

## Analyzing Australian Assistance to East Timor

Australia has, with Japan and Portugal, been one of the largest donors to East Timor since 1999. The Australian government's bilateral development aid to East Timor is channeled through Australia's donor agency: AusAID.

However, Australia also provides aid to East Timor through other channels:

- √ Some departments of the Australian National Government directly fund certain projects in East Timor (such as the Australian Defense Department's provision of advisers, trainers and resources to the East Timor Defense Force (FDTL)). This is not considered "aid" and is discussed in a separate article on page 6.
- √ The Australian Government says it contributed just over US\$1 billion to the InterFET multinational peacekeeping force and the UN PKF. (This amount probably includes wages and equipment maintenance costs which would have been paid even if the Australian forces had not gone to East Timor.) A tiny portion of peacekeeping work has gone to development rather than security.
- √ Many Australian state and local governments, universities, NGOs, solidarity groups, communities and other civil society organizations also contribute to or manage projects in East Timor.

This report focuses on AusAID.

### AusAID: Background

Australia has had a government agency to administer its international aid since 1974. In 1989, when it first worked in East Timor, the agency was called AIDAB. In 1995 the name was changed to AusAID, the Australian Agency for International Development.

An Australian who worked on an AusAID project in East Timor from 1996-1999, Lansell Taudevin, wrote that during the Indonesian occupation, AusAID projects "reflected

Jakarta's preferences, not East Timor's requests." He noted one example: when Bishop Belo called for education and reconciliation programs but AusAID followed Jakarta's recommendations for water supply, agriculture and veterinary assistance programs instead. Taudevin says that AusAID was pressured by the Australian Embassy in Jakarta to provide East Timor reports that were sympathetic to Indonesia. However, Taudevin noted that AusAID's presence was much appreciated by the East Timorese as a source of contact with the outside world and that its aid amounted to more than AUD\$20 million (around US\$14 million) between 1992 and 1997. Also, AusAID might have been expelled from East Timor if it had not made concessions to the Indonesian Government.

AusAID contributed US\$20 million to humanitarian/emergency projects in East Timor from September 1999 to June 2000. Nearly half of this went to repatriate refugees and to the UNHCR-coordinated emergency shelter program; some also provided humanitarian support for people displaced within East Timor before the referendum. AusAID's total assistance to East Timor from July 1999 to June 2000, including money for UN and TFET trust funds but not including assistance to East Timorese evacuated to Australia, was US\$43 million.

### Aims

AusAID plans to provide US\$80 million in aid to East Timor from July 2000 to June 2004. This includes approximately \$20 million from July 2002 to June 2003, which, proportional to East Timor's population, is more than \$20 per person. For AusAID, this is high per capita, compared with \$30 million for all China and \$70 million for all Indonesia during the same period. However, Australia gives Papua New

*(Continued on page 2)*



### Inside . . .

Australian Military Assistance to East Timor .....	6
4 December Disorder: International Responsibility .	7
Chronology of Oil and Gas in the Timor Sea .....	8
East Timor Puts U.S. Soldiers Above the Law .....	11
UNDP letter and La'o Hamutuk Response .....	12
In Brief .....	15
Editorial: Democracy Requires Information .....	16

Guinea (which was governed by Australia until it became independent in 1975) more than twice as much aid per capita as East Timor receives, although the high aid to PNG is considered a problem by many in Australia.

Australia's foreign aid from July 2001 to June 2002 amounted to nearly US\$900 million worldwide. This represented 0.25% of Australia's Gross Domestic Product (GDP). Australian aid as a percentage of GDP has steadily declined since 1983, when it was 0.47%. It is well below both the UN's suggested target of 0.7% and the average for donor countries, 0.4%. Unlike many other donors, Australia did not promise to increase its worldwide aid at the international Financing for Development Conference last March.

AusAID's stated goal is to "advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development." Certainly the political and economic development of East Timor is important to Australia. Being geographically close to Australia, an unstable political situation in East Timor could create refugee problems for Australia and regional diplomatic tensions like those which occurred in 1975 and 1999. A healthy economy in East Timor would, on the other hand, create import-export opportunities for Australian businesses, particularly if the economy were open to Australian investment. Moreover, the aid money often goes directly to Australian suppliers or contractors, increasing their profits and promoting their skills and products in foreign markets.

The Australian government says it has spent about \$1 billion on InterFET and UN PKF in East Timor since September 1999, so the relatively small amount AusAID spends here could be viewed as an inexpensive way to avert conflict and save future military costs.

Australian assistance to East Timor could also be intended to create good will to strengthen Australia's hand in negotiations over Timor Gap oil and gas. Australian Prime Minister John Howard often recalls Australia's "generosity" to East Timor when he speaks about negotiations with East Timor

over Timor Gap oil. The Australian government's structure includes both AusAID and oil negotiations within the Department of Foreign Affairs and Trade. AusAID's US\$80 million in aid for East Timor over four years is a small investment for a big return: the Australian government hopes to pocket tens of billions of dollars from oil and gas from East Timor's Exclusive Economic Zone as defined by East Timor's law and UN Law of the Sea principles. Up to now, Australia has refused to discuss the maritime boundary. Furthermore, Australia withdrew from International Court of Justice and other legal processes for resolving boundary disputes last March, leaving East Timor with no way to achieve its legal rights.

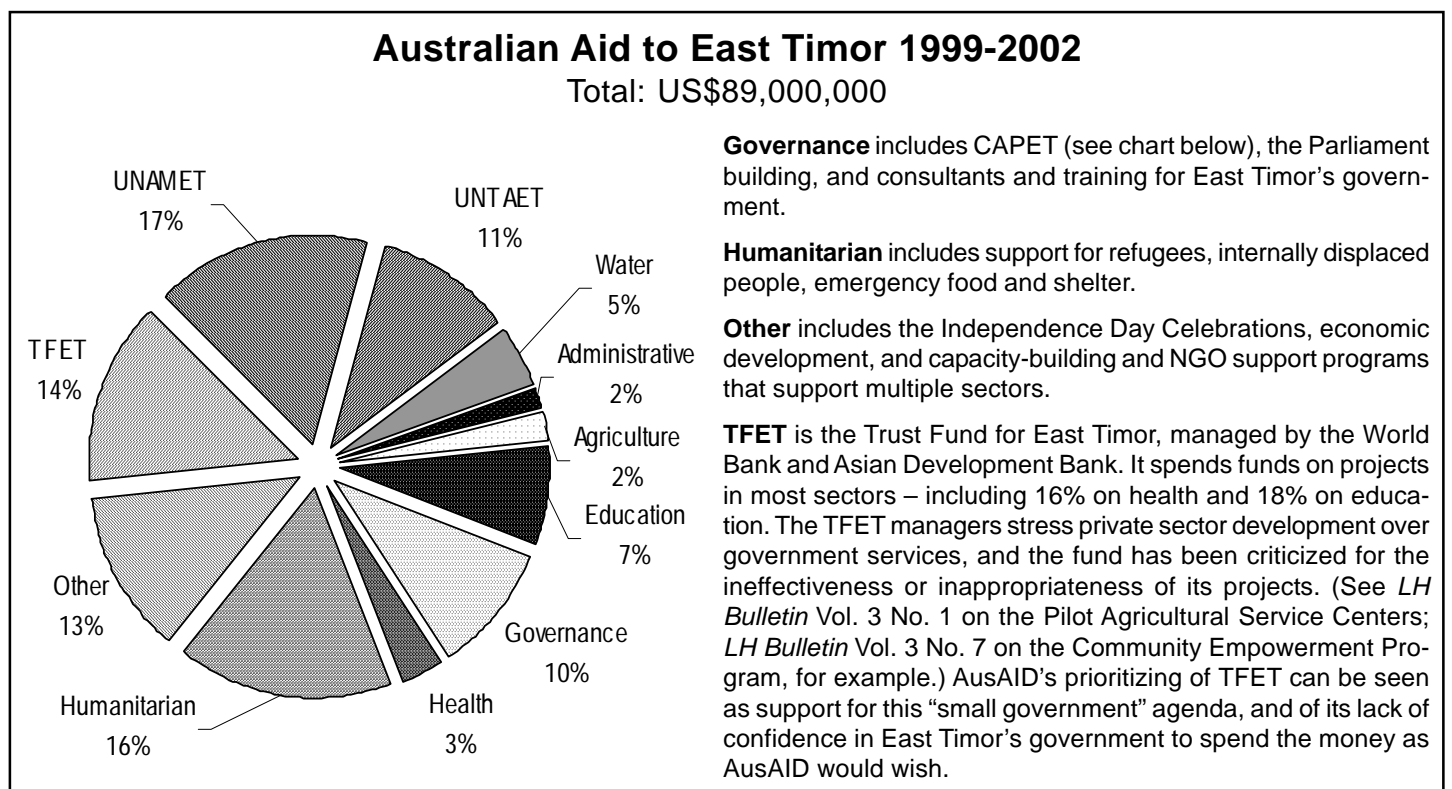
The Laminaria/Corallina oil field in the Timor Sea, in an area which belongs to East Timor under international legal principles, has been producing oil since 1999 for Woodside Australian Energy and its partners. Over the last three years, the Australian government received approximately US\$1 billion in revenues from this project, about ten times what Australia has given East Timor in non-military aid. East Timor has received nothing from Laminaria/Corallina.

### Priorities

During UNTAET times, AusAID's stated priorities were to increase East Timor's capacity in good governance, education, health, water supply, sanitation and rural development. AusAID projects between 1999 (including the UNAMET referendum period) and June 2002 supported the sectors shown in the graph below.

