 00859; and CAVR Community Profile, Usitaqeno Village, Oesilo Sub-district, Oecusse District, 24 July 2003; Suni Ufe Village, Nitibe Sub-district, Oecusse District, 17 January 2003.
- <sup>113</sup> HRVD Statement 0831.
- <sup>114</sup> HRVD Statement 02418.
- <sup>115</sup> HRVD Statements 0140; 01391; 01392; 01307; 01312; 01334; 01335; 01381; 01382; 01392 and 03310.
- <sup>116</sup> See, for example, CAVR Community Profiles from: Asbilitoho Village, Asumano Village and Manukasa Village taken in Liquidoe Sub-district, Aileu District, between 11 July and 3 September 2003.
- <sup>117</sup> Article 4 Geneva Convention III; Article 44(1), (3) and (4) Geneva Protocol I. (This includes combatants who are sick or wounded: Article 14 Geneva Convention I).
- <sup>118</sup> Article 4A Geneva Convention III.
- <sup>119</sup> CAVR Interview with Jacinto Alves, former assistant to the Falintil chief of staff, Dili, 3 May, 2005.
- <sup>120</sup> Article 5 Geneva Convention III; Article 45(1) Geneva Protocol I.
- <sup>121</sup> Article 4 Hague Regulations; Article 13 Geneva Convention III.
- <sup>122</sup> Articles 13 and 17 Geneva Convention III.
- <sup>123</sup> Articles 15, 26, 30 Geneva Convention III.
- <sup>124</sup> Articles 19 and 23 Geneva Convention III.
- <sup>125</sup> Article 5 Geneva Convention IV.
- <sup>126</sup> Carmel Budiardjo & Kiem Soei Liong, *The War Against East Timor*, Document 8 Militray Regional Command XVI, Udayana, Established Procedure for Interrogation of Prisoners, PROTAP/01-B/VII/1982.
- <sup>127</sup> HRVD Statements 01440 and 06571. See also CAVR Community Profiles, Fatuloro Village, Fatululik Sub-district, Covalima District, 20 November 2002; Tapo Village, Maliana Sub-district, Bobonaro District, 24 November 2003.
- <sup>128</sup> HRVD Statement 0485. See also CAVR Community Profile, Tapo Village, Maliana Sub-district, Bobonaro District, 24 November 2003.
- <sup>129</sup> CAVR Community Profile, Lifau Village, Laleia Sub-district, Manatuto District, 17 June 2003.
- <sup>130</sup> CAVR Interview with Zeferino Armando Ximenes, (undated).
- <sup>131</sup> HRVD Statement 07331 and 05069.
- <sup>132</sup> For example, HRVD Statement 00716.
- <sup>133</sup> HRVD Statement 06515.
- <sup>134</sup> HRVD Statement 01267.
- <sup>135</sup> Article 22 Hague Regulations; Article 35(1) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports at para 77.

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- <sup>136</sup> St Petersburg Declaration 1868; Article 23 Hague Regulations; Article 35(2) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports at para 78.
- <sup>137</sup> Article 51(4) Geneva Protocol I; *Advisory Opinion on the Threat or Use of Nuclear Weapons* (1986) ICJ Reports at para 78.
- <sup>138</sup> See also Article 54(2) Geneva Protocol I.
- <sup>139</sup> See also Article 54(1) Geneva Protocol I.
- <sup>140</sup> Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.
- <sup>141</sup> The Official Operational Procedure, No.: PROTAP/3/IV/1988, dated 30 April 1988, Ammunition Capability and Safe Range, the Indonesian Armed Forces, Security Operation Command in East Timor.
- <sup>142</sup> CAVR Community Profile, Maneluma, Laulara Sub-district, Aileu District, 12 December 2002.
- <sup>143</sup> CAVR Community Profile, Lacro and Paramin, Atsabe Sub-district, Ermera District, 16 June 2003.
- <sup>144</sup> *Ibid*
- <sup>145</sup> CAVR Community Profile, Atara and Lasaun, Atsabe Sub-district, Ermera District, 14 April 2003.
- <sup>146</sup> CAVR Community Profile, Goulolo, Letefoho Sub-district, Ermera District, 25 November 2002.
- <sup>147</sup> CAVR Interview with Augusto Soares, in Hatulia (Ermera), 13 August 2003.
- <sup>148</sup> *Ibid*.
- <sup>149</sup> CAVR Community Profile, Bora and Manelima, Laclubar Sub-district, Manatuto District, 3 September 2003.
- <sup>150</sup> CAVR Community Profile, Kakae Uman, Natarbora/Barique Sub-district, Manatuto District, 11 April 2003.
- <sup>151</sup> CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
- <sup>152</sup> CAVR Community Profiles in Darulete Village, Liquiça Sub-district, Liquiça District 13 February 2003 ; Leimea Kraik and Samara Villages, Hatulia Sub-district, Ermera District 20 August 2003 ; Souro Village, Lospalos Sub-district, Lautém District, 24 February 2004; Lebos and Guldapil Villages, Lolotoe Sub-district, Bobonaro District 9 September 2003 ; Fatuloro Village, Faululik Sub-district, Covalima District 21 November 2002 ; and Lifau Village, Laleia Sub-district, Manatuto District, 17 June 2003.