In May 2002 Australia committed US\$12.5 million more over the next three years to the Transitional Support Program, a new mechanism managed by the World Bank to help fund East Timor's government budget.

The majority of AusAID projects are tendered out, mostly to big companies, and AusAID itself is not involved in direct management of the programs. This has the effect of making it more difficult for AusAID to provide project de-



## Some of the Larger AusAID Projects after the Emergency Phase

Project name	Budget (millions of US\$)	Time frame	Description and Comments
<b>Capacity Building Project for East Timor (CAPET)</b>	\$9.0	May 2000 to Sep 2002	Managed by the Illawara Technology Corporation (ITC International, the corporate arm of the University of Wollongong, Australia). It provides foreign technical experts, short term training, equipment and other assistance to the East Timorese government and civil society. CAPET and some other programs listed below employ large numbers of Australian experts and trainers. As Australian salaries are significantly higher than East Timorese or other Southeast Asians, this is an inefficient way to increase East Timorese capacity, although it does provide well-paid employment for Australians.
<b>Capacity Building Facility (CBF)</b>	\$9.5	15 Sep 2002 to Sep 2005	Scheme partnering Australian NGOs with East Timorese NGOs and community based organizations working in the areas of peace and reconciliation, human rights, vulnerable groups, women's empowerment and micro-enterprise development. The CBF builds from experience of SAPET (see below) and includes a strong focus on partnership with the Government of Timor-Leste in strategic planning and prioritizing of technical assistance.
<b>Community Water Supply and Sanitation Program</b>	\$7.7	Dec 2001 to Dec 2004	Provides water supply experts, supplies, training and awareness raising to help communities and NGOs build water supplies and sanitation services in Covalima, Bobonaro and Viqueque. Although planning began a year ago, project execution only began in October 2002.
<b>National Oral Health Project</b>	\$2.6	2001- 2004	Assistance with dental health.
<b>National Mental Health Project</b>	\$1.7	2002- 2005	Training for 15 specialist mental health workers.
<b>Surgical and Anesthetic Support Program</b>	\$1.6	2002- 2005	Australian surgical and anesthetic experts perform operations and train staff in Dili Hospital. Under separate programs, Australia is providing East Timor's Ministry of Health with 10 ambulances and training for ambulance drivers, nurses and technical staff, and assistance with treating HIV/AIDS.
<b>Staffing Assistance Program for East Timor (SAPET)</b>	\$2.5	Mar 2000 to Jan 2002	Managed by Australian Volunteers International (AVI), provided staff to help government and key civil society organizations. Examples were teachers to provide English language training at the Civil Service Academy and in the Division of Health Services, and engineers and administrators for the Office of Water Supply and Sanitation.
<b>Australian Development Scholarships</b>	\$1.6 million per year	2000- ongoing	AusAID is providing 20 scholarships for East Timorese to begin study in Australia each year. They can be undergraduate or graduate students, learning about practical fields related to East Timor's development. There are currently 92 East Timorese scholarship students in Australia. This number is much lower than the 1,200 East Timorese studying in Indonesia (paid by several donors) and 314 studying in Portugal (See <i>La'o Hamutuk Bulletin</i> Vol. 3, No. 7). Australia provides little support for higher education for East Timorese refugees living in Australia. In past decades, Australia provided many more places for Southeast Asian students.
<b>East Timor Community Assistance Scheme (ETCAS)</b>	\$1.6 million to Nov. 2002	2000- ongoing	Managed and monitored directly by the AusAID office in Dili. East Timorese community groups and NGOs in all 13 districts submit proposals to run training, community strengthening and income generation activities. 276 activities so far.
<b>National Parliament Building</b>	\$1.8	2000- 2001	Construction of building for East Timor's National Parliament
<b>Independence Day Celebration</b>	\$1.8	May 2002	Consultants, preparations and equipment for Tacitolu Independence Day celebrations
<b>National Exhibition and Community Center</b>	\$1.3	Opened 19 May 2002	Built on old market site in Kaikoli, Dili. This center will be used for community meetings, special functions, tourism promotion, training and other activities. During the independence celebrations, this Center was opened by Australian Prime Minister John Howard, with an exhibition of East Timorese industries and culture. The center has not been used since.

tails to the public, and also puts decisions about sub-contracting in the hands of Australian (and some international) companies, rather than the Australian government.

Australia's support for high-visibility projects like the Parliament building, Exposition center, and Independence Day celebrations can be seen as a way to curry good will among East Timorese, making them less eager to confront Australia on Timor Sea and other issues. AusAID agrees that

it wants to build a positive relationship with East Timor, but denies ulterior motives behind its priorities. The agency says that its priority areas were developed in consultation with UNTAET, East Timorese leaders and other donors.

AusAID's priorities may soon change. A team from Canberra visited East Timor in October to review AusAID's program. A 'New Country Strategy' is being prepared to identify future funding priorities.

## Effectiveness of AusAID projects

Some implementers' comments (groups contracted by AusAID are unlikely to criticize AusAID publicly):

- √ Bia Hula's Aleixo Da Cruz felt AusAID showed more trust in local NGOs than did European donors, who favored international NGOs. Hadomi Timor Oan (HTO), beginning an AusAID water and sanitation project in Viqueque, received a check from AusAID for the full amount of the project up front rather than in stages. HTO's manager, Antonio Amaral, saw this as a sign of trust. He also praised AusAID's relative speed in processing projects, though his latest proposal to AusAID took 3 months to get a response. These local NGO managers and the Manager of AusAID's Community Water Supply and Sanitation Program, Alan Smith, praised AusAID's flexibility – its willingness to adjust programs to match changing or unforeseen conditions – and its level of consultation and monitoring.
- √ Catholic Relief Services (CRS), a US-based NGO working on AusAID's 2001 peace-building project, was also encouraged by AusAID's flexibility. For example, when CRS' peace-building team recommended to AusAID, after consultation at the community level, that conflict mediation guidebooks be developed with the input of local leaders instead of at the onset of the program as originally planned, AusAID agreed. AusAID also supported CRS' involvement of local NGOs in peace building.
- √ The Head of Water Supply and Sanitation (WSS) for East Timor's government, João Jeronimo, felt meetings to discuss an AusAID water supply project were sometimes repetitive, especially since the project physically had only just started, but he appreciated the level of consultation. He also noted that all AusAID-sponsored advisers with WSS spoke some Tetum or Indonesian.
- √ ODB orphanage opened in Bebonuk, West Dili, in December 1999. Its coordinator thought Australian PKF assistance was more helpful than AusAID. AusAID was sent an ETCAS proposal and checked the orphanage in June 2002, he explained, but had not replied and had been difficult to contact by hand phone. When he tried to visit the Australian Embassy, he was turned away by armed Australian soldiers.

After visiting a few AusAID projects in the field, *La'o Hamutuk* learned:

- √ An AusAID (ETCAS) sponsored computer training center in Mota Ulun near Bazartete still has all three computers operational after 6 months. AusAID inspected the site before giving the grant and returned to check how the money had been spent.
- √ The Chefe de Suco of Bazartete was unimpressed with CEP's water supply project in his area but was impressed with a separate water supply project run by AusAID.
- √ Ryder Cheshire Foundation in Tibar, an Australian run center for disabled and malnourished East Timorese, received a water pump system under AusAID's ETCAS scheme in December 2001. When it broke down recently, AusAID gave a verbal commitment within 24 hours to finance US\$1700 worth of repairs. It is now supplying patients' and staff houses and provides a water collecting point for neighbors.

- √ The Community Water Supply and Sanitation Program began in December 2001 but physical projects (with the exception of CARE-implemented projects in three aldeias) only began in Covalima and Viqueque districts in October 2002. The project has, however, produced voluminous amounts of data, reports and meetings. This includes a data base of village resources that will be valuable for future projects, not just for the AusAID one. This level of planning and coordination can be viewed by some as very thorough – by others as wasteful of resources, particularly given that the program has five full-time international advisers.
- √ AusAID sponsorship of AVI (Australian Volunteers International) and APHEDA assistance to the NGO forum had produced valuable training in languages, management, proposal writing, conflict resolution, district liaison officer and other subjects. NGO forum, according to one of its workers, could have also learned directly from AusAID feedback on its proposals but this feedback was often not provided.
- √ One worker in Dili Hospital said AusAID had provided valuable training in specialist areas like anesthetics though much more training was required before Timorese could carry out these activities themselves.
- √ One East Timorese customs official said AusAID assistance to the Border Service was "perfect," and that intensive two-week training sessions were very effective. However, he felt that the Border Service received guidance from too many different countries, each with their own customs procedures and structures.
- √ While AusAID has excellent lists of performance indicators for measuring the success of some programs (like its National Health Promotion assistance), some AusAID programs lack clear indicators for capacity building. An AusAID aide-memoire on 3 May 2002 sensibly noted a need 'to review the capacity development and assessment components ... of the Community Water Supply and Sanitation Project' (CWSSP), and similar comments were made in an AusAID review of the same program in July 2002. Interviewed by *La'o Hamutuk* in October 2002, CWSSP program leader Alan Smith noted that he still didn't have a formal way to measure whether the program was increasing East Timorese capacity to handle water and sanitation problems. This shortcoming in the original plan is fortunately now (in November, six months after AusAID identified the problem) being addressed with AusAID's provision of (yet another) adviser to help draft performance indicators and strategies for achieving them.

## Recommendations

Based on our investigation, *La'o Hamutuk* proposes the following changes in AusAID procedures. Many of our concerns about tied aid, measurement of capacity building, accessibility to public and budget transparency apply to most donor agencies, not only AusAID.

1. **Australia owes a tremendous historical debt to the people of East Timor**, due to its complicity in and profiteering from Indonesia's illegal invasion and occupation. Now that East Timor is independent, Australia continues to "occupy" oil and gas fields which should be helping East Timor develop its economy. Canberra needs to re-

think its relationship with its smaller neighbor to the north – to one of partnership rather than exploitation. Australia should significantly increase its aid to East Timor, ensure that the aid money benefits East Timorese people rather than Australian companies and aid workers, and respect international law to allow East Timor its rightful share of Timor Sea oil and gas.

**2. AusAID should allow non-Australian contractors to implement some of its programs.**

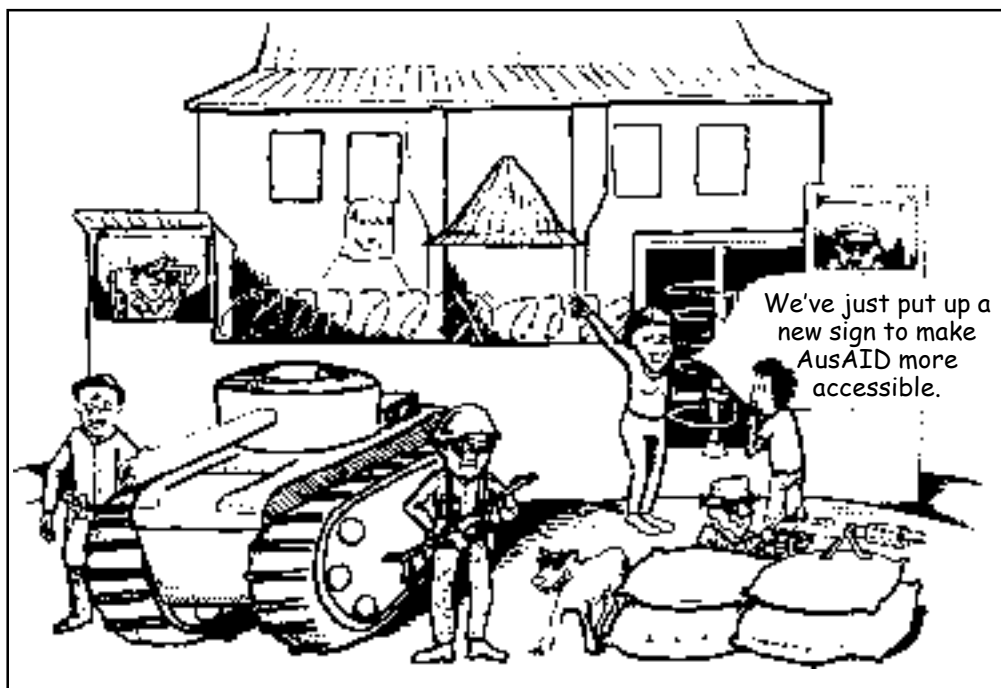
AusAID overseas service contracts require that the contractor “have headquarters and associated facilities in Australia or New Zealand” and that “the majority of the team proposed in the tender be Australian or New Zealand citizens or permanent residents who have qualifications recognized in Australia or New Zealand.” This policy is designed to give work opportunities to Australian businesses and NGOs as well as to ensure contractors have appropriate technical skills and are answerable to Australian law. It also ensures that a lot of AusAID money returns to Australia (since Australians will spend most of their wages there) and that Australian companies have opportunities to sell goods and services to the project. Many AusAID projects have been sub-contracted to non-Australian (including East Timorese) NGOs and businesses. Some projects like ETCAS are managed directly by AusAID and therefore require no contractor.

Unfortunately the above policy can lead to extra levels of administration. For example, AusAID wanted the U.S. NGO Catholic Relief Services (CRS) to implement its 2001 peace-building program. But since CRS is not Australian, AusAID contracted to Caritas Australia which sub-contracted to CRS to support programs run by village-based organizations (in the case of the Edmund Rice Foundation in Railako, Ermera, the local organization was actually an Australian NGO).

**3. AusAID needs to be more accessible and provide more information for East Timorese.**

AusAID reports regularly to the Australian Government and has an informative English language web site but could do more to inform East Timorese about what it is doing in their country. While AusAID’s level of consultation at village level before and during projects has generally been applauded, much information about AusAID projects is difficult for East Timorese to access. Information points like NGO Forum, Xanana Reading Room and local NGOs rarely receive AusAID pamphlets or booklets about East Timor in any language, especially local ones. To partly remedy this problem, AusAID says it has plans to set up a translation unit so more of its information is available in local languages.

Approaching AusAID directly is also difficult. Most East Timorese do not know where AusAID’s office is, and when they find it (on the second floor of the Australian



Embassy, with no AusAID sign out in front of the embassy) they have to endure a daunting security process which includes armed Australian PKF soldiers, a metal detector, an ID-check, a log book, a ‘visitor’ sticker and a revolving ‘bird cage’ gate. In the reception room, they may, as *La’o Hamutuk* experienced, be met by friendly East Timorese AusAID staff – whose knowledge and authority seems to be limited to AusAID’s ETCAS project. When we asked for written information about all AusAID’s main programs during our first meeting, neither of these staff could provide more than blank ETCAS proposal forms.

AusAID in East Timor has special reasons to be more accessible to the public. In Indonesia, AusAID’s office is also in the Australian embassy. However, unlike in Indonesia, AusAID projects in East Timor serve a significant proportion of the population through provision of employment, infrastructure development and individual and institutional capacity building. Also, AusAID projects like ETCAS are structured so that East Timorese can work directly with AusAID, with no intermediate contractor, so these will require more open access for East Timorese to AusAID personnel. Finally, East Timor is a new country and the limited government resources and policies are seen by the international community as an opportunity to increase community input into community development. For these reasons, AusAID in East Timor should move its office from the Australian embassy (just as it was separated from the Australian Mission in 2001), or at least provide more signposting and a simpler entry process. It also needs to provide program updates in Tetum.

**4. AusAID needs to be more transparent on budget details.**

AusAID refuses to release details of project contracts, including price information, seeing them as “commercial in confidence” for AusAID and the contractor. *La’o Hamutuk* approached three groups contracted by AusAID, and they would only tell us the overall cost of activities. If international organizations demand that East Timorese be open to community input about project details and transparent about spending, donors like AusAID need to set a good example. ❖

# Australian Military Assistance to East Timor

Australian-led InterFET troops made a significant contribution towards restoring peace and security in East Timor after Indonesian security forces and their militias ravaged the territory in September 1999, although much of the destruction could have been averted if Australia and other countries acted more quickly.

Australian military personnel are currently working in UN missions in the Middle East (Israel, Palestine and Egypt), Mozambique, Ethiopia, Eritrea and East Timor and in other multinational missions in the former Yugoslavia, Bougainville (Papua New Guinea), Solomon Islands and Sierra Leone. Australia also provides military assistance to Papua New Guinea, Malaysia, the Philippines, East Timor and other countries.

During Indonesia's illegal occupation of East Timor, Australia provided military aid to the Indonesian military (TNI); up to 1999 the public amount was US\$40 million/year, in addition to cooperation included in other budgets. After the 1999 East Timor crisis, Australia stopped military aid, although several TNI officers are now studying at the Australian Defense College in Canberra, and there are Australian officers at TNI's military training center in Bandung. Since the 12 October 2002 bombing in Bali, Australian and Indonesian police have cooperated closely.

During the military/militia violence before the 1999 referendum, Australian intelligence learned a great deal about Indonesian military and militia plans and operations. They refused to share much of their information with United Nations or East Timorese officials, who could have used it to better prepare and perhaps to prevent some of the devastation. Even today, Australia still keeps the information from investigators and prosecutors who are seeking to hold the perpetrators of serious crimes in 1999 accountable.

## Australian contingent of UNTAET / UNMISET

As of December 2002, 1030 Australian UN PKF personnel are serving in East Timor. They are part of UNMISET and under the UNMISET PKF commander Major General Tan Huck Gim from Singapore. Most Australian UN PKF serve as part of AUSBATT in Bobonaro District, on the Indonesian border.

The Australian UN PKF contingent is generally well-regarded by the East Timorese community for its friendliness, particularly with children, and its professionalism. But some people ask why Australians carry weapons even when far from their assigned duties. Australian PKF officers explain that UNMISET is a Chapter 7 (i.e. high alert) Peace Enforcement Mission, so all PKF have a right to bear arms. Most national contingents choose not to exercise this right while off duty, but the Australian Government has ordered its soldiers to carry weapons even when not on duty. However, according to the PKF Deputy Force Commander, the UNMISET Status of Mission Agreement signed on 20 May 2002 requires that all soldiers bearing arms be in uniform, with only a few narrow exceptions.