- <sup>153</sup> CAVR Interview with Lucas da Costa Xavier, former ABRI/TNI soldier, Same, Manufahi, 13 August 2004.
- <sup>154</sup> Official Operational Procedure, No.: PROTAP/3/IV/1988, Capabilities of Tactical Planes, 30 April 1988, the Indonesian Armed Forces, Security Operation Command in East Timor.
- <sup>155</sup> Conboy, p. 276.
- <sup>156</sup> Indonesian military film footage, obtained by the Commission from anonymous sources, Jakarta 2005. CAVR Archive.
- <sup>157</sup> Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons 1980.
- <sup>158</sup> CAVR Interview with Adriano João, Dili, 21 September 2004.
- <sup>159</sup> CAVR Community Profile, Obulo and Butamanu, Atsabe Sub-district, Ermera District, 13 May 2003.
- <sup>160</sup> Article 23 Hague Regulations.
- <sup>161</sup> Article 51 Geneva Convention IV.
- <sup>162</sup> Article 51 Geneva Convention IV.
- <sup>163</sup> HRVD Statement 02491.

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- <sup>164</sup> HRVD Statement 05720.
- <sup>165</sup> HRVD Statement 03412.
- <sup>166</sup> HRVD Statement 01105.
- <sup>167</sup> HRVD Statement 04012.
- <sup>168</sup> CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
- <sup>169</sup> HRVD Statement 05685.
- <sup>170</sup> See HRVD Statement 07752, and CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002.
- <sup>171</sup> See for example, HRVD Statement 06081.
- <sup>172</sup> See for example, CAVR Community Profiles in Leber Village, Bobonaro Sub-district, Bobonaro District, 24 November 2003; Guda Village, Lolotoe Sub-district, Bobonaro District, 26 August 2003; Leohito Village, Balibo Sub-district, Bobonaro District 21 January 2004; and Lourba Village, Bobonaro Sub-district, Bobonaro District 25 January 2003.
- <sup>173</sup> HRVD Statement 08365.
- <sup>174</sup> HRVD Statement 03403.
- <sup>175</sup> See for example, HRVD Statement 04763.
- <sup>176</sup> CAVR Community Profile Defawasi Village, Baguia Sub-district, Baucau District, 23 September 2003.
- <sup>177</sup> HRVD Statement 03101.
- <sup>178</sup> HRVD Statement 01071.
- <sup>179</sup> CAVR Community Profiles in Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003; Irabin de Baixo Village, Uatu-Carbau Sub-district, Viqueque District, 26 August 2003; Assu da Cima Village, Ossu Sub-district, Viqueque District, 20 March 2003; and Manulesu Village, Liquidoe Sub-district, Aileu District, 27 August 2003.
- <sup>180</sup> HRVD Statement 03135.
- <sup>181</sup> HRVD Statement 03093.
- <sup>182</sup> HRVD Statement 03421.
- <sup>183</sup> HRVD Statement 00168.
- <sup>184</sup> HRVD Statement 01990.
- <sup>185</sup> HRVD Statement 03963.
- <sup>186</sup> HRVD Statement 03474.
- <sup>187</sup> HRVD Statement 06044.
- <sup>188</sup> HRVD Statement 04351.
- <sup>189</sup> HRVD Statement 05687.
- <sup>190</sup> Instruction – Operation No: INSOP/03/II/1982.
- <sup>191</sup> See for example, CAVR Community Profile, Asumano Village, Liquidoe Sub-district, Aileu District, 11 July 2003.
- <sup>192</sup> Instruction – Operation No. INSOP/03/II/1982,” p. 8.
- <sup>193</sup> Conboy, p. 298.
- <sup>194</sup> See Korps Mariner TNI AL, 1970-2000, Marine Information Department, Jakarta, 2000, p. 274.

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- <sup>195</sup> CAVR Community Profile, Lelalai Village, Quelicai Sub-district, Baucau District, 20 October 2003.
- <sup>196</sup> CAVR Community Profile, Muapetini Village, Lospalos Sub-district, Lautém District, 18 February 2004.
- <sup>197</sup> CAVR Community Profile, Rasa Village, Lospalos Sub-district, Lautém District, 1 July 2004.
- <sup>198</sup> HRVD Statement 06057.
- <sup>199</sup> HRVD Statement 05224.
- <sup>200</sup> Kepala Intelejen Mayor Willem Da Costa, Petunjuk Teknis Tentang kegiatan Babinsa, [Juknis /06/IV/1982), (Head of intelligence Major Willem Da Costa, Technical Guidelines regarding the activities of the Babinsa. 10 September 1982. Budiardjo dan Liem, *The War Against East Timor*, Zed Books, 1984, p. 201.
- <sup>201</sup> HRVD Statement 04107.
- <sup>202</sup> HRVD Statement 05040.
- <sup>203</sup> CAVR Community Profile, Uaitame Village, Quelicai Sub-district, Baucau District, 12 December 2003.