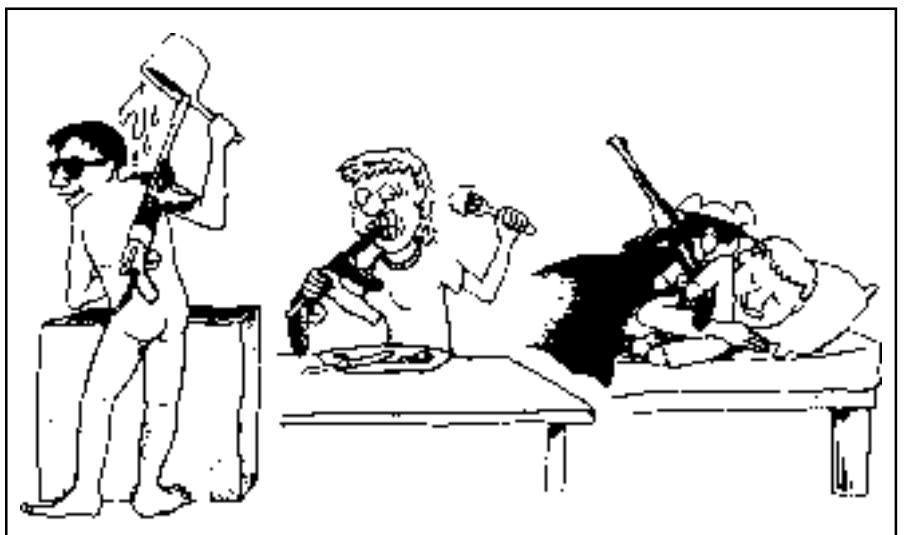
At least one senior UN PKF officer feels that the Australians were arrogant; they led the 1999 military intervention in East Timor under InterFET and "they've never really moved away from that attitude." In September 2002, Australia deployed containers, sandbags, armored personnel carriers, and armed PKF soldiers in front of their embassy in Dili; they also closed the embassy on 16 September and evacuated their personnel. President Xanana Gusmão said he was "very ashamed with the attitude of the Australian embassy over their concern of the terrorist threat, even though East Timor's security has been under UN PKF. And I am also upset over the action taken by the Australian Government." However, the Australian government assured *La'o Hamutuk* that proper consultation was made.

In addition to their security role, some Australian PKF soldiers in East Timor have rebuilt buildings and done other humanitarian work. This work helps the UN Mission and the East Timorese people, although the use of soldiers for non-military activities creates confusion about the role of the military in a democratic society. In Australia, this work is used to build public support for the military, and to encourage young people with humanitarian ideals to sign up for the Australian Defense Forces.

## Australian Defense Force Cooperation Program

The UNMISET mission, including Australian PKF and civilian personnel, is scheduled to leave East Timor in June 2004. At that point Falintil-FDTL, the Defense Force of Timor Leste, will assume responsibility for national defense. However Australia will continue to work together with the FDTL in strengthening defense of East Timor.

One program which will continue after June 2004 is the Defense Force Cooperation Program. This is run by the Australian Defense Forces, independent of the UN. The program consists of the Australian Training Support Team, Australian advisers in East Timor's Office of Defense Force Development (ODFD), Junior Leadership Training for FDTL officers, and other assistance. According to the Program's Australian coordinator, Lieutenant Colonel Marcus Rodda, the Australian military aims to form a strong relationship with the East Timorese military and to assist them in developing an armed forces institution.





The program was first discussed at a Defense Donors' Conference for Falintil – FDTL in mid-2000. Two Australian advisers began working with the ODFD in November 2000, and in February 2001, 21 Australian trainers formed the Training Support Team at FDTL's training facility in Metinaro. An Australian army magazine quotes one Australian trainer as saying language was a problem. Nevertheless, Australian trainers are giving courses in tactics and techniques for modern warfare, medicine, and communications for FDTL's battalions in both Metinaro and Lospalos.

<b>Australian Personnel in Defense Force Cooperation Program (as of November 2002)</b>	
<b>Area of work</b>	<b>Number of Personnel</b>
Office of Defense Force Development (ODFD)	4
Australian Training Support Team:	
Battalion Advisers	8
English Language Project	4
Communications Project	4
General (Logistics, Medical and Weapons)	3
Junior Leadership Training	4
<b>TOTAL</b>	<b>27</b>

Australian advisers in the ODFD perform financial management, needs assessment, strategic planning and communications. They do not collect intelligence. In addition to the Australians, there are also advisers from the US, England, New Zealand, Malaysia, Portugal and Thailand working in the ODFD under East Timorese Secretary of State for Defense Roque Rodrigues. *La'o Hamutuk* will explore this office more fully in an upcoming *Bulletin*.

Australian funding for the Defense Force Cooperation Program is around US\$4.9 million per year. Less than half of this goes to personnel costs, with the rest for equipment like infantry webbing, water bottles, sleeping bags, computers and radio equipment. In addition, Australia provided

US\$3.6 million in 2001 to build the FDTL Training Center in Metinaro. During the UNTAET period, Australian lent automatic weapons and ammunition to FDTL for use during trainings. After independence, Australia helped FDTL purchase about 1,000 small arms.

The Australian Training Support Team includes Battalion advisers who provide training in command, planning, discipline, military procedure and other areas as requested. The Team has specialists to attend to Australian logistics and medical needs, but who also provide training for East Timorese soldiers in these areas. Communications experts will help establish a high-frequency communications system and set up a local area computer network to help FDTL headquarters staff exchange information among their computers.

Other assistance includes English language training for FDTL personnel, including preparing three to go to Canberra in 2003 for military training. The English program has been run by Australians since it began in 2000, but the U.S. plans to provide English language lab equipment in February 2003.

The Junior Leadership Program will involve leadership training for 30 FDTL members in Queensland, Australia. FDTL will then conduct, together with six Australian officers, a similar course in East Timor. It is planned that future leadership courses will be run without Australian involvement.

During the FDTL Donors' Conference in August 2002, participants discussed the possibility of FDTL using the Australian PKF barracks in Maliana after PKF withdraws. However, an Australian military officer said that neither the FDTL nor the East Timor government has asked Australia about the future of this base. The conference also discussed building new FDTL barracks in Baucau because the barracks currently used in Los Palos is considered sub-standard and not centrally located. However neither Australia nor other donors offered money for the Baucau barracks, and it is not yet decided if either project will go ahead. ❖

## **Disorder in East Timor: The International Community Must Accept Responsibility**

On 6 December, two days after the "Dili riots," *La'o Hamutuk* issued a press release, stating that the killings and target property destruction are serious events which shed light on important issues. We described what happened during the disorder, debunking international media reports of widespread random rioting and anarchy. We pointed out that a few hundred people were manipulated to destroy selected property for political reasons, and that the public authorities first escalated the tension, and then failed to act effectively to prevent the mob from destroying its targets, most of which were symbolic of the Prime Minister. We observed that the only people who suffered serious injuries were demonstrators who were shot, reportedly by police.

Legally, the United Nations has the mandate for safety and security for the entire country, not just its own facilities, and it failed, along with East Timor's police and fire services, to do its job. In addition, the easy incitement of the crowd into violence stems not only from police overreaction, but also from underlying conditions: massive unemployment, poor education and other public services; limited mutual respect between government and civil society; frustration with the pace of democratic and economic development; widespread post-conflict and post-traumatic stress; lack of confidence in peaceful processes for change. Although UNTAET made some progress in addressing these problems, much remains to be done and international responsibility continues.

*La'o Hamutuk's* complete statement is available from our office or at [www.etan.org/lh/reports#disorder](http://www.etan.org/lh/reports#disorder). We make seven recommendations, including that UNMISSET effectively support East Timor's police (including procedures to handle unruly crowds without escalating tension or violence), and evaluate its own performance and withdrawal timetable. We also urge the international community to increase its commitment to help East Timor address the economic, political and social causes of disaffection that was manipulated into violence. ❖

# Chronology of Oil and Gas Developments in the Timor Sea

## Portuguese period 1500s-1975

- 1893: First non-Timorese explorations of on-shore oil resources in Portuguese Timor, in Laclubar, Manatuto, with small-scale exports.
- 1956: Australian-based Timor Oil Ltd. begins off-shore explorations, to be joined by other companies over the next twelve years.
- 1956: Portugal claims sovereignty over the seabed in accordance with median line principles which were later ratified in the 1958 Geneva Convention. Australia rejects the claim, with competing assertions of its territory.
- 1970-1972: Several Australian oil companies conduct explorations near and off the south coast of Portuguese Timor
- 1970: Australia and Indonesia begin negotiations on seabed boundaries, ignoring Portuguese objections that the seabed should split midway between Timor and Australia. Australia and Indonesia signed treaties "Establishing Certain Seabed Boundaries" on 18 May 1971 and 9 October 1972, which came into effect in November 1973. These treaties were based on the continental shelf principle, which was biased in favor of Australia. Because Portugal did not participate, the other two countries could not complete the line between Portuguese Timor and Australia, creating the "Timor Gap."
- 1974: Portugal grants exclusive exploration permits in the Timor Sea to Oceanic Exploration/PetroTimor, a U.S. company. The permit area covered 60,700 square kilometers extending from a point near the south coast of Portuguese Timor to the median line with Australia. Australia objects.
- 1974: Sunrise Gas field is discovered, although political and other issues delay its development until recent years.
- 17 Aug 1975: Australian ambassador to Indonesia Richard Woolcott cables his government: "...closing the present gap in the agreed sea border ... could be much more readily negotiated with Indonesia... than with Portugal or independent Portuguese Timor."

## Indonesian Occupation 1975-1999

- 7 Dec 1975: Indonesia invades East Timor. PetroTimor and all Portuguese institutions flee.
- 17 July 1976: Indonesia claims to annex East Timor as its 27<sup>th</sup> province, but the United Nations continues to regard the territory as a colony of Portugal until 1999.
- Oct 1976: Indonesia's Justice Minister, Prof. Mochtar Kosumaatmadja confirms that Indonesia is prepared to negotiate a seabed boundary to close the Timor Gap on the same terms as the 1971-2 Indonesia-Australia treaties (continental shelf boundaries favorable to Australia).
- 20 Jan 1978: Australia "recognises *de facto*" that East Timor is part of Indonesia.
- Feb 1979: Australia and Indonesia begin to negotiate a seabed boundary south of East Timor, signifying Australia's *de jure* recognition of Indonesia's annexation of East Timor. More than a dozen negotiating rounds are conducted over the next decade.

- Oct 1983: The *Jabiru 1a* well in the Timor Sea (between West Timor and Australia), drilled by the Australian company BHP, finds significant oil deposits. Exploration and test wells continue, with extraction beginning in 1986. By 1989 confirmed oil reserves in the Timor Sea are 214 million barrels, with *Jabiru* producing 42,000 barrels every day.
- 11 Dec 1989: Australia and Indonesian Foreign Ministers Gareth Evans and Ali Alatas sign the Timor Gap Treaty in a ceremony in an airplane flying over the Timor Sea. The treaty establishes a Zone of Cooperation (ZOC) between East Timor and Australia, north of the median line. It provides for Indonesia-Australia joint exploration of the illegally occupied territory, with revenues shared 50-50. Portugal protests immediately.
- Oct 1990: East Timor resistance spokesman José Ramos Horta writes: "*Australian oil companies would be well advised not to jump into the Timor Gap area. ...A good advice to Australian business: wait and see how things develop in next 5 to 10 years.*"
- Feb 1991: East Timorese resistance leader Xanana Gusmão writes the Australian parliament: "*Australia has been an accomplice in the genocide perpetrated by the occupation forces, because the interests which Australia wanted to secure with the annexation of East Timor to Indonesia are so evident. The best proof is the Timor Gap Agreement.*"
- 9 Feb 1991: Timor Gap Treaty enters into force following ratification.
- Feb 1991: Portuguese government initiates lawsuit against Australia in the International Court of Justice (ICJ) in the Netherlands. Portugal contends that the Timor Gap Treaty violates East Timor's right to self-determination and Portugal's rights as the administrative power. Since Indonesia does not accept the jurisdiction of the court, Australia is the only defendant.
- 12 Nov 1991: Indonesian troops massacre more than 250 peaceful East Timorese demonstrators at the Santa Cruz cemetery in Dili.
- 11 Dec 1991: Australia and Indonesia award production sharing contracts to Phillips Petroleum, Royal Dutch Shell, Woodside Australian Energy and other petroleum companies to explore and exploit resources in the Timor Gap Zone of Cooperation. PetroTimor declines to bid, stating the treaty violates its valid claim. Contracts continue to be awarded, and explorations continue, throughout the 1990s.
- 1994: First exploitable oil in the ZOC discovered at Elang-Kakatua.
- June 1994: The International Court of Justice rules on *Portugal v. Australia*. By a 14-2 vote, the court upholds East Timor's right to self-determination, but cannot invalidate the Timor Gap Treaty because Indonesia, whose claim to East Timor is being challenged, does not accept the court's jurisdiction. Two judges dissented, one writing that "Australia's action in entering into the Timor Gap Treaty may well be incompatible with the rights of the people of East Timor."



- Oct 1994: Woodside strikes oil in Laminaria, alongside the ZOC in an area which would be East Timor's if the 1971-2 boundaries between Indonesia and Australia had been drawn fairly with Portuguese/East Timorese participation.
- 1995: Phillips Petroleum and other companies discover the Bayu-Undan oil and gas field, within the ZOC.
- 14 Mar 1997: Australia and Indonesia sign a treaty covering the water column boundary, but not the seabed resources, under the principles established by the United Nations Convention on the Law of the Sea in 1982.
- 22 July 1998: CNRT leaders Mari Alkatiri, José Ramos Horta and João Carrascalão issue a statement: "The CNRT supports the rights of the existing Timor Gap contractors and those of the Australian government to jointly develop East Timorese offshore oil reserves in cooperation with the people of East Timor."
- July 1998: Production starts in the small Elang-Kakatua oil field, within the ZOC. By 2002, the field is mostly exhausted, having produced approximately 31 million barrels of oil for Phillips Petroleum and its partners. Although Indonesia and Australia have received revenues from this field, East Timor's share, about \$2 million/year since 2000, has been placed in escrow, pending ratification of the May 2002 Timor Sea Treaty.

## 1999

- 27 Jan: Indonesian president BJ Habibie accepts East Timorese demands for an internationally-supervised referendum on independence. Eight months of TNI/militia terror and devastation ensue.
- 30 Aug: East Timor's people vote overwhelmingly to reject integration with Indonesia. Following massive destruction by departing Indonesian troops, the territory comes under a United Nations transitional administration leading to independence in May 2002.
- Oct: Seven oil companies led by Phillips Petroleum approve development of the Bayu-Undan gas and oil field, in the ZOC. Since then, the companies have invested more than US\$1.5 billion in the project. The first phase, liquid production, will start in 2004, with a second phase of gas production starting in 2006. Total East Timor government revenues from Bayu-Undan could be more than US\$3 billion, 20 times as much as Elang-Kakatua.
- Nov: Woodside's Laminaria-Corallina project (which includes BHP and Shell) begins producing oil. The companies extract more than 100 million barrels, about half the total reserve, during the next two years, generating more than US\$900 million for the Australian government. Some or all this revenue should be East Timor's if its Exclusive Economic Zone (EEZ) were drawn under UN Law of the Sea (UNCLOS) principles.
- 29 Nov: Mari Alkatiri, East Timorese spokesman on the Timor Gap, says "we still consider the Timor Gap Treaty an illegal treaty. This is a point of principle. We are not going to be successor to an illegal treaty."

## 2000

- 10 Feb: Australia and UNTAET sign an interim Exchange of Notes and Memorandum of Understanding, which continue the 1989 Australia-Indonesia Timor Gap Treaty terms but replace Indonesia with East Timor. These agreements specify a 50-50 division between Australia and East Timor of oil and gas production from the Zone of Cooperation defined in the Timor Gap Treaty, now called the Joint Petroleum Development Area (JPDA). Nothing is said about areas outside of the JPDA, which should be within East Timor's EEZ.
- Oct: UNTAET begins negotiations with Australia for longer-duration agreement over division of Timor Sea resources, but not about maritime boundaries or the EEZ.

## 2001

- Feb: Ramiro Paz, UNTAET senior economics advisor in the East Timor Transitional Administration (ETTA), writes a six-page paper "The Timor Gap Treaty vs. an Exclusive Economic Zone: Economic Independence for East Timor" for ETTA Economics Minister Mari Alkatiri. Paz strongly recommends that East Timor pursue its full EEZ entitlements under international law, rather than accept or revise the terms of the now-defunct Timor Gap Treaty.
- 9 April: UNTAET Minister for Political Affairs Peter Galbraith speaks to the Australian Petroleum Production and Exploration Association. Fresh from the second round of negotiations with Australia, Galbraith calls for scrapping the Timor Gap Treaty and negotiating boundaries with Australia based on international law. He urges that an agreement be reached before 15 July to avoid possible complications from East Timor's soon-to-be-elected government.
- 5 July: Galbraith, Alkatiri, and two Australian Ministers sign a Memorandum of Understanding (MOU) called the Timor Sea Arrangement. Under this Arrangement, which replaces the February 2000 MOU, East Timor will receive 90% and Australia 10% of oil and gas revenues from the JPDA. The JPDA inherits the ZOC from the 1989 Timor Gap Treaty, altering only the division of revenues. The largest gas field, Greater Sunrise, is deemed to lie 20% in the JPDA and 80% in Australian territory. Although the Arrangement is "without prejudice" to a future seabed boundary delimitation, it does not question Australia's claim to fields outside the JPDA.
- Aug: PetroTimor files suit in Australian Federal Court based on its 1974 agreement with Portugal. The company wants billions of dollars in compensation for lost revenues from Timor Sea oil and gas.
- 30 Aug: East Timor elects a Constituent Assembly to write its constitution, which later becomes the first Parliament. Fretilin wins 57% of the vote.
- 21 Dec: Phillips Petroleum and UNTAET agree on a tax and fiscal package to define how East Timor's new government will benefit from the revenues and investment in the Bayu-Undan oil and gas field in the JPDA. The "Bayu-Undan Understandings" follow many months of negotiation, in which Phillips attempted to use the U.S. and Australian governments to pressure East Timor's leaders. Discussions of these issues continued in August and October 2002.