- <sup>204</sup> See for example, CAVR Community Profile, Fahiso Village, Remexio Sub-district, Aileu District, 29 May 2003.
- <sup>205</sup> HRVD Statement 03465.
- <sup>206</sup> HRVD Statement 04071.
- <sup>207</sup> HRVD Statement 01022.
- <sup>208</sup> See for example, HRVD Statement 03252.
- <sup>209</sup> HRVD Statement 04756.
- <sup>210</sup> HRVD Statement 02283.
- <sup>211</sup> CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 21 November 2003.
- <sup>212</sup> CAVR Community Profile, Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003.
- <sup>213</sup> CAVR Community Profiles: Uairoke Village, Luro Sub-district, Lautém District, 7 October 2003; Mehara Village, Tutuala Sub-district, Lautém District 11 November 2002.
- <sup>214</sup> CAVR Community Profile, Mehara Village, Tutuala Sub-district, Lautém District, 27 November 2002.
- <sup>215</sup> HRVD Statements 05317, 05365 and 05389.
- <sup>216</sup> HRVD Statement 04129.
- <sup>217</sup> HRVD Statement 00155.
- <sup>218</sup> HRVD Statement 05316.
- <sup>219</sup> HRVD Statement 04439.
- <sup>220</sup> See for example HRVD Statements 04151 and 06817.
- <sup>221</sup> HRVD Statements 01429 and 07696.
- <sup>222</sup> HRVD Statement 04386.
- <sup>223</sup> CAVR Community Profile, Guruça Village, Quelicai Sub-district, Baucau District, 21 November 2003.
- <sup>224</sup> HRVD Statement 01036.
- <sup>225</sup> HRVD Statement 05825 and 01313.
- <sup>226</sup> HRVD Statements 04793 and 01752.



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- <sup>227</sup> HRVD Statement 03078.
- <sup>228</sup> HRVD Statement 07665.
- <sup>229</sup> CAVR Community Profile, Bualale Village, Quelicai Sub-district, Baucau District, 16 December 2003.
- <sup>230</sup> CAVR Community Profile, Namalesu, Liquidoe Sub-district, Aileu District, 27 August 2003.
- <sup>231</sup> See for example, HRVD Statements 00638 and 00427.
- <sup>232</sup> See for example, CAVR Community Profile, Uaimori Village, Tula, Viqueque Sub-district, Viqueque District, 19 June 2003.
- <sup>233</sup> CAVR Community Profile, Bibileo Village, Viqueque Sub-district, Viqueque District, 5 June 2003.
- <sup>234</sup> HRVD Statement 06483.
- <sup>235</sup> HRVD Statements 03408 and 04748.
- <sup>236</sup> HRVD Statements 06293, 00762 and 01425.
- <sup>237</sup> HRVD Statements 02934, 01958 and 00243.
- <sup>238</sup> Antonio Serpa, testimony to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15-18 December 2003.
- <sup>239</sup> CAVR Interview with Humberto Martins da Cruz [undated].
- <sup>240</sup> Ibid; see also HRVD Statement 09081.
- <sup>241</sup> Francisco Guterres “Lú-Olo”, testimony in his capacity as President of Fretilin, and testimony of Mari Alkatiri in his capacity as Secretary General of Fretilin, to the CAVR National Public Hearing on The Internal Political Conflict 1974-76, 15-18 December 2003.
- <sup>242</sup> Francisco Xavier do Amaral, *ibid*.
- <sup>243</sup> Angelo Araújo, testimony to the CAVR National Public Hearing on Massacres 19-21, November, 2003
- <sup>244</sup> CAVR Interview with Brigadier General Taur Matan Ruak, Dili, 9 June 2004.
- <sup>245</sup> CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
- <sup>246</sup> CAVR Interview with Agostinho Boavida Ximenes (Sera Malik), Soe, West Timor, Indonesia, 28 August 2004.
- <sup>247</sup> CAVR Interview with José Conceição, Kupang, West Timor, Indonesia, 24 August 2004.
- <sup>248</sup> CAVR Community Profile, Faturasa Village, Remexio Sub-district, Aileu District, 20 June 2003.
- <sup>249</sup> CAVR Interview with Lucas da Costa, Dili, 21 June 2004.
- <sup>250</sup> CAVR Community Profile, Fahiso Village, Remexio Sub-district, Aileu District, 29 May 2003.
- <sup>251</sup> CAVR Community Profile, Guruça Village, Quelicai Sub-District, Baucau District, 21 November 2003.
- <sup>252</sup> CAVR Interview with Xanana Gusmão, Dili, 7 July 2004.
- <sup>253</sup> Xanana Gusmão, *Timor Leste: Um Povo Uma Pátria*, Edições Colibri, 1994, p. 31.
- <sup>254</sup> *Ibid*.
- <sup>255</sup> See for example, HRVD Statement 04149.
- <sup>256</sup> HRVD Statement 07612.
- <sup>257</sup> See CAVR Community Profiles from these sub-districts. CAVR Archive.