- 15 Mar: Phillips announces that two Tokyo companies will purchase the bulk of Bayu-Undan gas for 17 years, starting in 2005.
- 21 Mar: Australia formally withdraws from international processes for resolving maritime boundary disputes under the Law of the Sea and the International Court of Justice.
- 23 Mar: PetroTimor conducts seminars on Timor Gap in Dili. Their experts argue that East Timor should rightfully own 100% of Sunrise and Bayu-Undan, as well as all of Laminaria/Corallina (which lies completely outside of the JPDA). Australian barrister Christopher Ward says "The 5 July 2001 Agreement between Australia and UNTAET represents a political strategy so that East Timor will not raise questions again about the past agreements."
- April: Peter Galbraith explains UNTAET's process of negotiation on Timor Sea to the East Timor's Constituent Assembly. He emphasized that East Timor has a "very good legal claim" to more than is agreed to in July 2001 Arrangement, and that the Timor Sea Treaty ends when the maritime boundary is settled, after which East Timor would get 100% in their agreed seabed. Galbraith claims that the agreement laid out in the July 2000 MOU is "the best deal for East Timor that could be negotiated with Australia."
- 17 May: Development drilling of 16 wells begins at Bayu-Undan.
- 19 May: East Timorese civil society groups and opposition political parties protest the imminent signing of the Timor Sea Treaty between East Timor Prime Minister Mari Alkatiri and Australian Prime Minister John Howard.
- 19-20 May (midnight): The Democratic Republic of East Timor becomes an independent nation.
- 20 May: East Timorese and Australia Prime Ministers sign the Timor Sea Treaty and an Exchange of Notes to replace the 5 July 2001 Arrangement between UNTAET and Australia. The substance of that Arrangement is continued. Both Prime Ministers commit to work for expeditious ratification of the treaty.
- 12 June: East Timorese civil society groups form the Timor Gap Working Group, a coalition to monitor the legal process of Timor Sea developments. They urge the East Timor Parliament not to ratify the Timor Sea Treaty.
- 17 June: At the South East Asia Australia Offshore Oil Conference in Darwin, East Timor Prime Minister Mari Alkatiri pledges that the Timor Sea Treaty "will be ratified soon" because it is about "commitment and understanding" between two countries.
- 19 July: The first round of negotiations between East Timor and Australia on a Sunrise international unitization agreement (IUA) concludes with both parties pledging to reach agreement by the end of 2002. The IUA will define how the Greater Sunrise field, with about 9 trillion cubic feet of natural gas (worth about US\$16 billion), will be divided. Australia (currently expected to receive 82% of Sunrise revenues) has placed a high priority on reaching this agreement so that the Sunrise project can proceed.
- 17 Aug: The Northern Territory Trades and Labour Council holds a seminar on Timor Sea development in Darwin. Three East Timorese non government organizations attend: the East Timor Union Confederation (KSTL), Labor Advocacy Institute for East Timor (LAIFET), and Independent Center for Timor Sea Information (CIITT).
- 24 Aug: East Timor's National Parliament enacts a maritime boundary law based on UNCLOS principles, claiming an Exclusive Economic Zone for 200 miles off East Timor's coasts. The law sets the basis for maritime boundary negotiations with both Indonesia and Australia, which have not yet been scheduled.
- 9 Sep: East Timor Prime Minister Mari Alkatiri and other ministers visit the Bayu-Undan project, hosted by Phillips Petroleum.
- 17 Sep: East Timor's Council of Ministers approves the 20 May Timor Sea Treaty, sending it to East Timor's parliament to be ratified.
- 3 Oct: Three representatives from East Timorese civil society (NGO Forum, CIITT and *La'õ Hamutuk*) testify at the Australian Parliamentary Joint Standing Committee on Treaties on the Timor Sea Treaty in Darwin. These three organizations appealed to parliament not to ratify the Timor Sea Treaty signed on 20 May 2002, as did many of the more than 80 submissions received by the Committee.
- Oct: Sunrise unitization agreement talks continue. Australia and Woodside want to link this agreement to the ratification of the Timor Sea Treaty, thereby holding the Bayu-Undan project (which primarily benefits East Timor) hostage to East Timor's concession of the bulk of revenues from the larger Sunrise project to Australia. The East Timorese government and Phillips urge that the two agreements be treated separately.
- 11 Nov: The Australian Parliament Joint Standing Committee on Treaties recommends prompt ratification of the Timor Sea Treaty and prompt agreement on Sunrise unitization.
- 25 Nov: East Timor's Parliament begins debate on the Timor Sea Treaty.
- 27 Nov: Australian Foreign Minister Alexander Downer, after meeting with Mari Alkatiri in Dili, says that Australia may not ratify the Timor Sea Treaty until February 2003 or later. The oil companies say that the delay could endanger arrangements to sell gas from Bayu-Undan and Sunrise, adding to pressure on East Timor's government to promptly accept Sunrise unitization terms which unfairly benefit Australia, rather than insisting that the maritime boundaries be negotiated.
- 6 Dec: Sunrise partners Woodside, ConocoPhillips, Shell and Osaka Gas announce the indefinite delay of the Sunrise project, claiming that neither the floating LNG processing plant nor the pipeline to Darwin is economically viable. ❖

# East Timor Puts U.S. Soldiers Above the Law

On 1 October, East Timor and the United States signed a Status of Forces Agreement (SOFA). SOFA agreements, which exist between hundreds of countries, specify the criminal laws, tax responsibilities, immigration rights, use of public services and other rights and responsibilities of soldiers from one country who are in another – in this case, U.S. military based in East Timor.

Criminal responsibility is most important — for ordinary crimes, such as robbery, rape, assault and murder. (This is different from the “impunity agreement” signed in August, which only applies to war crimes and crimes against humanity under the jurisdiction of the new International Criminal Court. See *LH Bulletin* Vol. No. 7, back page.)

In most SOFAs, the soldiers are committed to obey the laws of the country they are visiting (see box at right). If they violate the law, they could be prosecuted either by their own country or the one they are in; the SOFA defines which country has the principal jurisdiction. In a typical SOFA, the host country has jurisdiction for most violations, except if the victim is from the soldier’s country. In some SOFAs, such as the one between the U.S. and the Philippines, the Philippines gives up primary jurisdiction except in cases of particular importance to them.

In any event, both countries have concurrent jurisdiction, and either may prosecute cases where the country with primary jurisdiction fails to do so. In East Timor, East Timor has no jurisdiction over U.S. soldiers – only the U.S. can decide to prosecute.

The SOFA between the U.S. and East Timor treats United States military personnel as if they worked in the U.S. embassy. It invokes the 1961 Vienna Convention on Diplomatic Relations to give them “diplomatic immunity” from prosecution and other responsibilities. They are not subject to East Timorese taxes, contract regulations or criminal laws. East Timorese authorities can never arrest or detain them, charge them with crimes, extradite them to other countries, search their homes or personal property, compel them to testify in court, or hold them responsible for any half-East Timorese children they might father. They cannot be sued for actions related to their official duties.

The SOFA applies to U.S. military personnel in East Timor — soldiers and foreign civilian employees of the U.S. Support Group East Timor (USGET) and its DynCorp contractor (See *LH Bulletin* Vol. 3, No. 2-3), crews of visiting warships, UN military observers from the U.S., U.S. military trainers and advisors to East Timor’s government, any other Pentagon personnel in East Timor for activities agreed by the two governments, and their families. East Timorese military personnel in the United States (if any), do not get the same privileges.

The Preamble of the Status of Forces Agreement “recognizes the independence and sovereignty of the Democratic Republic of Timor-Leste as matters of the highest importance.” Both countries “reaffirm that the principles of mutual respect, friendship, good faith, partnership, and cooperation will guide the implementation of this agreement.” But the agreement’s nine articles do not embody partnership; they show no mutual respect. What they rec-

ognize is the power of a large country over a small one; they affirm that East Timor’s hard-won sovereignty cannot stand up to the might of the United States.

The agreement went into effect immediately upon signing, and does not require approval by East Timor’s Cabinet, Parliament or President. It cannot be changed until April 2004, and even then only with six months advance notice.

## Most SOFAs Respect the Laws of the Host Country

### SOFA between the United States and the Republic of (South) Korea, 1966

“It is the duty of members of the United States armed forces, the civilian component, the persons who are present in the Republic of Korea pursuant to Article XV, and their dependents, to respect the law of the Republic of Korea and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in the Republic of Korea.”

### SOFA between the United States and the Philippines, 1998 (similar to many others)

“It is the duty of the United States personnel to respect the laws of the Republic of the Philippines and to abstain from any activity inconsistent with the spirit of this agreement, and, in particular, from any political activity in the Philippines.”

### Status of Mission Agreement between UN and East Timor (for UNMISSET), 20 May 2002 (similar to UNTAET agreement)

“UNMISSET and its members shall respect all local laws and regulations. The Special Representative shall take all appropriate measures to ensure the observance of those obligations.”

### SOFA between the United States and East Timor, 1 October 2002 does not contain a single word acknowledging that East Timor has local laws and regulations, or committing U.S. personnel to respect the spirit of the agreement or to abstain from political activity.

*La’o Hamutuk comment: Applying diplomatic immunity to U.S. military personnel in East Timor is a distortion of the Vienna convention, which is based on equal rights for both countries and is intended for diplomats, not soldiers. The Vienna Convention states, “the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States.”*

*If East Timor is truly independent, its leaders need to stand up for the rights its people gave their lives for. Criminals who violate the rights of East Timorese people, whatever their nationality or uniform, must be held accountable. ❖*



*In August, La'o Hamutuk published two articles about Japanese aid and electric power. UNDP wrote us a letter, which is printed here in full. Our response is on the following page. La'o Hamutuk is committed to provide the most complete and accurate information available to us.*

The Editor  
La'o Hamutuk Bulletin  
East Timor Institute for Reconstruction Monitoring & Analysis  
Dili

12 September 2002

To the Editor:

Your August 2002 bulletin contains articles concerning Japan's aid to East Timor and the power sector in East Timor. UNDP is one of the primary conduits for Japan's assistance to East Timor, including in the power sector, and I would like to take this opportunity to rectify a number of errors and misperceptions in your articles.

### Japanese Aid to East Timor

1. Your list of Japan-funded infrastructure rehabilitation projects is incomplete and many of the project values which you attribute are incorrect. The following is an accurate list of Japan's infrastructure projects managed by UNDP and UNOPS on behalf of, and in close collaboration with, relevant counterparts in the Government of East Timor.

First tranche (signed July 2000)

- Dili water project, phase 1 (ongoing): \$11,280,000
- Dili-Ainaro-Cassa road project (completed): \$4,700,000
- Lacló irrigation project, phase 1 (completed): \$2,737,415
- Rural power project (completed): \$1,912,000
- Comoro power station project (completed): \$4,200,585
- Dili port project, phase 1 (completed): \$2,650,000

Second tranche (signed May 2002)

- Dili port project, phase 2 (commenced July 2002): \$2,999,000
- Dili water project, phase 2 (commenced July 2002): \$2,361,000
- District water project (commenced July 2002): \$2,405,000
- Lacló irrigation project, phase 2 (commenced July 2002): \$6,129,000
- Hera polytechnic project (commenced July 2002): \$4,670,000

The total value of these infrastructure projects is \$46,044,000

This and other detailed project information is readily available from UNDP and UNOPS at any time.

2. Officials from the Government of East Timor are very much involved in the management of the projects. Cabinet level officials or their directors-general chair the Project Coordination Committee (PCC), while departmental directors chair the bi-weekly meeting of the Project Working Committee (PWC). Decisions by both committees are taken by consensus. The Embassy of Japan and JICA (and UNDP and UNOPS) do **not** make any unilateral decisions regarding these projects; all decisions are made as a committee with the Government of East Timor leading all debates. In addition, there are frequent ad hoc meetings between UNDP's and UNOPS's local project staff and relevant governmental, district-level and community counterparts.

Per the terms of the Memoranda of Agreement (the signatories of which included a leader of the CNRT in July 2000 and ETPA ministers in May 2002), UNOPS acts as the executing agency for each project, while UNDP fills a monitoring function. UNDP and UNOPS **collectively** receive a 6% management fee to cover the administrative costs associated with managing the projects on behalf of the Government of East Timor. This figure is lower than the typical administrative charges charged by implementing agencies around the world. Please note that the donor's provision of funds to cover this management fee is **in addition to** the funds donated for the project activities in question, i.e. the management fee does **not** come out of the funds designated for the actual project activities.

3. You mention the inadequate electricity distribution network in the village of Iliomar in Lautem district. During the design stage of the power station rehabilitation project, there was in fact an adequate network in place. Unfortunately, vandalism and

theft in subsequent months altered the situation to the detriment of the community. Furthermore, in 2001, ETPA announced that it would assume responsibility for this and other sub-district villages' distribution networks.

4. Your reluctance to mention the considerable good that comes out of these and other Japan-funded projects is a shame, to say the least. I would urge you to interview community members and local workers who benefit from these projects, as well as relevant ministers and other officials in the Government of East Timor.

### **The Power Sector in East Timor**

1. Your "Special Report on Electricity" contains a number of errors, omissions, misperceptions and consequently flawed analysis (see below). You allege that "it is difficult to obtain information about EDTL" and you only quote two officials from EDTL in the course of your investigation. In fact, there is a multitude of information available on the power sector from a wide variety of sources, particularly from a number of ministries and other Government departments, donor countries, implementing agencies, development agencies, local businessmen and various advisors in the government, all of whom are extremely concerned about the power sector. Indeed, a power sector steering committee has been convening bi-weekly in recent months, comprising officials from the Ministry of Transport, Communications & Public Works, the Ministry of Finance & Planning, the Ministry of Justice, the Government's Project Management Unit (PMU), representatives of the private sector, the ABD, the World Bank, UNDP, UNOPS, UNMISSET and JICA advisors and other consultants and experts. Unfortunately, your report does not quote representatives of any of these groups.

2. Given the multitude of problems facing the power sector at this time, your report is timely. However, your investigation deplorably overlooked many of the short- and long-term crises and challenges afflicting the sector. This omission was compounded by the numerous factual errors in your report.

High fuel costs are just one aspect of the current crisis in the power sector. Other well documented problems include, among others, (i) EDTL's management and human resources crisis, (ii) the poor maintenance of generators and other equipment, resulting in equipment failure and blackouts, (iii) the high levels of wasted and stolen electricity in Dili, and (iv) the failure of the current metering and billing system and the resulting 90% nonpayment levels among residential users.

Many of the entities and individuals mentioned above are working together to address and to try to resolve these and other problems. Certain multilateral organizations are contributing significant resources to assist the Government to prepare an overall strategy for the mid- and long-term development of the power sector, as well as recommendations for alleviating short-term crises.

3. Your report grossly mischaracterizes the nature of Japan's assistance to the power sector. Japan funded two emergency rehabilitation projects in the sector, one of which targeted 13 sub-district power stations in rural areas (costing US\$ 1,912,000), the other of which involved repairs to the generators at the Comoro power station in Dili (costing US\$ 4,200,585, **not** US\$ 478,000 as stated in your report). These projects involved the rehabilitation or replacement of hardware **only**. The funds for these projects were **not** "designated to meet the needs of all electricity control centers in the country," as you allege, **nor** were such funds designated for EDTL's recurring operating expenses. The Japanese government does **not** "run" 13 sub-district power stations, as you allege. The Government of East Timor, through EDTL, owns and runs these and all other power stations in East Timor. Finally, the Japan-funded Comoro power station project involved repairs to four of the original five generators at the power station, **not** the provision of 1MW of generation capacity, as you allege.

These projects were **not** "handled from start to finish by the Japanese government, UNDP and UNOPS," as you claim. The CNRT was a signatory to the two Memoranda of Agreement associated with these projects, and ETPA and ETTA were intimately involved in the project's progress. As Mr. Virgilio Guterres of EDTL may have explained to you, he and his predecessor, Mr. Filomeno Andrade, chaired both the PCC and PWC meetings for much of these projects' lifecycles.

The single largest project outside Dili is **not** funded bilaterally by Japan or Portugal, as you allege, rather by the TFET donors through the Emergency Infrastructure Rehabilitation Project (EIRP) administered by the Government's PMU (formerly the ADB PMU). This project involves the rehabilitation of 15 district and sub-district power stations. Your failure to mention the work of the EIRP in your Special Report on Electricity is a glaring omission.

4. The cartoon on page 7 of the bulletin in question portrays UNDP, UNOPS and the Ministry of Finance as filching funds designated for the power service. Needless to say, this is an entirely false – and libelous – portrayal of the roles of UNDP, UNOPS and the Government of East Timor. Finally, your cartoon on page 10 of the bulletin demonstrates a worrying attitude on the part of La'o Hamatuk towards the role of development assistance in developing countries. Subsidizing free electricity as a means unto itself is an unsustainable use of funds and is unlikely to alleviate poverty or promote good governance.

Thank you very much.

Yours faithfully,

Haoliang Xu

Senior Deputy Resident Representative, UNDP

## La'o Hamutuk's Response to UNDP's Letter

*La'o Hamutuk* appreciates all comments, corrections and clarifications to our reporting, and thanks Mr. Haoliang Xu of the UNDP for taking time to assist our work. We have gained valuable information from his letter and will certainly contact his office in the future as we continue to look into international assistance and projects that are managed by UNDP. We regret that some of the information we published was outdated or inaccurate.

*La'o Hamutuk's* investigative work is often very challenging, and these investigations into Japanese bilateral assistance and assistance to the electricity sector were no exception. Japan's channeling of aid through UNOPS and UNDP to contractors (and often then to sub-contractors) with occasional World Bank, ABD, JICA and UNMISSET involvement means there is a complicated system of relationships between various international and foreign agencies. It is often difficult to know which agency has the most accurate data. In this case, we believed that the Japanese and East Timorese Governments would have the most up-to-date figures, but we were wrong. Unfortunately, neither of those agencies directed us to the UNDP or any other agency when we were confirming the data for the *Bulletin*.

Before publication, we gave a draft of the article to JICA and the Japanese Embassy, but they were unable to get back to us in the roughly two weeks before we had to go to press. In an effort to make our investigations accurate, *La'o Hamutuk* almost always asks the subjects of the article to review them before we publish. In this case perhaps we should have asked UNDP as well.

We have also often had difficulty getting information from many institutions (see editorial, back page). When we started looking for data on the electricity sector in January 2002, we approached UNDP several times, but were unable to obtain the information requested; the international representative we spoke with was new and no one else there was willing to give us the information. We are pleased to now have better cooperation from UNDP, and continue to be grateful to individuals and institutions willing and able to answer our specific questions. Additional problems result from language barriers as often documents from international agencies are only in English and international staff are unable to communicate in a local language. Given that *La'o Hamutuk*, with experienced local and international investigators, often has difficulty getting accurate and understandable data, there is no doubt that other East Timorese have difficulty getting information about the development of their own country.

There are considerable good results from projects funded by the Japanese government as well as other governments. If, however, these projects do not seem to adequately involve, benefit and/or empower East Timorese, we must examine these problems as a community. Sadly, some East Timorese in East Timor's Electricity Department (including its head, Virgilio Guterres) feel consultation with East Timorese has been insufficient. They maintain that the only East Timorese with a background in electricity involved in planning for the electrical sector were 'overseas East Timorese' who had no knowledge of how electricity was generated during Indonesian times. These sources ask for more consultation with East Timorese who work 'in the field' and hope that East Timorese government officials would perform more than a 'rubber-stamping' function in decisions about East Timor's electricity.

Unfortunately, Japan's aid has not always reached its goals. As there are many players involved in the provision of electricity in East Timor, problems can not be blamed on Japan or any one organization, as we noted in our article. The Iliomar power station was cited as one example. Several Iliomar residents recently claimed that no vandalism had occurred to the sub-district power station except that done by militias in 1999, before Japan's project began. They stated that Iliomar still does not have electricity and while Japanese aid supplied two generators, there are no cables nor poles to connect them to houses.

Our investigation into the electrical sector did focus more on how East Timorese - both within agencies and in communities - understood and experience these projects, and as noted above, we pledge to seek information from more institutions and agencies in the future. The cartoon which was described by UNDP as demonstrating "a worrying attitude ... towards the role of development assistance in developing countries" is, from our perspective, a reflection of the questions many Timorese have about where development money is going. We do, however, acknowledge that the second cartoon does not accurately represent the current situation. We regret the implication of "filching" and should have shown the money being exchanged in front of the people, not behind their backs.

*La'o Hamutuk* will continue to look into both Japanese assistance to East Timor and developments in the electricity sector. We recognize that there is much more investigation that needs to be done and we greatly appreciate assistance from all relevant offices in carrying out the work we do. ❖

### Who is La'o Hamutuk?

**La'o Hamutuk staff:** Cassia Bechara, Thomas (Ató) Freitas, Mericio (Akara) Juvenal, Yasinta Lujina, Inês Martins, Adriano do Nascimento, Terry Russell, Charles Scheiner, Pamela Sexton, Jesuina (Delly) Soares Cabral, João Sarmento, Andrew de Sousa

**Translation for this *Bulletin*:** Antonio Lopez

**Executive board:** Sr. Maria Dias, Joseph Nevins, Nuno Rodrigues, Aderito de Jesus Soares

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## In Brief...

On 8 October, the International Financial Institutions (IFIs) Study Group, a coalition of local NGOs, held a seminar on East Timor's recent joining the World Bank, IMF and Asian Development Bank. Panels composed of representatives of the IFIs, East Timorese civil society, and the Government discussed what the IFIs have already accomplished in East Timor, and possible benefits and dangers in the future. A full summary of the seminar will be available on *La'ó Hamutuk's* website at [www.etan.org/1h](http://www.etan.org/1h).

On 12 November 2002, the government of East Timor organized a commemoration to pay tribute to the hundreds of East Timorese youth slain in the Santa Cruz cemetery by the Indonesian occupying forces in 1991. During the events, the *People of East Timor for International Tribunal*, an NGO coalition, once more called upon the United Nations to establish an international tribunal to try the people who committed crimes against humanity against East Timor during the Indonesian occupation, including the perpetrators of the 12 November 1991 massacre. According to the group, it is now time for the UN to set up the tribunal, since the *ad hoc* human rights court in Jakarta has failed and cannot bring justice to East Timor. The group also marched around Dili

wearing masks and carrying pictures of U.S. President Gerald Ford, Secretary of State Henry Kissinger, Australian Prime Minister Gough Whitlam, Generals Suharto, Benny Murdani, Wiranto, Prabowo and others who masterminded 24 years of human rights violations in East Timor.

In October, the Judicial Systems Monitoring Programme (JSMP), an East Timorese NGO, reported on *The Right to Appeal in East Timor*. In their 23-page analysis, JSMP pointed out that although "the right to appeal is a central component of the right of the accused to a fair trial, [but] ... it has not been possible to exercise the right of appeal in East Timor for almost a year." They blame the absence of a functioning appellate court on a lack of planning by UNTAET and the East Timor Ministry of Justice, and on poor coordination between these two institutions. JSMP sees the application of international human rights standards, including the right to appeal, as even more pressing given the fragile state of East Timor's justice system. They recommend urgent actions to form the court and provide the judicial and administrative processes in both trial and appellate courts necessary for it to function. The full report is available at [www.jsmp.minihub.org/Resources.htm#reports](http://www.jsmp.minihub.org/Resources.htm#reports) ❖

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## Democracy Requires Information *(continued from back page)*

Section 40 of the Constitution of the Democratic Republic of East Timor guarantees "Every person has the ... right to inform and be informed impartially." Section 41 provides journalists with "the access to information sources." Yet such right and access has been the exception more often than the rule.

Draft legislation, regulations, and policy papers are kept from the media and the public until after they have been approved by the Council of Ministers, at which time it is often too late to make basic changes. Less fundamental information is concealed by civil servants at all levels, afraid of their supervisors. International donors, multilateral agencies, and foreign governments keep secrets which would be public under their own procedures or in their own countries – but which in East Timor they will not divulge without the Government's permission.

One measure of democracy is government with the consent of the governed. How can the governed – the people of East Timor – give informed consent if we don't know what our government is doing? It is essential that there be a continuing dialogue between the electorate and their representatives in Parliament and Government, so that the public can give meaningful input before decisions are taken. This is the difference between "socialization" practiced by dictatorships and "consultation" taken in a democracy.

Everyone in East Timor is learning new skills. Our Ministers have never been Ministers; our Parliamentarians have never been Parliamentarians; few of our public servants have ever worked for a democratic government; our journalists have never enjoyed freedom of the press; our citizens have never experienced democracy. As we take on these new roles, we learn some things from consultants, training and capacity-building — but the more important, enduring lessons

come from our common experience, sharing our knowledge and learning from each other.

This can only work if information is freely exchanged, and if those in positions of power respect the experiences and views of others in the society. All too often, foreign consultants prepare proposals which are discussed in secret by the Council of Ministers, only to become public after they are approved by the Council, sent to Parliament, and leaked by Members of Parliament.

How can the Ministers know what the people think if the people do not know what the Ministers are considering? How can the Parliamentarians represent their constituents if both the Parliamentarians and their constituents are kept in the dark until legislation is presented for immediate passage?

If rumors could be sold for money, East Timor would be a very rich country. But we will be poor in democracy unless the media (including *La'ó Hamutuk*) and the public have the facts necessary for accurate information, reporting, and commentary. Otherwise, the people will be confused and the government will waste valuable time and energy countering false reports or rebutting uninformed opinions.

The lack of transparency is so pervasive that it must be addressed at the top. We urge the Prime Minister and heads of international institutions here to establish a policy and inform their subordinates that all information should be considered public unless there is a specific compelling reason, such as national security or personal privacy, for it not to be. This will not only make it easier for *La'ó Hamutuk* to do our work of monitoring international institutions active in East Timor, but will significantly strengthen the democratic foundation and long-term stability of the Democratic Republic of East Timor. ❖



# Editorial: Democracy Requires Information

**A**s a new nation, East Timor is creating structures, laws, regulations and procedures to define how its government will work, what services it will provide for its citizens, and what responsibilities those citizens have to the government. Although East Timor's Constitution provides a skeleton for governmental administration, the flesh, blood and skin of the Democratic Republic of East Timor is just now being designed. Many decisions taken between 20 May and the end of 2002 will have long-lasting effects for the people of East Timor.

Consequently, it is vital that the East Timorese public be able to participate in these decisions. Our people endured centuries of autocratic rule from afar, where our opinions meant nothing. Now that we are governing ourselves, our opinions are critical to keeping our government democratic, and those opinions must be as informed and well-thought-out as possible. East Timorese civil society should participate fully in the debates about actions our Government and Parliament plan to take, and to do that we need good information about what they are considering. Unfortunately, such information is often kept from the public until the critical decisions have already been made.

During the six months since East Timor became independent, *La'o Hamutuk* has encountered more than a dozen instances where international institutions or civil servants would not release information or required approval by the Prime Minister or his high-level subordinates. We are not listing specific examples because we don't want to embarrass individuals who are only following others' examples or directives, but it's a widespread pattern:

- √ International agencies use this excuse to avoid transparency about their activities, even if RDTL government approval is not considered necessary.
- √ Draft legislation and policy papers are not available until approved by the Council of Ministers, and even then they are not officially public.
- √ Grant contracts with foreign governments are censored by the East Timorese government office which received the funding.
- √ Even legal agreements between East Timorese officials and foreign agencies – signed and already in effect – are often secret. For example, the Status of Mission and Status of Forces Agreements between UNMISSET and East Timor's government, which define the responsibilities, powers, and legal situation of PKF troops here, are, according to UN Headquarters “not released to the public.”

The culture of governmental secrecy has a long history in East Timor, but the recent United Nations Transitional Administration made it blatant. In December 2000, UNTAET informed all its East Timorese and international personnel that “no information, which is internal to the Organization can be released, distributed or disseminated by any means, to third parties without the prior written approval of the Head of Mission and/or the Director of Administration; and personnel should not communicate to any person outside the Mission any information known to them by reason of their service with the Mission, unless they have been authorized in writing to do so in the course of their duties. . . .” (See *LH Bulletin* Vol. 1, No. 4 “In Brief”)

Unfortunately, the pattern of secretiveness established during the unaccountable UN administration has carried over into the now-independent East Timor, in both international and East Timorese institutions. It is a pattern which has severe implications for democracy, which requires transparency, openness, and participation by civil society in decisions made by elected representatives.

*(Continued on page 15)*

## What is La'o Hamutuk?

*La'o Hamutuk* (*Walking Together* in English) is a joint East Timorese-international organization that monitors, analyzes, and reports on the principal international institutions present in Timor Lorosa'e as they relate to the physical, economic, and social reconstruction and development of the country. *La'o Hamutuk* believes that the people of East Timor must be the ultimate decision-makers in the reconstruction/development process and that this process should be democratic and transparent. *La'o Hamutuk* is an independent organization and works to facilitate effective East Timorese participation in the reconstruction and development of the country. In addition, *La'o Hamutuk* works to improve communication between the international community and East Timorese society. *La'o Hamutuk's* East Timorese and international staff have equal responsibilities, and receive equal pay and benefits. Finally, *La'o Hamutuk* is a resource center, providing literature on development models, experiences, and practices, as well as facilitating solidarity links between East Timorese groups and groups abroad with the aim of creating alternative development models.

*In the spirit of encouraging greater transparency, La'o Hamutuk would like you to contact us if you have documents and/or information that should be brought to the attention of the East Timorese people and the international community.*